

NLWJC - Kagan

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**Education - Higher Education Act,
General**

WHITE HOUSE STAFFING MEMORANDUM

Date: 10/6/98 ACTION / CONCURRENCE / COMMENT DUE BY: 10/6/98 COB

Subject: HIGHER EDUCATION BILL STATEMENT

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input checked="" type="checkbox"/>	<input type="checkbox"/>	McGINTY	<input type="checkbox"/>	<input type="checkbox"/>
BOWLES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	NASH	<input type="checkbox"/>	<input type="checkbox"/>
PODESTA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	REED	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ECHAVESTE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	RUFF	<input checked="" type="checkbox"/>	<input type="checkbox"/>
LEW	<input type="checkbox"/>	<input type="checkbox"/>	SMITH	<input type="checkbox"/>	<input type="checkbox"/>
BEGALA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SOSNIK	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BERGER	<input type="checkbox"/>	<input type="checkbox"/>	SPERLING	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BLUMENTHAL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	STEIN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
EMANUEL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	STERN	<input type="checkbox"/>	<input type="checkbox"/>
IBARRA	<input type="checkbox"/>	<input type="checkbox"/>	STRETT	<input type="checkbox"/>	<input type="checkbox"/>
KLAIN	<input type="checkbox"/>	<input type="checkbox"/>	VERVEER	<input type="checkbox"/>	<input type="checkbox"/>
LANE	<input type="checkbox"/>	<input type="checkbox"/>	WALDMAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
LEWIS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	YELLEN	<input type="checkbox"/>	<input type="checkbox"/>
LINDSEY	<input type="checkbox"/>	<input type="checkbox"/>	<u>TOIV</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
LOCKHART	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<u>MIKE COHEN</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
MARSHALL	<input type="checkbox"/>	<input type="checkbox"/>	<u>ELENA KAGAN</u> →	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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REMARKS:

COMMENTS TO STAFF SEC

RESPONSE:

STATEMENT BY THE PRESIDENT

Today, I am pleased to sign into law H.R. 6, the "Higher Education Amendments of 1998." This legislation is the culmination of bipartisan efforts by the Congress and the Administration to increase access to college, make higher education more affordable, improve teacher quality, and modernize the delivery of student aid. I particularly want to thank Senators Jeffords, Coats, Kennedy, and Dodd, and Representatives Goodling, McKeon, Clay, Kildee, Andrews, and Petri, as well as other Members of the Conference Committee, for their help in guiding this legislation through the Congress.

I also owe a particular debt of gratitude to Congressman Fattah, whose consistent and tireless work resulted in a new effort that will turn the dream of college into a reality for many of the poorest families in America. The GEAR UP program, based in part on my High Hopes for College proposal, provides competitive grants to States and local partnerships to encourage colleges to work with middle schools in high-poverty areas to ensure that students receive financial aid information, rigorous courses, tutoring, mentoring, and scholarships for college.

I am pleased to see a number of my other initiatives included in this bipartisan legislation. College students across the country will save hundreds or even thousands of dollars on their loan repayments with the extension of the low student loan interest rate on new loans that went into effect on July 1st of this year. In addition, the bill allows borrowers to refinance outstanding loans at a lower rate by extending for four months the current interest rate on Direct Consolidation Loans. The bill, however, is not perfect. It is unfortunate that the legislation continues the practice of providing excessive payments to lenders and guaranty agencies instead of reducing taxpayer costs by using competitive market forces. In addition, it is regrettable that

the legislation does not allow more time for the millions of Americans who are paying high interest rates on their current student loans to get the new low consolidation rate, or make that rate available to all borrowers. I urge Congress to revisit these issues in the future.

H.R. 6 builds upon the proposals I sent to Congress to improve teacher quality, training, and recruitment as our Nation is faced with the need to hire more than two million teachers over the next ten years. New partnerships between teacher education institutions and school districts, partnerships to improve teacher recruitment, Teacher Quality Enhancement State grants, and increased accountability will help improve teacher quality for all our children. I am also pleased that Congress did not prohibit Federal funding for the National Board for Professional Teaching Standards.

This legislation will promote high-quality distance-learning opportunities to provide students, including non-traditional students, with increased educational opportunities. The Learning Anytime, Anywhere Partnership (LAAP) program, as I proposed, will award competitive grants to partnerships to create new distance learning models, explore the efficiencies and cost reductions that can be realized through institutional partnerships, and develop innovative measures of student achievement through distance learning.

I am also pleased that H.R. 6 reauthorizes and improves upon many programs in the current Higher Education Act designed to promote equal educational opportunity. In particular, I would like to commend Representative Hinojosa for his work to increase funding levels and improve programs for students attending Hispanic-serving institutions. I am also pleased that H.R. 6 reauthorizes the Education of the Deaf Act, which supports Gallaudet University and the National Technical Institute for the Deaf, and strengthens programs to support tribal and historically black colleges and universities.

The bill also revolutionizes the delivery of student aid by creating within the Government the first-ever Performance-Based Organization (PBO) -- a concept promoted by Vice President Gore's National Partnership for Reinventing Government -- to improve services to students and enhance administrative efficiency and accountability. I am delighted with this bipartisan effort to modernize student aid delivery in the Department of Education.

I note that there are some constitutional concerns regarding provisions in this bill relating to the appointment and reappointment of the Chief Operating Officer of the PBO, and the issuance of regulations regarding student loan repayment incentives that would have to be certified by the Congressional Budget Office. While I do not regard these provisions as binding, I hereby instruct the Secretary of Education as a matter of policy to implement these provisions so far as possible in a manner consistent with the principles embodied in the legislation.

There are costs associated with this Act after fiscal year 1999 that are not fully offset under Administration scoring. Under the Budget Enforcement Act, a sequester of mandatory programs will be required in future years if savings to offset the costs of this Act are not enacted. My Administration will work with the Congress to offset these costs to avoid a potential sequester.

H.R. 6 represents a positive, bipartisan advancement for students, teachers, and the future of higher education. Now the Congress must take the critical next step, providing full funding for the new initiatives this legislation creates -- GEAR UP, teacher preparation and recruitment, and LAAP -- for fiscal year 1999. I look forward to working with the Congress to ensure this funding is made available.

THE HIGHER EDUCATION AMENDMENTS OF 1998: FIVE VICTORIES FOR THE CLINTON-GORE ADMINISTRATION

October 7, 1998

Today, President Clinton is signing into law five major new initiatives that he proposed, along with other important provisions extending the Higher Education Act. The new initiatives will:

- **slash the student loan interest rate**
- **help disadvantaged children prepare for college**
- **improve teacher preparation and recruitment**
- **promote high-quality distance education**
- **create a new model for efficient government**

The Higher Education Act, originally enacted in 1965, authorizes many of the Federal government's programs to increase access to college, including Federal Pell Grants, student loans, Federal Work-Study, and the TRIO student support programs, as well as programs to improve teacher training, strengthening developing institutions, and promote innovation. The Act is reviewed every five years. In response to the Administration's requests, this year the reauthorization:

1. SLASHES THE STUDENT LOAN INTEREST RATE

Proposal: "We are proposing improvements in the student loan program that will lower the cost of college for millions of students and their families while preserving their access to the loans they need." [Vice President Gore, Press Briefing, February 25, 1998]

Result: *As proposed by the Vice President, the legislation extends for 5 years the new low student interest rate on new college loans, now 7.46% instead of 8.25%, saving students \$11 billion on loans made over the next five years.* The typical student borrower at a 4-year college, who graduates with \$13,000 in debt, will save about \$700 over a ten-year repayment period. Borrowers have four months to refinance their outstanding loans at the new rate. The Administration continues to oppose the excessive payments to lenders and intermediaries included in the bill, and supports extending the refinancing window beyond the four month period.

2. HELPS DISADVANTAGED CHILDREN GEAR UP FOR COLLEGE

Proposal: "I also ask this Congress to support our efforts to enlist colleges and universities to reach out to disadvantaged children, starting in the 6th grade, so that they can get the guidance and hope they need so they can know that they, too, will be able to go on to college." [President Clinton, State of the Union Address, January 27, 1998]

Result: *The legislation launches a new national effort, incorporating the President's High Hopes for College initiative, to help disadvantaged students prepare for college.* Called GEAR UP, this program provides competitive grants to colleges that partner with high-poverty middle schools and the community to tell families *early* about the financial aid that is available for college, and then to provide long-term mentoring, tutoring, and other assistance to make the dream of college a reality. Grants are also provided to States to encourage broad efforts to provide early information and counseling about college opportunity.

3. IMPROVES TEACHER PREPARATION AND RECRUITMENT

Proposal: "I will forward to the Congress a proposal for a new national effort to attract quality teachers to high-poverty communities by offering scholarships for those who will commit to teach in those communities for at least three years. . . Our proposal also includes funds to strengthen teacher

preparation programs so that those who go into teaching are better prepared to teach their students.”
[President Clinton, NAACP National Convention, July 17, 1997]

Result:

The legislation includes the Administration’s proposals, and more:

- **Improves teacher preparation through grants to partnerships** -- modeled after the Administration’s proposed Lighthouse Partnerships -- between teacher education institutions and school districts to produce teachers who have strong teaching skills, are highly competent in the academic content areas in which they plan to teach, and know how to use technology as a tool for teaching and learning.
- **Recruits additional teachers for high-need areas** through the Administration’s proposed grants to partnerships between high-quality teacher education programs and local schools to offer scholarships, support, and services to recruit and prepare teachers to serve for at least three years in high-need schools.
- **Supports state-level efforts to improve teacher quality** through State Teacher Quality Enhancement grants to strengthen state teacher certification standards, create alternative pathways into teaching, hold higher education institutions accountable for the quality of teachers they prepare, and recruit high-quality teachers.
- **Strengthens accountability in teacher education** by requiring that states and teacher education institutions report on teacher preparation, including their students performance on teacher licensing exams.
- **Forgives up to \$5,000 in loans** for those who teach for five years in a low-income community.

4. PROMOTES HIGH QUALITY DISTANCE EDUCATION

Proposal:

“Valuable technologies also are important for providing opportunities in higher education at a time when college is becoming ever more crucial. . . . This is why [we] proposed a number of changes to the Higher Education Act that will broaden learning opportunities.” [Secretary Riley, U.S. Distance Learning Association National Conference, November 5, 1997]

Result:

The bill includes the Administration’s Learning Anytime Anywhere Partnership (LAAP) initiative, and expands student aid eligibility for distance learners. LAAP awards competitive grants to partnerships between schools and other entities to: create new distance learning models, explore the efficiencies and cost reductions possible through institutional partnerships, and develop innovative measures of student achievement in distance education. The legislation also expands student aid eligibility for distance learners, a goal proposed by the Administration, through demonstration programs that waive some student aid restrictions to allow more nontraditional students to obtain higher education, including full-time workers, parents, people in rural areas, and people with disabilities.

5. TAKES AN HISTORIC STEP TOWARD A NEW MODEL OF GOVERNMENT

Proposal:

“We’re going to dramatically change the way many agencies provide their services. Today, I’m proposing to create within existing departments something we call ‘Performance-based Organizations.’ . . . These PBOs would be run by chief executives who sign contracts and will be personally accountable for delivering results. . . . Their pay and job security will be tied directly to performance.” [Vice President Gore, National Press Club, March 4, 1996]

Result:

The bill creates the federal government’s first-ever PBO, a concept promoted by the Reinventing Government effort spearheaded by the Vice President. The delivery of Federal student aid -- loans, grants, work-study and other assistance -- will be led by an executive with expertise in information technology and experience with financial systems, who reports directly to the Secretary and has new administrative flexibility in exchange for increased accountability for results. The Secretary will continue to be responsible for setting student aid policy.

PROMOTING HIGH-QUALITY DISTANCE EDUCATION

"Valuable technologies also are important for providing opportunities in higher education at a time when college is becoming ever more crucial.... making courses available at convenient locations; reducing time constraints for course-taking; making educational opportunities more affordable; and increasing the institutions' access to new audiences. This is why [we] proposed a number of changes to the Higher Education Act that will broaden learning opportunities...."

—Secretary Riley, US Distance Learning Association, National Conference, November 5, 1997

The Higher Education Amendments of 1998 significantly increase the number of students who can benefit from distance education by authorizing or adapting two Administration initiatives: Distance Education Demonstration Programs and the Learning Anytime Anywhere Partnerships (LAAP) program. Distance education can help all Americans -- including workers, parents, people in rural communities and people with disabilities -- go to college by removing barriers of time and place through innovative uses of technology.

While colleges and universities have been exploring the uses of technology, its capacity for increasing access to higher education has been limited because of restrictions on financial aid availability for distance learners. Only about one-third of all higher education institutions offered distance education in 1995, and they served fewer than one million students.

Distance Education Demonstration Programs. The new law authorizes Demonstration Programs to increase student access to higher education and to determine the best way to deliver quality education through distance learning. Because the current eligibility requirements for higher education institutions do not address the special needs and circumstances of distance learners, needy students are sometimes ineligible for financial aid. The Demonstration Programs will expand student aid eligibility for distance learners by allowing the Secretary to waive specific statutory and regulatory student aid requirements for participating institutions. Among the requirements that may be waived are those regarding measures of an academic year, minimum hours spent in the classroom, and the percentage of an institution's students that may be served by distance education. This change will provide new flexibility for institutions to offer high-quality distance education programs. Up to 15 degree-granting institutions, consortia, or systems of institutions may participate in Distance Education Demonstration Programs the first year, and up to 50 may participate in the third year.

Learning Anytime Anywhere Partnerships (LAAP). The new law authorizes the LAAP program, which will provide competitive grants to partnerships to ensure that high-quality learning opportunities are available to distance education students. The partnerships will develop and assess model distance education programs and educational software and find innovative measures of student achievement that are appropriate for distance education. Eligible partnerships will include two or more independent organizations, such as: colleges, community-based organizations, technical institutes, adult education programs, school districts, and businesses. LAAP grants will encourage institutions and their partners to work together to provide high-quality distance education programs that challenge traditional geographic and institutional boundaries. The new law authorizes this program at \$10 million in FY99, and the Senate, but not the House, FY99 Appropriations bill provides the full \$10 million.

CREATING THE GOVERNMENT'S FIRST PERFORMANCE-BASED ORGANIZATION TO MODERNIZE STUDENT AID DELIVERY

"We're going to dramatically change the way many agencies provide their services. Today, I'm proposing to create within existing departments something we call "Performance-based Organizations." . . . These PBOs would be run by chief executives who sign contracts and will be personally accountable for delivering results. . . Their pay and job security will be tied directly to performance."

--Vice President Gore, National Press Club, March 4, 1996

The Higher Education Amendments of 1998 establish a performance-based organization (PBO) to modernize the delivery of student financial aid. This is an historic milestone in the Administration's efforts to improve services to millions of students and the postsecondary institutions they attend. The PBO will make it possible to meet these challenges and to keep pace with the rapid rate of technological change in the financial services industry. Customer service will improve, and the public's confidence in the administration of student aid programs will grow.

Context for Change. Under the leadership of Vice President Gore, the National Partnership for Reinventing Government developed model legislation for establishing PBOs in federal offices. The new HEA law is the first legislation to formally establish a PBO in the federal government. During the past 15 years, numerous state, local and foreign governments have implemented similar performance-based models to improve services and reduce costs.

Reinventing for Results. A PBO is a new way of getting things done in the public sector -- a results-driven organization created to deliver the best possible services -- by establishing incentives for high performance and accountability for results, while also allowing more flexibility to promote innovation and increased efficiency.

Specifically, the PBO will be held accountable for performance objectives that include: improving customer satisfaction; providing high quality, cost-effective services; enhancing the ability to respond to the rapid rate of technological change; implementing a common, open, integrated system for student financial aid delivery; and providing complete, accurate and timely data to ensure program integrity.

Establishing New Flexibility and Accountability. The new HEA law that creates the PBO includes the following major provisions:

Leadership. The PBO will be led by a chief operating officer (COO) with a strong background in information technology and management, who is employed through a performance-based contract and reports directly to the Secretary;

Procurement flexibility. The PBO will have increased flexibility in procurement, with an emphasis on performance-based contracting;

Management and personnel flexibility. The PBO will have limited new flexibility in personnel management, including hiring and evaluating senior managers, and recruiting technical personnel; and

Accountability for results. The COO and employees of the PBO will have specific, measurable performance goals, ensuring accountability for defined results.

The Secretary will continue to be responsible for setting federal student aid policy.

The PBO will complement and strengthen reinvention initiatives already underway within the Department, including Project EASI (Easy Access for Students and Institutions). Modernization is aimed at reducing student loan defaults, increasing use of the Internet and electronic applications for student aid, and better integrating computer systems to administer student aid.

MAKING COLLEGE MORE AFFORDABLE BY LOWERING STUDENT LOAN INTEREST RATES

Well into this Year, Many Doubted That Student Loan Interest Rates Would Drop

"This summer, the interest rate on federally backed student loans is set to drop from the current 8.25 percent.... But chances that students will ever see those savings are about as slim as finding a campus parking space during orientation or a private moment in the dorms. The nation's biggest student lenders have banded together and are lobbying Congress to scrap the government-mandated cut, which they say will wipe out their returns."

--Knight Ridder Tribune Business News, February 27, 1998

The Higher Education Amendments of 1998 adopt the Clinton Administration's proposal to slash student loan interest rates. Specifically, the new law:

Cuts Interest Rates on New Student Loans by Almost a Full Percentage Point -- Saving Students \$11 Billion Over the Life of Their Loans. The new law extends for 5 years the low student interest rate on new loans first won in the 1993 budget, proposed again in February by Vice President Gore, and available on a temporary basis since July 1. This lower student rate is set at the 3-month Treasury Bill + 2.3% (currently 7.46%), a substantial drop from the pre-July 1 rate of T-Bill + 3.1% (about 8.25%) on new student loans. The low rate is now available on all new student loans in the Direct Loan and Government-Guaranteed Loan (FFEL) programs. Students will save roughly \$50 per \$1,000 of debt, over a ten-year repayment period, as result of the interest rate reduction.

Allows Borrowers to Refinance Outstanding Loans at the Lower Rate. The new law extends for four months the current 7.46% interest rate on Direct Consolidation Loans. After four months, the interest rate on Direct Consolidation Loans will rise to the weighted average rate of the underlying loans, rounded up to the nearest one-eighth and capped at 8.25%.

The Administration is disappointed that the law contains an unnecessary new lender subsidy, and that it does not extend the low Direct Consolidation Loan rate for a longer period of time or ensure that it is available to borrowers who consolidate their student loans through private lenders in the FFEL program. The Administration hopes Congress will revisit these issues in the future.

Helps Millions of Americans Pay for College.

More than half of all undergraduates have to borrow money to pay for college today, and more than half of those with student loans have incomes under \$30,000.

- An elementary school teacher in Boston, who earned a Master's degree in Early Childhood Education and is struggling to repay \$43,000 in student loan debt on her \$16,000 annual income, can save about \$3,500 in interest from the new low interest rate; and
- A young married couple, trying to pay back \$160,000 in loans from law school while working in public interest jobs, can save almost \$25,000 in interest from the new low interest rate.

Builds on Clinton Administration Initiatives to Make College More Affordable for Students and Families. These include: the historic higher education tax cuts enacted last year -- the HOPE Scholarship and the Lifetime Learning Tax Credit, the flexible repayment options available through Direct Lending, the expansion of College Work Study, AmeriCorps, and the increase in the maximum Pell Grant.

HELPING MORE STUDENTS PREPARE FOR COLLEGE THROUGH "GEAR UP"

"I also ask this Congress to support our efforts to enlist colleges and universities to reach out to disadvantaged children starting in the sixth grade so that they can get the guidance and hope they need so they can know that they, too, will be able to go on to college."

--President Clinton, State of the Union address, January 27, 1998

The Higher Education Amendments of 1998 launch GEAR UP, a new national effort to encourage more young people to have high expectations, stay in school and study hard, and go to college.

- High-achieving students from low-income families are five times less likely to attend college than high-achieving students from high-income families [NELS 1998].
- In a recent survey, almost 70% of parents indicated that they have little information or want more information about which courses their child should take to prepare for college, and 89% of parents want more information about how to pay for college, including the use of tax credits [Gallup, Sept. 1998].

The President's High Hopes Proposal. Earlier this year, President Clinton proposed the High Hopes for College initiative to create a national ethic that every college should partner with at least one middle school in a low-income community to help raise expectations and ensure that students are well-prepared for college. In the new HEA law, the High Hopes proposal and the National Early Intervention Scholarship and Partnership (NEISP) program are joined, as two different types of grants, under the new GEAR UP program.

GEAR UP (Gaining Early Awareness and Readiness for Undergraduate Programs). This new competitive grant program, authorized at \$200 million in FY99, supports early intervention and college awareness activities at both the local and the state level. The Senate's FY99 Appropriations bill allocates to GEAR UP \$75 million of the \$140 million the President requested for High Hopes. The House Appropriations bill did not include funding for GEAR UP. The final appropriations legislation is now pending in Congress. GEAR UP funding will be split between Partnership grants and State grants, with at least one-third allocated to each.

GEAR UP Partnership grants. As outlined in the President's High Hopes for College proposal, this initiative will award multi-year grants to locally-designed partnerships between colleges and high-poverty middle schools, plus at least two other partners such as community organizations, businesses, religious groups, state education agencies, parent groups, or non-profits, to increase college-going rates among low-income youth. To be most effective, partnerships will be based on the following proven strategies:

- **Informing students and parents about college options and financial aid**, and every student will receive a 21st Century Scholar Certificate -- an early notification of their eligibility for financial aid;
- **Promoting rigorous academic coursework** based on college entrance requirements;
- **Working with a whole grade-level of students** in order to raise expectations for all students; and
- **Starting early, with 6th or 7th grade students, and continuing through high school graduation** with comprehensive services including mentoring, tutoring, counseling, and other activities such as after school programs, summer academic and enrichment programs, and college visits.

GEAR UP State grants. These grants are based on the current National Early Intervention Scholarship and Partnership (NEISP) program and will be awarded to states to provide scholarships, college information and early intervention activities. State programs will target services to low-income students and will provide college scholarships for participating students. College and community partnerships are not required but are encouraged, and many NEISP programs involve local organizations. Nine states received NEISP grants in FY98, totaling \$3.6 million. These NEISP programs provide a variety of early intervention services and college awareness activities to students ranging in age from 1st to 12th grade.

We anticipate that GEAR UP grant applications will be available in the beginning of next year. You can send questions or request more information by e-mailing gearup@ed.gov.

EXAMPLES OF MENTORING AND EARLY INTERVENTION PROGRAMS

Many states education agencies, colleges, and secondary schools have had success working together to increase college enrollment rates among low-income students. To this end, the new GEAR UP program will support early intervention initiatives with elements of the successful practices described below.

Early Identification Program (Fairfax, Virginia): George Mason University (GMU) and the Fairfax County Public Schools developed the Early Identification Program (EIP) in 1987 to increase the number of minority students who enter college. Since then, additional school districts and new partners have joined the effort, including Booz Allen and Hamilton, Mobil Corporation, NationsBank and Crestar Bank. The program works with minority students that demonstrate academic potential and provides year-round tutoring, mentoring and other support throughout high school, including weekend and summer academic programs, special projects in math, science, English and computer science, campus visits, and workshops for parents. The program reports that they have graduated 6 classes from high school, and have a 71 percent retention rate. Of those who completed 4 years in EIP, 95 percent go on to college.

Pace Hispanic Outreach Program (White Plains, NY): The program is a unique tutorial initiative for Hispanic immigrant students at the White Plains High School that is run through a collaborative effort involving the White Plains School District, Pace University and Centro Hispano. One-to-one tutorial sessions are held during study hall periods and are designed to complement and reinforce classroom instruction in English, mathematics and social studies. In addition, the program enlists high school counselors to provide weekly clinics to help high school seniors prepare college applications, financial aid forms and essays. Active community support and parental involvement has helped build confidence among participants by reducing the sense of powerlessness that language barriers cause in some Hispanic families.

Passport to College (Riverside, California): At the core of this effort is a partnership between Riverside Community College in California, the local school district, and a number of schools and local businesses, and its purpose is to encourage disadvantaged students to continue on to college. The program works with an entire grade of students, beginning in 5th grade, and follows them through high school graduation. Currently, 11,500 students are participating. Volunteers work with the students, teachers and parents in activities, including: campus tours, classroom presentations, teacher training workshops, parent meetings, and financial aid workshops. All participating students who graduate from high school are guaranteed admission to Riverside Community College.

Project GRAD (Houston, Texas): Project GRAD (Graduation Really Achieves Dreams) is a school-community collaboration to improve the instructional quality and school environment for children in Houston's inner city schools. This effort combines research-based curricular reform in math, reading and language arts with comprehensive services, including tutoring, mentoring and counseling, for children starting in Kindergarten through high school. The project works with whole networks of schools -- elementary through high school -- to develop a consistent emphasis on high standards for all students. Project GRAD also promises all 9th grade students a \$1,000 per year college scholarship if they reach basic academic standards. Currently, 24 schools in Houston and over 17,000 students are involved with Project GRAD. This massive effort is supported by a partnership of school, corporate, and community-based organizations and foundations.

IMPROVING TEACHER QUALITY, RECRUITMENT, AND PREPARATION

“Every community should have a talented and dedicated teacher in every classroom.... [We have] an enormous opportunity for ensuring teacher quality well into the 21st century, if we recruit promising people into teaching and give them the highest quality preparation and training.”

--President Clinton's Call to Action for American Education in the 21st Century

The Higher Education Amendments of 1998 respond to the Nation's critical need for high-quality teachers by enacting much of the Clinton Administration's proposal to improve the recruitment and preparation of new teachers. Our Nation's schools will need 2.2 million new teachers over the next decade, and these teachers need to be well-prepared to teach all students to the highest standards.

Title II of the new law authorizes a \$300 million investment in teacher preparation and recruitment in the upcoming fiscal year. The House's FY99 Appropriations bill allocates \$2.2 million for teacher recruitment, and the Senate's Appropriations bill allocates \$77.2 million for the following HEA initiatives:

Teacher Preparation Partnerships. This new initiative will provide grants to partnerships -- based on the Administration's proposed Lighthouse Partnerships -- between teacher preparation institutions and local school districts in high-need areas. To ensure that new teachers can meet the many challenges of today's classrooms, the partners will work to strengthen teacher education through activities such as:

Implementing reforms that hold teacher education programs accountable for preparing high-quality teachers.

Improving the academic content knowledge of prospective teachers through increased collaboration between faculty at schools of education and departments of arts and sciences;

Ensuring that teachers are well-prepared for the realities of the classroom by providing strong hands-on classroom experience and strengthening links between university and K-12 school faculties;

Preparing prospective teachers to use technology as a tool for teaching and learning;

Preparing prospective teachers to work effectively with diverse students; and

Recruitment Partnerships. Modeled after the highly successful Dewitt Wallace Reader's Digest Foundation's "Pathways to Teaching" program, this new recruitment initiative will provide grants to states and to partnerships between high-quality teacher education programs and local schools in high-need communities to recruit new teachers. Prospective teachers who agree to teach in high-need areas for a set number of years will receive scholarships and other support during their preparation and first years of teaching.

State Teacher Quality Enhancement Grants. These new grants encourage states to improve the quality of their teaching force by:

Strengthening their teacher certification standards to ensure that new teachers have the necessary teaching skills and academic content knowledge;

Implementing reforms that hold institutions of higher education accountable for preparing teachers who have strong teaching skills and knowledge of their content areas;

Establishing or strengthening alternative pathways into teaching for highly qualified individuals, including mid-career professionals and former military personnel; and

Recruiting new high-quality teachers.

Accountability. The new law helps ensure accountability in teacher education by requiring states and institutions of higher education to prepare "report cards" on the quality of teacher preparation, including their students' performance on teacher licensing examinations.

EXAMPLES OF TEACHER RECRUITMENT AND PREPARATION PARTNERSHIPS

The new HEA teacher preparation and recruitment initiatives will promote partnerships and teacher preparation activities similar to the award-winning projects described below.

Massachusetts: Samuel Mason Elementary School in Roxbury, Massachusetts, had a great need for teachers qualified to work with children who need special education services, because 25% of these students were fully included in regular classrooms. The school solved its problem by partnering with Wheelock College to develop a teacher preparation program that provides new and experienced teachers with dual certification in special education and regular education.

Pennsylvania: In Philadelphia, Drexel University has partnered with the Philadelphia Public Schools to recruit a diverse teaching force to serve as early childhood, math, and science teachers. Also in Philadelphia, Temple University is working with the local school district to recruit and prepare returned Peace Corps volunteers to be early childhood, elementary, math, science, and ESL teachers.

Texas: The teacher preparation program at the University of Texas at El Paso is designed, implemented, and evaluated through a collaboration of elementary and secondary school teachers and administrators, university faculty, the staff of the regional Texas Education Service Center, and community members. The curriculum emphasizes bilingual and cross-cultural education to prepare students to teach effectively in predominately Hispanic elementary and secondary schools. The program also uses a strong clinical model in which students work intensively in 18 professional development schools committed to school improvement.

Virginia: Capitalizing on the nearby military base, Norfolk State University in Virginia has collaborated with Old Dominion University and Norfolk Public Schools to recruit and prepare paraprofessionals and retired military personnel to become successful teachers. The program offers both financial and academic support for prospective teachers through a grant from the DeWitt Wallace Reader's Digest Fund.

Wisconsin: Alverno College in Milwaukee, Wisconsin, works with local schools to provide an innovative, performance-based teacher preparation program. Students are expected to demonstrate their mastery of a variety of skills essential to good teaching, such as: problem solving, involving the community in education, and integrating content knowledge with classroom practice. Upon completion of their extensive student teaching experience, the clinical preparation of Alverno students is assessed by a panel of Alverno faculty and teachers and administrators at their elementary or secondary schools. Currently, faculty and administrators at the College are working with three other institutions to improve their teacher preparation programs by adopting elements of the Alverno model.

DRAFT

Educ - Higher Educ Act, general

Dear Conferee:

I am pleased that versions of H.R. 6, a bill to reauthorize the Higher Education Act of 1965 (HEA), have passed both the Senate and the House, and I greatly appreciate the hard work that you and your staff have devoted to this important legislation. I am especially pleased that both versions of H.R. 6 have adopted the student interest rate on new loans at the level proposed by the Vice President last winter. This will help students better manage their postsecondary education debt and thus make college more affordable.

We now have the opportunity to work together during the conference deliberations to enact a strong bipartisan bill that will help more Americans prepare for and gain access to college, improve teacher recruitment and preparation, and promote better program management. In this work, we must all keep our focus on the goal of producing legislation that is grounded in sound educational and fiscal policy to provide maximum benefits to students. That is the ultimate purpose of the Higher Education Act.

The Administration is working with the Congress to resolve OMB/CBO cost estimating differences and develop mutually agreeable legislative language that would eliminate the risk of a Government-wide sequester as a result of its passage. However, there remain a number of other extremely serious issues which must be resolved in order for me to be able to recommend that the President approve the conference bill. These include ensuring that there are no reductions in the student aid administrative funds available to the Department to administer both the Federal Family Education Loan and Federal Direct Loan programs; and offering borrowers the same low interest rates on FFEL and Direct Consolidation loans.

I am confident that these and the other important issues presented by the the bills now in conference, and explained further in this letter and attachment, can be resolved in a manner that serves students well by our working together in good faith. This letter and its attachment highlight the issues in the HEA reauthorization that are of particular importance to the Administration.

Interest rates

I am pleased that both the Senate and House versions would lower the interest rates that students pay on new loans by .8 of a percent, as the Administration proposed. This reduction is a major accomplishment that will provide substantial savings for students. I am concerned, however, that many current borrowers are struggling with excessive debt, and need to have access to the lower interest rates as well. The final version of H.R. 6 should reduce the interest rate on FFEL Consolidation Loans so that it is the same as the rate

applicable to Direct and FFEL student loans and Direct Consolidation Loans. This policy is consistent with our HEA reauthorization proposal to have the same low consolidation rates in both loan programs.

In order to provide the low consolidation rate for students in the FFEL program, it may be necessary to maintain current subsidies or adjust the offset fee to ensure that loans continue to be sufficiently profitable. At the same time, however, subsidies that both the House and Senate versions of the bill would provide to lenders in the Stafford and PLUS loan programs are too high, and I urge you to reduce or eliminate them.

Section 458

I remain adamantly opposed to any cuts in the student aid administrative funds available to the Department under section 458 of the HEA beyond those agreed to in last year's balanced budget package. Both the House and Senate versions include such further decreases, and the House version would decrease section 458 funds even more substantially than the Senate version. Decreases in section 458 funds would impair the Department's ability to administer effectively the FFEL and Direct Loan programs by threatening the Department's ability to manage such activities as student aid application processing, student loan default collection, and the urgently needed modernization of student aid delivery systems.

Both the Senate and House versions would create a new loan processing and issuance fee to be paid to guaranty agencies from section 458 funds. I strongly support the Senate's provision to cap this fee to better ensure sufficient funding for the efficient administration of the loan programs. However, the Senate's decision to offset the amendment regarding need analysis determinations for veterans receiving G.I. Bill benefits with funds from section 458 undermines the Department's ability to manage the loan programs. I hope to work with you to find a more suitable offset for this provision.

National Board for Professional Teaching Standards

While I understand that the language in H.R. 6 on the National Board for Professional Teaching Standards will be satisfactorily resolved, I want to reiterate my strong opposition to the House language, which would prohibit Federal funds from being made available to the National Board for Professional Teaching Standards. By defining standards of excellence for experienced teachers, the National Board helps to focus and upgrade teacher training, recognize and reward outstanding teachers, and keep our best teachers in the classroom, where they are needed most. As both Houses have recognized in the teacher recruitment and preparation provisions of the HEA, attracting and keeping well-trained teachers in the classroom is a national priority and an essential step to increase student achievement. More than half the States and

a growing number of school districts offer incentives to teachers to seek Board certification, and have made Board certification an integral part of their overall efforts to strengthen teacher quality. By ending Federal support for the Board's research and development, the House provision jeopardizes completion of the remaining professional standards and assessments, and undermines these vital State and local efforts. This is the wrong step to take at precisely the time when we must do everything possible to set the highest standards for our teachers.

High Hopes

I am very pleased that both versions address the importance of early outreach to at-risk youth. The House version includes the Administration's proposal for High Hopes for College, while the Senate created a new AConnections@ program that incorporates certain elements of High Hopes and the National Early Intervention Scholarship and Partnership (NEISP) program. I look forward to working with the conferees to ensure that the final version of the program encourages colleges to partner with high-poverty middle schools, offers comprehensive services to all students at these middle schools, and is administratively feasible.

Teacher training and recruitment

Both the House and Senate versions would authorize grants to States and local partnerships to reform and improve teacher training. The Senate version, which would divide funding equally between States and partnerships and would focus the partnerships on improving teacher education, offers a better chance at meaningful change than the House version, which limits partnerships' share of funding to 33 percent. Partnerships that involve colleges, teacher training programs, K-12 schools, and other entities will encourage more interaction among practicing teachers, aspiring teachers, and professors of education to better prepare teachers for 21st century classrooms than will State-level efforts.

I am pleased that the Senate version includes the Administration's program to recruit new teachers for underserved areas through partnerships between colleges and underserved school districts. The House version fails to include sufficient efforts to recruit new teachers in order to address the pressing need for teachers in disadvantaged urban and rural areas. I urge the conferees to adopt the Senate's program for teacher recruitment.

Both versions include accountability provisions that require State and institutional Areport cards@ on the quality of teacher education. While I endorse reporting requirements that will provide more information about the teacher training process, I am concerned about eliminating students from student aid eligibility for some programs based on the inadequate performance of others.

Distance learning

We have made significant progress on the issue of distance learning, and I am pleased that both the House and Senate versions include demonstration programs to accommodate the new technologies and innovations that can greatly increase access to postsecondary education. The House provisions, which would allow the Secretary to waive any need analysis or general provisions for a representative sample of institutions (or consortia of institutions), would provide more flexibility and opportunity than the Senate provisions. The Senate version would authorize the waiver only of particular statutory provisions and any need analysis or general provisions regulations for 15 institutions or consortia initially, to be expanded to up to 50 in the third year of the program. I urge the conferees to provide sufficient flexibility in the demonstration projects to allow for the development and support of high-quality distance education programs, as contained in the House version.

I am also pleased that the Senate version authorizes the Administration's Learning Anytime Anywhere Partnership (LAAP) program, which would encourage partnerships to develop innovative ways of delivering education, ensuring quality, and measuring student achievement that are appropriate to distance education. I urge the conferees to adopt LAAP.

PBO

I am glad that provisions that would create a Performance Based Organization (PBO) for the administration of the student aid programs were included in both passed versions of H.R. 6. I prefer the PBO provisions in the Senate version, in part because these provisions explicitly provide for personnel and procurement flexibilities necessary for the successful operation of the PBO. I also ask that the conferees provide the PBO with buyout authority, comparable to that which the Congress previously provided to non-Defense agencies, to assist in transforming the organization to the new PBO structure.

Year 2000

It is anticipated that all Department systems needed to deliver Federal student aid will be fully compliant with Year 2000 requirements no later than March 1999. However, the Department is still concerned that all of its partners and customers, particularly institutions of higher education, may not be able to ensure that all their data systems related to the delivery of aid are also compliant. In light of that concern, it is important that the final version of the bill authorize the Secretary to delay implementation of those provisions with significant systems implications if earlier implementation would jeopardize the ability of the Department, or its partners or customers, to ensure that their data systems are Year 2000 compliant. In utilizing such discretion, the Department would work in close consultation with the Office of Management and Budget and the House and Senate authorizing committees.

Program integrity

There are numerous House and Senate provisions pertaining to program integrity, that, taken together, the Administration would regard as a serious weakening of current program integrity protections. These provisions include changes regarding program review criteria, financial responsibility, the anti-injunction provision and the 85-150 rule. Our concerns with these provisions are described in more detail in the attachment.

TANF

The Senate version contains a provision amending the Temporary Assistance for Needy Families program (TANF). It would expand the type and length of education programs that may be counted toward a State's "work activity" participation rate. The provision would also extend the FY98 and FY99 exclusion of teen parents from the cap on education programs that may be counted toward a State's "work activity" participation rate to FY2000 and beyond. The Administration strongly supports the goals of enabling more welfare recipients to move from welfare to work and providing educational opportunities for those who do. We look forward to working with conferees to ensure that the final legislation keeps the doors of college open to all Americans while still maintaining the welfare law's strong work requirements.

Pay-As-You-Go Scoring

The Omnibus Budget Reconciliation Act of 1990 requires that all revenue and direct spending legislation meet a pay-as-you-go requirement. That is, no such bill should result in an increase in net budget costs, and, if it does, it will trigger a sequester if not fully offset. Statements of Administration Policy on the two versions of the bill as reported out of committee indicated that each version had significant net costs. The Administration will estimate the costs and savings in the conference bill as reported at the appropriate time.

The Office of Management and Budget advises that there is no objection to the submission of this report to the Congress.

Yours sincerely,

Richard W. Riley

Attachment

**ATTACHMENT
ADDITIONAL VIEWS ON ISSUES IN H.R. 6**

In addition to the concerns outlined in Secretary Riley's letter, this attachment expresses the Administration's views on other important issues in the conference on the Higher Education Amendments of 1998. The issues are discussed in the order in which they appear in the current law or, in the case of new programs, in the passed versions of the bill.

Alcohol and drug abuse

Both the House and Senate versions of the bill would authorize the Department to offer grants and recognition awards to combat the illegal use of drugs and alcohol on campus. The Secretary would be authorized to make grants to or enter into contracts with institutions for alcohol, drug and violence prevention programming. This authority is similar to a program that already exists in the Safe and Drug-Free Schools program. While we believe this activity is very important, we do not believe that it needs to be authorized in both the Higher Education Act and the Safe and Drug-Free Schools Act. We recommend maintaining the authorization in Safe and Drug-Free Schools.

Institutional aid

Both versions of the bill make several positive changes to the institutional aid provisions that the Administration has recommended. Both versions of the bill allow institutions participating in Title III programs and Hispanic-Serving Institutions (HSIs) to use up to 20% of their grant funds to establish or expand an endowment fund and expand allowable activities to encourage institutions to use technology. Both versions would provide the HSI program more visibility by moving the program to a separate part in a different title, and simplifying the definition of HSI. Both the Senate and the House versions authorize grants for Tribal Colleges, as proposed by the Administration.

We prefer the House language on the changed funding formula for Historically Black Graduate Institutions (HBGIs) with the addition of the substance of the descriptive factors in the Senate provision for a competition; this will provide a more equitable distribution than either provision by itself. We also support the Senate provision for a minimum grant of \$1,000,000 to institutions before matching is required and the \$28,000,000 threshold for the use of the funding formula.

Pell Grants

We appreciate the strong support for the Pell Grant program that is evident in both versions of the bill, and are very pleased to see that many of the Administration's proposals for the Pell Grant program have been included in either one version or the other.

We support the House provision to extend the cohort default rate cut-off to Pell Grant eligibility. This extension will increase institutional accountability and better protect students from unscrupulous schools. We believe that the mitigating circumstance provisions that the Department has adopted in regulation for the student loan programs protect those institutions in which only a few students borrow, and we would like to work with the conferees to incorporate mitigating circumstances directly into the statute for purposes of institutional eligibility to participate in the Pell Grant program.

We support the Senate version of the bill's inclusion of the 150% time limit on student eligibility for Pell Grants, the new requirements for stand-alone English as a Second Language (ESL) programs, the tuition-sensitive award rule, and the extension of Pell Grant eligibility to college graduates enrolled in a non-graduate teacher training program. The Administration's proposal to limit Pell Grant eligibility to 150% of the time normally required to complete the course of instruction, with adjustments for students attending part-time and exemptions for students with disabilities, would prevent abuse of the program. We urge that the Administration's proposal to impose a total time limit of eight academic years of full time study, or the equivalent period of part-time study, be added to the 150% limit in the final version of the bill.

The Senate provision that students in stand-alone ESL programs may receive Pell Grants only if a minimum percentage of the program's students pass an English proficiency exam will also increase program integrity. The Senate version also includes the Administration's proposal to clarify that "tuition" includes fees required for attendance, and that the institution may determine the dependent care/disability allowance.

Finally, the Senate version includes a provision that would allow college graduates to receive Pell Grants on a case-by-case basis for a fifth year if they are enrolled in a teacher training program. This program would provide new assistance to encourage college students to become well-trained, motivated teachers. However, we need to ensure that it is administratively workable. We look forward to working with you in conference to refine this provision.

TRIO programs

Current law provides for grants of both four and five years in the TRIO programs. The House version of the bill adopts the Administration's proposal to standardize grant duration in the Talent Search, Upward Bound, Student Support Services, Postbaccalaureate Achievement, and Educational Opportunity Centers Programs at four years; the Senate version of the bill does not change current statutory provisions. We strongly support the House's changes, since current law is confusing to the community, presents little or no practical benefit and is

administratively complex.

The House version of the bill would eliminate the current administrative set-aside of 0.5% of appropriations for the TRIO Programs. The Senate version of the bill retains the set-aside. Eliminating the set-aside would have a significant and negative impact on the Department's ability to administer the TRIO Programs effectively. We support the Senate version.

Campus-based programs

The Administration proposed modifying the campus-based aid formula to gradually distribute a larger share of the program appropriation on the basis of measured institutional need for funds. The House version would eliminate the "pro rata" step. However, this change could lead to some institutions' allocations being reduced too quickly, rather than the gradual shifts proposed by the Administration. The Senate version has no comparable change, and, thus, fails to respond to changes in institutional need. We urge the conferees to adopt the Administration's proposal.

College awareness

Neither passed version of H.R. 6 would authorize the college awareness program proposed by the Administration. Recent studies have shown that low-income students attend college at significantly lower rates than individuals from high- and middle-income families, not because of financial inability to attend college but because of a lack of information about the requisite steps to prepare for, apply for, finance, and enroll in college. A college awareness program is a crucial element in our efforts to increase college attendance among low-income students, and would complement well the High Hopes program, which received support in both versions of the bill.

Guaranty agencies and voluntary flexible agreements

Both versions of the bill authorize up to six guaranty agencies to enter into voluntary flexible agreements with the Department. Guaranty agency arrangements need to focus more heavily on preventing defaults, and voluntary flexible agreements could help promote greater administrative efficiency and improved service for students.

The Administration supports components of both the House and Senate versions of the guaranty agency reform, including the House provisions to allow the Secretary to regulate the operating fund when monies are owed to the Federal fund and to allow the Secretary to waive or modify any statutory requirements for agencies that enter into voluntary flexible agreements. The Administration supports the provision in the Senate version that specifies that voluntary flexible agreements cannot restrict borrowers from selecting the lender of their choice. The Administration also supports the Senate provisions to prohibit agencies that

fail to make scheduled payments from receiving additional Federal funds, to require the Secretary's approval before agencies may support other student aid activities, to prohibit agencies from depositing interest earned on the Federal fund in the operating fund, and to reduce the loan processing and retention allowance fee. The Administration opposes the Senate provisions that would add burdensome notice requirements regarding voluntary flexible agreements.

The Administration also supports the provision of the House version that requires guaranty agencies to invest funds deposited into their operating funds in accordance with prudent investor standards, rather than the Senate provision which permits investment of the fund at the sole discretion of the guaranty agency.

FFEL repayment

We support the Senate provision to offer extended repayment plans of up to 25 years to FFEL borrowers with loans in excess of \$30,000. We also support the House provision that allows FFEL borrowers to retain their interest subsidies when they consolidate their loans. These changes would benefit FFEL borrowers with heavy debt burdens and would help level the playing field between the two loan programs. In addition, we support consideration of efforts to extend income-contingent repayment plans to FFEL borrowers.

Origination and insurance fees

Unfortunately, neither version would lower the up-front loan fees for students. Reducing the origination fees for Direct Loans and the insurance fees for FFEL loans would reduce students' cost of borrowing. The Administration proposed to lower the fees by one percentage point for all borrowers, and to phase them out entirely for borrowers of subsidized loans. These fee reductions could be included in the conference agreement if their costs are appropriately offset.

Loan forgiveness

Both the House and Senate include programs to forgive loans for teachers in high-poverty schools. We support encouraging students to teach in the schools where their talents are needed most. However, changes are needed to the program as currently written to make the program more effective and its administration, by the Department, institutions, guaranty agencies, and lenders, more workable. For example, because of the need to track student loans separately under the loan forgiveness provisions as currently structured, a student seeking loan forgiveness would be unable to consolidate his or her student loans. This is inequitable because it would limit the student's repayment options. In addition, the House and Senate versions of the bill also contain provisions for loan forgiveness for child care workers. In lieu of these proposals, the Administration supports its Child Care Provider Scholarship Fund, which would provide more than \$300 million in scholarships over five years to

up to 50,000 child care providers annually

We would like to work with you on making the loan forgiveness provisions more equitable and effective. Options to consider include: treating all Federal student loans equally, regardless of the year in which they were received; offering loan forgiveness from the first year of teaching, or explicitly providing forbearance for the first years of teaching; changing the percentage of loans that may be forgiven each year; and creating a simpler administrative and financing mechanism for both teachers and child care workers.

Finally, under both versions of the bill, borrowers who have their remaining outstanding loan balance forgiven after 25 years of income-contingent repayment must continue to pay taxes on the amount forgiven. Saddling borrowers with additional tax liability is neither appropriate nor was it ever intended. The Administration supports adding a provision to exempt the amount forgiven from Federal income taxation.

Lending from proceeds of tax-exempt obligations

Under current law, secondary markets using tax-exempt funds must file a plan for doing business with the Department. This provision includes substantive restrictions on discrimination and on payment of premiums exceeding one percent for loans. The House version of the bill would eliminate both the filing requirement and the restrictions. The Senate version eliminates the filing requirement and the payment of premiums restriction, retaining only the nondiscrimination provision. The Administration supports elimination of the filing requirement but retention of both substantive restrictions.

Community service deferment

Neither version would permit the Secretary to pay the interest that accrues on an unsubsidized FFEL or Direct Loan while the borrower is receiving an economic hardship deferment on the loan and performing community service. This important proposal is part of the President's call to action to all Americans to serve their communities, and would allow individuals with student loans who qualify for economic hardship deferments to take up to three years to serve their communities without accruing additional interest on their loans. This would remove a financial obstacle to community service for borrowers who already satisfy economic hardship criteria, such as Peace Corps volunteers.

Market-based mechanisms

The Administration continues to support an objective, market-based determination of appropriate rates of return for lenders on student loans. A number of different market mechanisms have the potential to achieve this outcome, and we are eager to work with Congress to find the right approach. We also support obtaining financial information from FFEL lenders as part of a

new study that could better guide the Congress regarding the profitability of lenders and the formulation of policy on student loans.

Work-study community service

The House version of the bill would add several burdensome requirements. First, it would add a requirement that at least two percent of an institution's allocation (in addition to the current five percent community service requirement) be spent on early childhood reading tutors. The House version of the bill would also require institutions to give priority in work-study funds to students tutoring in schools that meet certain criteria, a requirement which would unnecessarily complicate institutions' administration of the program. The Department has had great success with its voluntary partnerships with America Reads tutors, and prefers to continue with that approach.

Perkins Loans

Both the House and Senate version of the bills would eliminate the Federal Perkins Loan revolving fund account; the House would do so explicitly in order to subsidize loan forgiveness for teachers in the FFEL and Direct Loan programs. We oppose this elimination. Without this fund, Congress would need to provide an increase in discretionary appropriations for Perkins Loan Federal Capital Contributions in order to avoid reducing loan volume. In addition, the House version of the bill includes forbearance provisions, including mandatory forbearance for Perkins Loans recipients during a term of national service, that should be expanded to be comparable with FFEL and Direct Lending.

Need analysis

We are pleased with the House provisions to combine parent and dependent student assets to eliminate the differential assessment rates and to increase the income protection allowances significantly. These changes will protect more of the earnings of needy students, will restore Pell Grant eligibility to many nontraditional students, and are a step in the right direction toward encouraging saving, increasing fairness, and simplifying the financial aid process for students and families, as proposed by the Administration. However, we note this change would increase discretionary spending, and thus the funding of these provisions would need to be examined during the annual appropriations process.

We are also pleased that both the Senate and House version of the bills would add an offset for dependent students in the amount of the parents' negative available income. This offset would exclude from need analysis calculation the income of a student whose earnings are necessary for the family's living expenses. The Administration supports the House version of this offset since it allows for the use of "adjusted" available income as an offset against dependent student income. This means that any negative amount remaining after first offsetting any contribution from parental assets would then be used to offset

dependent student income. The Senate version, on the other hand, would allow the full unadjusted negative available income to offset both parental assets and the same amount again to offset dependent student income. In a sense, the Senate proposal would inappropriately provide a double counting advantage.

Neither the House nor the Senate included language clarifying that financial aid administrators may adjust need determination to assist dislocated workers. The Administration has requested this change in recent letters to Congress, and will continue to seek to include it in the final version of the bill.

Multi-year promissory note; forms

The House version of the bill would require a multi-year promissory note within 180 days of the enactment of the reauthorization bill. The Senate version would require the Secretary to develop a master promissory note for use beginning July 1, 2000. We agree that a multi-year promissory note will simplify the process by which students and their families apply for and receive federal student loans. In fact, we are currently in the final stages of developing the procedures and notes for the introduction of a master promissory note with a multi-year loan renewal process in both the FFEL and Direct Loan programs. We expect the new notes to be available for the 1999-2000 academic year, with borrowers who apply for loans for the 2000-2001 year being the first who would benefit from the multi-year functionality, since they would have signed the master note during the prior year. With these targets in mind, and in order to ensure that the processes work properly and effectively, we would prefer that the law not include a specific timeframe.

The Administration is also disappointed that neither version of H.R. 6 would provide the Secretary with the authority to approve alternative forms to determine need and eligibility for student aid that contain the same information as the Free Application for Federal Student Aid (FAFSA) as long as the entire form is provided free of charge, as was proposed by the Administration. The use of alternative free versions of the FAFSA, especially electronic versions, could reduce burden for students and families while streamlining the aid award process and maintaining the integrity of the delivery system.

IRS and information sharing

The House version of the bill would authorize the Secretary to confirm with the IRS each aid applicant's adjusted gross income, Federal income taxes paid, tax filing status, and number of exemptions. The Senate version of the bill would require the Secretary to verify aid applicant's tax return information with the IRS. The Administration has several concerns regarding the income verification proposals in both the House and Senate versions, including confidentiality of taxpayer information, and IRS resource and systems capacity issues (particularly in light of the Year 2000 conversion underway). The Administration would like

to work with the conferees to determine whether an approach can be developed to address these issues, while still accomplishing the Members' objectives.

Drug offenders

We oppose the language in both versions of the bill suspending aid eligibility for students who have been convicted of any drug offense under Federal or State law. This provision would largely duplicate existing law denying Federal benefits to individuals convicted of a drug offense under Federal or State law. Current law also contains important judicial discretion provisions that are lacking in both versions.

Freely Associated States

Under current law, citizens of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau attending any eligible institutions may be eligible for Pell Grants and certain other forms of student financial aid. (Students who are permanent residents of the Freely Associated States may be eligible for such aid to attend institutions in the Freely Associated States.) The Senate version makes no change to these provisions. The House version would terminate the eligibility of students who are citizens or permanent residents of Micronesia, the Marshall Islands, or Palau on October 1, 2001, and, until then, they would be eligible only if they attend an institution in Guam, Micronesia, the Marshall Islands, or Palau. We strongly oppose the House provisions. The United States has a special relationship with these countries, as well as a responsibility to assist them in nation-building, and the State Department has raised questions about the international significance of curtailing Federal student aid and its potential impact on the negotiation of future compacts with the Freely Associated States. Finally, it would be useful if the final version of H.R.6 were to include a clearer expression of congressional intent that the eligibility of these students from the FAS was not affected by the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Refunds

Although we are pleased that the Senate adopted the Administration's general approach for calculating refunds, we have strong concerns about allowing schools to retain all Title IV funds for students who withdraw from an institution without going through an official withdrawal process. This policy would create a huge loophole that would encourage abuse in reporting withdrawals and recouping appropriate funds. It would reward institutions for unofficial withdrawals by students by giving those students the same amount of student aid as is given to students who complete the term. We also have some drafting concerns regarding this provision. We hope to work with you to adopt the Senate approach with some changes.

Program integrity

The Administration opposes a variety of provisions in the House version that would weaken program integrity. The House provision to allow proprietary institutions to include revenues from job training contracts as part of the requisite 15% of revenues from non-Title IV sources would seriously undermine the intent of the 85-15 rule, which was to ensure that eligible institutions are not primarily dependent on public monies to exist.

The House version also would vitiate the anti-injunction provision in current law. This provision prohibits injunctions against the Secretary that interfere with the Secretary's responsibilities in the loan programs. An institution with an official cohort default rate that would remove it from the loan programs still may receive loan funds during the course of its administrative appeal of its loss of eligibility, but if the institution loses its administrative appeal, its participation ends. The anti-injunction provision has prevented institutions whose loan eligibility has been terminated on the basis of high cohort default rates from receiving loan funds while they sue the Secretary over the termination. An institution still may receive loan funds during the course of its administrative appeal of its loss of eligibility, but if the institution loses its administrative appeal, its participation ends. We strongly believe that the institution should not be able to enjoin the Secretary to restore its participation during the course of a lawsuit. Without the current anti-injunction provision, these lawsuits could be used as a delaying tactic by unscrupulous institutions merely to obtain more loan funds. The anti-injunction provision has prevented millions of dollars of loan funds from going to high default schools that were properly terminated from the loan programs. It would undermine program integrity to undo this well-established precedent.

The Senate version provides that schools with default rates of over 50 percent for three consecutive years would not be eligible to participate in the Perkins program. We believe this provision would be too lenient, and prefer a provision that would end participation for an institution with default rates of 25% or higher for three consecutive years. This change would standardize the cohort default rate cap across Federal student loan programs.

Finally, we oppose the provision in the Senate version of the bill that requires the Department to calculate a program participation rate index for each institution subject to loan eligibility termination on the basis of high cohort default rates. The participation rate index is currently used in the mitigating circumstances appeals process, where the calculation is performed by the institution. The Department does not have data on the number of loan-eligible students at each institution, and therefore cannot calculate the participation rate index for all institutions without imposing significant new reporting requirements on institutions for no substantial benefit.

Electronic exit counseling

The Senate version of the bill would allow institutions to provide personalized electronic exit counseling for borrowers. While we believe that current statutory language allows the use of technology for exit (and entrance) counseling, and the Department has been moving in this direction, we support this clarification.

Campus security

The Administration generally supports most of the changes made by the House and Senate versions of the bill. Both versions would require institutions to maintain open crime logs and expand the number of crimes that must be reported; we support these changes. They also contain language permitting disclosure of campus disciplinary records. Both versions have drafting flaws that would undermine their effectiveness and compromise legitimate privacy interests. We look forward to working with the conferees to develop more acceptable language.

The Senate version of the bill clarifies and expands the definition of campus, so that institutions have to report crimes that take place on public property contiguous to the campus, e.g. sidewalks, and in any building owned by the institution or a student organization. This information is critical for students to know and will help provide a more accurate picture of crime on campus.

Violence against women on campus

We support the language in both the House and Senate versions of the bill that would authorize a grant program to prevent violence against women on campus. Violence against women is a serious issue, and this program would help female students feel safer on their campuses. The Senate also authorizes a study of campus sexual assault policies, which would shed new light on the controversial issue of how campus authorities handle sexual assaults.

Quality assurance (QA) and experimental sites programs

The House version of the bill would effectively end these two programs, replacing them with a "Regulatory Simplification Program" that would not allow for waiver of statutory requirements, or provide for alternatives for administering the programs. The Senate version of the bill does attempt to expand the areas included in the QA program, but then undermines that expansion by specifically limiting waivers to verification, as is now the case in the current QA program. The Administration supports the inclusion of the waivers necessary to give effect to the expanded scope of the QA program included in the Senate version.

The Senate version of the bill would make less drastic changes to the experimental sites program than the House version. The Senate version includes requirements that the Secretary review all projects and report to Congress his

recommendations to streamline and improve student aid programs based on the projects (these reporting requirements would also be applicable to the QA program). It is important that the experimental sites program be continued, as it has provided administrative relief to institutions with strong performance managing the student financial assistance programs and has supported important research into alternatives to current law and regulation. The provisions in the Senate bill for both programs are preferable to those in the House version of the bill.

Negotiated rulemaking

The House and Senate version of the bills are overly broad in scope and include unrealistic time requirements that would actually impede effective negotiated rulemaking. The Administration strongly opposes the requirement that all future Title IV regulations be subject to negotiated rulemaking regardless of their technicality or urgency, skewing resources away from the most important issues and generating unnecessary litigation, delay, and expense. We hope to work with Congress to develop a workable process for fashioning more focused and flexible regulations. That process should include the ability to negotiate with the higher education community to identify the issues to be subject to negotiated rulemaking.

Loan proration

We support the House version's language on loan proration. The House provisions move in the direction of the Administration proposal and would simplify proration by allowing it to be done proportionally for all types of loans affected.

Ability to implement regulations earlier

The Senate version of the bill includes the Administration's proposal to authorize the Secretary to designate regulatory provisions that institutions or other entities may choose to implement before the otherwise applicable effective date which, as required by the Master Calendar, includes a delay of at least seven months. These changes would provide the Secretary and program participants with greater flexibility.

Biennial review of regulations

The House version of the bill would require the Secretary to conduct reviews of regulations every two years. The Senate version also requires the Secretary to review regulations, but does not specify frequency. The Department already reviews its regulations regularly, and feels that either version of this provision would be an unnecessary and inappropriate intrusion upon the Secretary's authority and responsibility to manage the Department.

Financial responsibility

The House version of the bill contains confusing language that could be read to undermine the well-received financial responsibility regulations that the Department recently developed in close cooperation with the higher education community and to establish a dangerously low standard for the financial health of institutions participating in student financial aid programs. We oppose these provisions

Program review criteria

The Administration opposes the provision in both versions of the bill that would require the Department to prioritize program reviews based on criteria in statute, such as high default or withdrawal rates, or large fluctuations in Pell Grant and loan volume. This is unwarranted micro-management. The Department selects its program review sites based on a probabilistic risk analysis model. While this model incorporates many of the criteria listed in the Senate provision, strict adherence to the provision would require the development of a new model and would remove all flexibility for the Department. We are confident that the current program review selection model effectively targets problem institutions while maintaining an element of randomness to promote broad program compliance.

Student loan ombudsman

The Senate version of the bill would establish a Student Loan Ombudsman Office to assist borrowers with problems with their student loans. We understand the desire to provide a place for students to go, if they have particularly complex student loan problems, or have been frustrated by other attempts to resolve these problems. This is the kind of customer-oriented activity that we would want a PBO to address, and we would prefer for the new Chief Operating Officer (COO) to determine its structure and mission. However, if the conferees intend to include statutory language regarding an Ombudsman, we would seek changes to the Senate provisions. For example, the relationships between the Secretary, the COO, and the ombudsman are very unclear, which would result in a substantial danger of poor coordination in providing services to students. We hope to work with Congress to look at the role and function of an ombudsman and to relate any such office appropriately to the PBO.

Graduate education

The House version would eliminate the Javits, Faculty Development, and Legal Training for the Disadvantaged programs, retaining only a modified Graduate Assistance in Areas of National Need (GAANN) program. The Senate version authorizes all of these programs with some changes: Javits and GAANN eligibility would be limited to students who demonstrate financial need; forward-funding of Javits would be permitted; the Faculty Development Fellowship program would be redesigned; and Assistance for Training in the Legal Profession would be replaced by the Thurgood Marshall Legal Educational

Opportunity Program. The Administration supports the House approach to consolidate all graduate programs into one, which is closer to the approach proposed by the Administration, with the addition of the Administration's provisions for students from underrepresented groups.

Teaching students with disabilities

We support the Senate version of the bill's new program to provide competitive grants to colleges to improve teaching for students with disabilities. The grants would support technical assistance and training for faculty and administrators to enable them to effectively teach students with disabilities. Many more students with disabilities are now benefiting from higher education; the grants would help faculty members better reach these students.

Advanced Placement

We are pleased that both versions of the bill would reauthorize the current Advanced Placement Fee Payment Program, the Senate with significant modifications. We prefer the Senate version of the bill; however, we recommend that the final bill clarify that any State in which all low-income individuals are required to pay no more than a nominal fee to take advanced placement tests may use any remaining funds to increase the participation of low-income students in Advanced Placement courses and exams through activities such as information dissemination, teacher training, and curriculum development.

The Senate version of the bill attempts to accommodate this recommendation in part, by permitting States to use up to 5 percent of grant funds to disseminate information about the program and by providing an exception to the "supplement, not supplant" rules when funds are used to increase the participation of low-income individuals in advanced placement courses through teacher training and other activities directly related to increasing the availability of Advanced Placement courses. However, the supplanting language is very difficult to understand and inconsistent with the Senate committee report's description of the program.

Another problem with the Senate language concerns the provision that notwithstanding an appropriation, the Secretary shall award grants for this program only if the College Board funds its fee assistance program at no less than the level of the previous year. It is inappropriate for the behavior of a private organization to determine whether a nationwide Federal program, for which funds have been appropriated, can be carried out. We recommend that this language be eliminated, and that the conferees instead include report language recommending that members of the appropriations committees should consider whether the College Board and other private efforts are continuing their support.-

Education of the Deaf Act

The provisions in the House version that would reauthorize the Education of the Deaf Act include a provision to eliminate the 10 percent cap on enrollment of international deaf students. The current tuition charges for these students cover less than one-third of the educational costs related to their attendance, and the Administration is concerned about the high Federal cost of subsidizing these students. Elimination of the cap, without a corresponding increase in the tuition surcharge for international students, would result in resources being diverted from other university level programs to support these students. We support the provisions in the Senate version, which retain current law and add language clarifying that no qualified United States citizen shall be denied admission because of the admission of an international student.

Proprietary school liaison

The Senate version of the bill would establish a Liaison for Proprietary Institutions of Higher Education within the Department. The need for such a liaison has not been demonstrated. The Department works with many different kinds of schools, all with their own specific interests. To single out the proprietary sector for special representation is inappropriate and opens the door to a multitude of liaisons.

Educ - higher educ act, general

URGENT

Total Pages: _____

LRM ID: CJB268

**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001**

Wednesday, August 5, 1998

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: *Janet R. Forsgren*
Janet R. Forsgren (fpg) Assistant Director for Legislative Reference

OMB CONTACT: Constance J. Bowers
PHONE: (202)395-3803 FAX: (202)395-6148

SUBJECT: REVISED EDUCATION Conference Document on HR6 Higher Education Amendments of 1998

DEADLINE: 5:00 p.m. today Wednesday, August 5, 1998

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: ED intends to transmit this letter to the conferees shortly. Therefore, this deadline is firm.

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LRM ID: CJB268 SUBJECT: REVISED EDUCATION Conference Document on HR6 Higher Education Amendments of 1998

RESPONSE TO LEGISLATIVE REFERRAL MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

- (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: Constance J. Bowers Phone: 395-3803 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: (Date)
(Name)
(Agency)
(Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

- Concur
No Objection
No Comment
See proposed edits on pages
Other:
FAX RETURN of pages, attached to this response sheet

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Dear Conferccc:

I am pleased that versions of H.R. 6, a bill to reauthorize the Higher Education Act of 1965 (HEA), have passed both the Senate and the House, and I greatly appreciate the hard work that you and your staff have devoted to this important legislation. I am especially pleased that both bills have adopted the student interest rate on new loans at the level proposed by the Vice President last winter. This will help students manage better their postsecondary education debt and thus make college more affordable.

We now have the opportunity to work together during the conference deliberations to enact a strong bipartisan bill that will help more Americans prepare for and gain access to college, improve teacher recruitment and preparation, and promote better program management. In this work, we must all keep our focus on the goal of producing legislation that is grounded in sound educational and fiscal policy to provide maximum benefits to students. That is the ultimate purpose of the Higher Education Act.

This letter and its attachment highlight the issues in the HEA reauthorization that are of particular importance to the Administration. They include issues such as: ensuring that the bill is fully paid for and there is no risk of a government-wide sequester; ensuring that there are adequate funds available to administer effectively both the Federal Family Education Loan (FFEL) and Direct Loan programs; maintaining a key aspect of the Nation's commitment to raising the quality of teaching and learning--the ability of the National Board for Professional Teaching Standards to continue to test teachers against tough, high standards by continuing to offer master teacher certification; and offering borrowers the same low interest rate on FFEL and Direct consolidation loans. I am confident that the issues presented by the bills now in conference can be resolved to our mutual satisfaction. I must inform you, however, that if the Conference approach to these issues does not serve students well, and if the Conference should incorporate other provisions that are unfavorable to students, then I would recommend that the President veto H.R. 6.

Interest rates

I am pleased that both the Senate and House versions would lower the interest rates that students pay on new loans by 0.8 percent, as the Administration proposed. This reduction is a major accomplishment that will provide substantial savings for students. I am concerned, however, that many current borrowers are struggling with excessive debt, and need to have access to the lower interest rates as well. The final version of H.R. 6 should reduce the interest rate costs for all borrowers by lowering the interest rate on FFEL Consolidation Loans so that it is the same as the rate applicable to Direct and FFEL student loans and Direct Consolidation Loans. This policy is consistent with our HEA reauthorization proposal to have the same

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low consolidation rates in both loan programs.

In order to provide the low consolidation rate in the FFEL program, it will be necessary to adjust subsidies or the offset fee to make the loans sufficiently profitable. At the same time, however, subsidies that both the House and Senate versions of the bill would provide to lenders in the Stafford and PLUS loan programs are too high, and I urge you to reduce or eliminate them.

Section 458

I remain adamantly opposed to any cuts in the student aid administrative funds available to the Department under section 458 of the HEA beyond those agreed to in last year's balanced budget package. The further decreases in section 458 funds contained in both the House and Senate versions of H.R. 6 would impair the Department's ability to administer effectively the FFEL and Direct Loan programs by threatening the Department's ability to manage such activities as student aid application processing, student loan default collection, and the urgently needed modernization of student aid delivery systems. Both the Senate and House versions would create a new loan processing and issuance fee to be paid to guaranty agencies from section 458 funds. I strongly support the Senate's provision to cap this fee to better ensure sufficient funding for the efficient administration of the loan programs.

The Senate's decision to offset the amendment regarding need analysis determinations for veterans receiving G.I. Bill benefits with funds from section 458 also undermines the Department's ability to manage the loan programs. I hope to work with you to find a more suitable offset for this provision.

National Board for Professional Teaching Standards

I strongly oppose SECTION 809 OF THE HOUSE VERSION OF H.R. 6, WHICH WOULD prohibit Federal funds from MADE AVAILABLE TO the National Board for Professional Teaching Standards. By defining standards of excellence for experienced teachers, the National Board helps to focus and upgrade teacher training, recognize and reward outstanding teachers, and keep our best teachers in the classroom where they are needed most. As both Houses have recognized in the teacher recruitment and preparation provisions of the HEA, attracting and keeping well-trained teachers in the classroom is a national priority and an essential step to increase student achievement. More than half the States and a growing number of school districts offer incentives to teachers to seek Board certification, and have made Board certification an integral part of their overall efforts to strengthen teacher quality. By ending Federal support for the Board's research and development, the House provision jeopardizes the scheduled completion of the development of the remaining professional standards AND ASSESSMENTS within the next three years, and undermines these important VITAL State and local efforts. This is the wrong step to take at precisely the time when we must do everything possible to set the highest standards for our teachers.

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~~I strongly oppose the House provision to prohibit Federal funds from being spent on the National Board for Professional Teaching Standards. The National Board recognizes and rewards outstanding teachers who then become observable examples of excellence to which other teachers can aspire. Upgrading the teacher corps and raising teacher standards in this way is a key element of our efforts to improve student learning.~~

High Hopes

I am very pleased that both bills address the importance of early outreach to at-risk youth. The House version includes the Administration's proposal for High Hopes for College, while the Senate created a new "Connections" program that incorporates certain elements of High Hopes and the National Early Intervention Scholarship and Partnership (NEISP) program. I look forward to working with the conferees to ensure that the final version of the program encourages colleges to partner with high-poverty middle schools, offers comprehensive services to all students at these middle schools, and is administratively feasible.

Teacher training and recruitment

Both the House and Senate bills would authorize grants to states and local partnerships to reform and improve teacher training. The Senate version, which would divide funding equally between states and partnerships and would focus the partnerships on improving teacher education, offers a better chance at meaningful change than the House version, which limits partnerships' share of funding to 33 percent. Partnerships that involve colleges, teacher training programs, K-12 schools and other local organizations will encourage interaction among practicing teachers, aspiring teachers, and professors of education to better prepare teachers for 21st century classrooms than state-level efforts.

I am pleased that the Senate version includes the Administration's program to recruit new teachers for underserved areas through partnerships between colleges and underserved school districts. The House version fails to include sufficient efforts to recruit new teachers in order to address the pressing need for teachers in urban and rural areas. I urge the conferees to adopt the Senate's program for teacher recruitment.

Both bills include accountability provisions that require state and institutional "report cards" on the quality of teacher education. While I endorse reporting requirements that will provide more information about the teacher training process, I am still concerned about eliminating good students from student aid eligibility for some programs based on the inadequate performance of others.

Distance learning

We have made significant progress on the issue of distance learning, and I am pleased that both the House and Senate versions include demonstration programs to accommodate the new technologies and innovations that can greatly increase access

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to postsecondary education. The House provisions, which would allow the Secretary to waive any need analysis or general provisions for a representative sample of institutions (or consortia of institutions), would provide more flexibility and opportunity than the Senate provisions. The Senate version would authorize the waiver only of particular statutory provisions and any need analysis or general provisions regulations for 15 institutions or consortia initially, to be expanded to up to 50 in the third year of the program. I urge the conferees to provide sufficient flexibility in the demonstration projects to allow for the development and support of high-quality distance education programs, and I support the additional opportunities that would be provided by the House version.

~~We have made significant progress on the issue of distance learning, and I am pleased that both the House and Senate versions include demonstration programs to accommodate the new technologies and innovations that can greatly increase access to postsecondary education. The House's program would allow the Secretary to waive any provision in parts F or G of title IV or part A of title I, comprising all the need analysis provisions and general provisions, for a representative sample of institutions. The Senate version would limit participation in the demonstration program to 15 institutions or consortia initially, to be expanded to up to 50 in the third year of the program after an evaluation of the initial 15 is completed. The Senate program authorizes the waiver of the computer-related cost of attendance rules in Part F for non-proprietary demonstration schools, minimum weeks of instruction rules, rental or purchase of equipment provisions, and any regulations in Parts F and G. I urge the conferees to provide sufficient flexibility in the demonstration projects to allow for the development and support of high-quality distance education programs, and I support the additional opportunities that are provided in the House bill.~~

I am also pleased that the Senate version authorizes the Administration's Learning Anytime Anywhere Partnership (LAAP) program, which would encourage partnerships to develop innovative ways of delivering education, ensuring quality, and measuring student achievement that are appropriate to distance education. I urge the conferees to adopt LAAP.

PBO

I am glad that provisions that would create a Performance Based Organization (PBO) for the administration of student aid programs were included in both passed versions of H.R. 6. I prefer the PBO provisions in the Senate version, in part because these provisions explicitly provide for personnel and procurement flexibilities necessary for the successful operation of the PBO. I also ask that the conferees add certain buyout flexibilities to the personnel flexibilities included in the Senate version.

Year 2000

It is anticipated that all Department systems needed to deliver Federal student aid will be fully compliant with Year 2000 requirements no later than March 1999. However, the

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Department is still concerned that all of its partners and customers, particularly institutions of higher education, may not be able to ensure that all their data systems related to the delivery of aid are also compliant. In light of that concern, it is important that the final version of the bill authorize the Secretary to delay implementation of provisions of the bill with significant systems implications if earlier implementation would jeopardize the ability of the Department, or its partners or customers, to ensure that their data systems are Year 2000 compliant. In utilizing such discretion, the Department would work in close consultation with the Office of Management and Budget and the House and Senate authorizing committees.

Program integrity

There are numerous House and Senate provisions pertaining to program integrity, that, taken together, the Administration would regard as a serious weakening of current program integrity protections. These provisions include changes regarding program review criteria, financial responsibility, the anti-injunction provision and the "85-15" rule, and the manner in which the program participation rate index would be incorporated into cohort default rate determinations. Our concerns with these provisions are described in more detail in the attachment.

TANF

The Senate bill contains a provision amending the Temporary Assistance for Needy Families program (TANF). It would expand the type and length of education programs that may be counted toward a State's "work activity" participation rate. The provision would also extend the FY98 and FY99 exclusion of teen parents from the cap on education programs that may be counted toward a State's "work activity" participation rate to FY2000 and beyond. The Administration strongly supports the goal of enabling more welfare recipients to move from welfare to work. We look forward to working with conferees to ensure that the final legislation keeps the doors of college open to all Americans while still maintaining the welfare law's strong work requirements.

Pay-As-You-Go Scoring

The Omnibus Budget Reconciliation Act of 1990 requires that all revenue and direct spending legislation meet a pay as-you-go requirement. That is, no such bill should result in an increase in net budget costs, and, if it does, it will trigger a sequester if not fully offset. Statements of Administration Position on the two versions of the bill in conference indicated that each bill had significant net costs. The Administration will estimate the costs and savings in the conference bill as reported at the appropriate time.

The Office of Management and Budget advises that there is no objection to the submission of this report to the Congress, and _____ "not in accord with the program of the President."

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Yours sincerely,

Richard W. Riley

Attachment

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**ATTACHMENT
ADDITIONAL VIEWS ON ISSUES IN HLR 6**

In addition to the concerns outlined in Secretary Riley's letter, this attachment expresses the Administration's views on other important issues in the Higher Education Amendments of 1998 conference. The issues are discussed in the order in which they appear in the current law or, in the case of new programs, in the passed versions of the bill.

Alcohol and drug abuse

Both the House and Senate versions of the bill would authorize the Department to offer grants and recognition awards to combat the illegal use of drugs and alcohol on campus. The Secretary would be authorized to make grants to or enter into contracts with institutions for alcohol, drug and violence prevention programming. This authority is similar to a program that already exists in the Safe and Drug-Free Schools program. While we believe this program activity is very important, we do not believe that it needs to be authorized in both the Higher Education Act and the Safe and Drug-Free Schools Act. We recommend *[eliminating this provision while]* maintaining the authorization in Safe and Drug-Free Schools.

~~Both versions would also authorize National Recognition Awards to institutions that have developed and implemented innovative and effective alcohol prevention programs. We do not support the provision related to National Recognition Awards as we feel it is too prescriptive and too narrowly focused on alcohol to the exclusion of drug abuse. Furthermore, there is no evidence that this type of effort would lead to other institutions developing similar drug and violence prevention programs. Finally, the Department's experience with these types of programs suggests that they usually cost much more than the authorized amounts to implement effectively. If this program is authorized in the final version of the bill, we would strongly support adding additional flexibility and funding.~~

Institutional aid

Both versions of the bill make several positive changes to the institutional aid provisions that the Administration has recommended. Both versions of the bill allow institutions participating in Title III programs and Hispanic-Serving Institutions (HSIs) to use up to 20% of their grant funds to establish or expand an endowment fund and expand allowable activities to encourage institutions to use technology. Both versions would provide the HSI program more visibility by moving the program to a separate part in a different title, and simplifying the definition of HSI. Both the Senate and the House versions authorize grants for Tribal Colleges, as proposed by the Administration.

We prefer the House language on the changed funding formula for Historically Black Graduate Institutions (HBGIs) with the addition of the substance of the descriptive factors in the Senate provision for a competition; this will provide a more equitable distribution than either provision by itself. We also support the Senate provision for a minimum grant

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of \$1,000,000 to institutions before matching is required and the \$28,000,000 threshold for the use of the funding formula.

The Senate language HBCU capital financing is preferable because it incorporates the Administration's proposal to expand the kinds of projects that may be financed under this program. However, neither version adopts the recommendations proposed by the HBCU Capital Financing Program Advisory Board that the Administration has endorsed since our reauthorization proposal was submitted. We support the Advisory Board's recommendations to establish a technical assistance component, to include technology and infrastructure as qualified projects, and to revise Board membership to include the presidents of UNCF and NAFEO. We also support the Board's recommendation that the escrow requirement be reduced from 10 percent to 5 percent. Based on our experience with the program, we are confident that we can lower the escrow requirement to 5 percent without any Federal cost. ~~The Administration further proposes to clarify that a financing proposal must be in the "best financial interest of the institution" and that this determination must be made jointly by the Secretaries of Education and of Treasury.~~

Pell Grants

We appreciate the strong support for the Pell Grant program that is evident in both versions of the bill, and are very pleased to see that many of the Administration's proposals for the Pell Grant program have been included in either one version or the other.

We support the House provision to extend the cohort default rate cut-off to Pell Grant eligibility. This extension will increase institutional accountability and better protect students from unscrupulous schools. We believe that the mitigating circumstance provisions that the Department has adopted in regulation for the student loan programs protect those institutions in which only a few students borrow, and we would like to work with the conferees to incorporate ~~this regulatory~~ mitigating circumstances directly into the statute for purposes of institutional eligibility to participate in the Pell Grant program.

We support the Senate version of the bill's inclusion of the 150% time limit on student eligibility for Pell Grants, the new requirements for stand-alone English as a Second Language (ESL) programs, the nutrition-sensitive award rule, and the extension of Pell Grant eligibility to college graduates enrolled in a non-graduate teacher training program. The Administration's proposal to limit Pell Grant eligibility to 150% of the time normally required to complete the course of instruction, with adjustments for students attending part-time and exemptions for students with disabilities, would prevent abuse of the program. We urge that the Administration's proposal to impose a total time limit of eight academic years of full time study, or the equivalent period of part-time study, be added to the 150% limit in the final version of the bill.

The Senate provision that students in stand-alone ESL programs may receive Pell Grants

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only if a minimum percentage of the program's students pass an English proficiency exam will also increase program integrity. The Senate bill also includes the Administration's proposal to clarify that "tuition" includes fees required for attendance, and that the institution may determine the dependent care/disability allowance.

Finally, the Senate version includes a provision that would allow college graduates to receive Pell Grants on a case-by-case basis for a fifth year if they are enrolled in a teacher training program. This program would provide new assistance to encourage college students to become well-trained, motivated teachers. However, we need to ensure that it is administratively workable. We look forward to working with you in conference to refine this provision.

TRIO programs

Current law provides for grants of both four and five years in the TRIO programs. The House version of the bill adopts the Administration's proposal to standardize grant duration in the Talent Search, Upward Bound, Student Support Services, Postbaccalaureate Achievement, and Educational Opportunity Centers Programs at four years; the Senate version of the bill does not change current statutory provisions. We strongly support the House's changes, since current law is confusing to the community, presents little or no practical benefit and is administratively complex.

The House version of the bill would eliminate the current administrative set-aside of 0.5% of appropriations for the TRIO Programs. The Senate version of the bill retains the set-aside. Eliminating the set-aside would have a significant and negative impact on the Department's ability to administer the TRIO Programs effectively. We support the Senate version.

Campus-based programs

The Administration proposed modifying the campus-based aid formula to gradually distribute a larger share of the program appropriation on the basis of measured institutional need for funds. The House version would eliminate the "pro rata" step. However, this change could lead to some institutions' allocations being reduced too quickly, rather than the gradual shifts proposed by the Administration. The Senate version has no comparable change, and, thus, fails to respond to changes in institutional need. We urge the conferees to adopt the Administration's proposal.

College awareness

Neither passed version of H.R. 6 would authorize the college awareness program proposed by the Administration. Recent studies have shown that low-income students attend college at significantly lower rates than individuals from high- and middle-income not because of financial inability to attend college but because of a lack of information about the requisite steps to prepare for, apply for, finance, and enroll in college. A college awareness program is a crucial element in our efforts to increase college attendance among low-income students, and would complement well the High Hopes program, which received support in both versions of the bill.

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Guaranty agencies and voluntary flexible agreements

Both versions of the bill authorize up to six guaranty agencies to enter into voluntary flexible agreements with the Department. Guaranty agency arrangements need to focus more heavily on preventing defaults, and voluntary flexible agreements could help promote greater administrative efficiency and improved service for students.

The Administration supports components of both the House and Senate versions of the guaranty agency reform, including the House provisions to allow the Secretary to regulate the operating fund when monies are owed to the Federal fund and to allow the Secretary to waive or modify any statutory requirements for agencies that enter into voluntary flexible agreements. The Administration supports the provision in the Senate version that specifies that voluntary flexible agreements cannot restrict borrowers from selecting the lender of their choice. The Administration also supports the Senate provisions to prohibit agencies that fail to make scheduled payments from receiving additional Federal funds, to require the Secretary's approval before agencies may support other student aid activities, to prohibit agencies from depositing interest earned on the Federal fund in the operating fund, and to reduce the loan processing and retention allowance fee. **The Administration opposes the Senate provisions that would add burdensome notice requirements, and to not require public notice regarding voluntary flexible agreements.**

The Administration also supports the provision of the House version that requires guaranty agencies to invest funds deposited into their operating funds in accordance with prudent investor standards, rather than the Senate provision which permits investment of the fund at the sole discretion of the guaranty agency.

FFEL repayment

We support the Senate provision to offer extended repayment plans of up to 25 years to FFEL borrowers with loans in excess of \$30,000. We also support the House provision that allows FFEL borrowers to retain their interest subsidies when they consolidate their loans. These changes would benefit FFEL borrowers with heavy debt burdens and would help level the playing field between the two loan programs. In addition, we support consideration of efforts to extend income-contingent repayment plans to FFEL borrowers.

Origination and insurance fees

Unfortunately, neither version would lower the up-front loan fees for students. Reducing the origination fees for Direct Loans and the insurance fees for FFEL loans would reduce students' cost of borrowing. The Administration proposed to lower the fees by one percentage point for all borrowers, and to phase them out entirely for borrowers of subsidized loans. **These fee reductions should be included in the conference agreement. They could readily be funded from resources that would be made through the guaranty agency reforms proposed by the Administration.**

Loan forgiveness

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Both the House and Senate include programs to forgive loans for teachers in high-poverty schools. We support ~~this effort to encouraging and enable~~ students to teach in the schools where their talents are needed most. However, ~~some changes are needed to the program as currently written would to make the program more effective and better help these students and make its the program's administration by the Department much more feasible~~ more workable. For example, because of the need to track student loans separately under the loan forgiveness provisions as currently structured, a student seeking loan forgiveness would be unable to consolidate his or her student loans. This is inequitable because it would limit the student's repayment options. In addition, the House and Senate versions of the bill also contain provisions for loan forgiveness for child care workers. In lieu of these proposals, the Administration supports its Child Care Provider Scholarship Fund, which would provide more than \$300 million in scholarships over five years to up to 50,000 child care providers annually

We would like ~~welcome the opportunity~~ to work with you on ~~these changes~~ making the loan forgiveness provisions more equitable and effective. Options to consider include: treating all Federal student loans equally, regardless of the year in which they were received; offering loan forgiveness from the first year of teaching, or explicitly providing forbearance for the first years of teaching; changing the percentage of loans that may be forgiven each year; or creating a separate fund, financed through mandatory expenditures, for both teachers and child care workers.

Finally, under both versions of the bill, borrowers who have their remaining outstanding loan balance forgiven after 25 years of income-contingent repayment must continue to pay taxes on the amount forgiven. Saddling borrowers with additional tax liability is neither appropriate nor was it ever intended. The Administration supports adding a provision to exempt the amount forgiven from Federal income taxation.

Lending from proceeds of tax-exempt obligations

Under current law, secondary markets using tax-exempt funds must file a plan for doing business with the Department. This provision includes substantive restrictions on discrimination and on payment of premiums exceeding one percent for loans. The House version of the bill would eliminate both the filing requirement and the restrictions. The Senate version eliminates the filing requirement and the payment of premiums restriction, retaining only the nondiscrimination provision. The Administration supports elimination of the filing requirement but retention of both substantive restrictions.

Community service deferment

Neither version would permit the Secretary to pay the interest that accrues on an unsubsidized FFEL or Direct Loan while the borrower is receiving an economic hardship deferment on the loan and performing community service. This important proposal is part of the President's call to action to all Americans to serve their communities, and would allow individuals with student loans who qualify for economic hardship deferments to take up to three years to serve their communities without accruing

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additional interest on their loans. This would remove a financial obstacle to community service for borrowers who already satisfy economic hardship criteria, such as Peace Corps volunteers.

Market-based mechanisms

The Administration continues to support an objective, market-based determination of appropriate rates of return for lenders on student loans. A number of different market mechanisms have the potential to achieve this outcome, and we are eager to work with Congress to find the right approach. We also support obtaining financial information from FFEL lenders for a new study that could better guide the Congress regarding the profitability of lenders and the formulation of policy on student loans.

Work-study community service

The House version of the bill would add several burdensome requirements. First, it would add a requirement that at least two percent of an institution's allocation (in addition to the current five percent community service requirement) be spent on early childhood reading tutors. The House version of the bill would also require institutions to give priority in work-study funds to students tutoring in schools that meet certain criteria, a requirement which would unnecessarily complicate institutions' administration of the program. The Department has had great success with its voluntary partnerships with America Reads tutors, and prefers to continue with that approach.

Perkins Loans

Both the House and Senate version of the bills would eliminate the Federal Perkins Loan revolving fund account, the House explicitly to subsidize loan forgiveness for teachers in the FFEL and Direct Loan programs. We oppose this elimination. Without this fund, Congress would need to provide an increase in discretionary appropriations for Perkins Loan Federal Capital Contributions in order to avoid reducing loan volume. In addition, the House version of the bill includes forbearance provisions, including mandatory forbearance for Perkins Loans during a term of national service, that should be ~~were not~~ expanded to be comparable with FFEL and Direct Lending.

Need analysis

We are pleased with the House provisions to combine parent and dependent student assets to eliminate the differential assessment rates and to increase the income protection allowances significantly. These changes will protect more of the earnings of needy students, and will restore Pell Grant eligibility to many nontraditional students, and are a step in the right direction toward encouraging saving, increasing fairness, and simplifying the financial aid process for students and families, as proposed by the Administration. However, we note this change would increase discretionary spending, and thus the funding of these provisions would need to be examined during the annual appropriations process.

We are also pleased that both the Senate and House version of the bills would add an offset for dependent students in the amount of the parents' negative available income.

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This offset would exclude from need analysis calculation the income of a student whose earnings are necessary for the family's living expenses. The Administration supports the House version of this offset since it allows for the use of "adjusted" available income as an offset against dependent student income. This means that any negative amount remaining after first offsetting any contribution from parental assets would then be used to offset dependent student income. The Senate version, on the other hand, would allow the full unadjusted negative available to offset both parental assets and the same amount again to offset dependent student income. In a sense, the Senate proposal would provide a double counting advantage.

Neither the House nor the Senate included language clarifying that financial aid administrators may adjust need determination to assist dislocated workers. The Administration has requested this change in recent letters to Congress, and will continue to seek to include it in the final version of the bill.

Multi-year promissory note; forum

The House version of the bill would require a multiyear promissory note within 180 days of the enactment of the reauthorization bill. The Senate version would require the Secretary to develop a master promissory note for use beginning July 1, 2000. We agree that a multi-year promissory note will simplify the process by which students and their families apply for and receive federal student loans. In fact, we are currently in the final stages of developing the procedures and notes for the introduction of a master promissory note with a multi-year loan renewal process in both the FFEL and Direct Loan programs. We expect the new notes to be available for the 1999-2000 academic year with borrowers who apply for loans for the 2000-2001 year being the first who would benefit from the "multi-year functionality" since they would have signed the master note during the prior year. With these targets in mind, and in order to ensure that the processes work properly and effectively, we would prefer that the law not include a specific timeframe.

~~We agree that a multiyear promissory note will simplify the loan application process for borrowers, school leaders, and guaranty agencies. We are pleased to report that the Department is currently developing such a note. However, we would prefer not to have a specific timeframe in law in order to ensure proper development of the multiyear process before implementation of the new note. We will work with the authorizing committees to develop a plan of action for implementing this worthwhile reform in the context of other changes that would be made in the HEA reauthorization.~~

The Administration is also disappointed that neither version of H.R. 6 would provide the Secretary with the authority to approve alternative forms to determine need and eligibility for student aid that contain the same information as the Free Application for Federal Student Aid (FAFSA) as long as the entire form is provided free of charge, as was proposed by the Administration. The use of alternative free versions of the FAFSA, especially electronic versions, could reduce burden for students and families while

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streamlining the aid award process and maintaining the integrity of the delivery system.

IRS and information sharing

The House version of the bill would authorize the Secretary to confirm with the IRS each aid applicant's adjusted gross income, Federal income taxes paid, tax filing status, and number of exemptions. The Senate version of the bill would require the Secretary to verify aid applicant's tax return information with the IRS. The Administration has several concerns regarding the income verification proposals in both the House and Senate bills, including confidentiality of taxpayer information, and IRS resource and systems capacity issues (particularly in light of the Year 2000 conversion underway). The Administration would like to work with the conferees to determine whether an approach can be developed to address these issues, while still accomplishing the Members' objectives.

Drug offenders

We oppose the language in both versions of the bill suspending aid eligibility for students who have been convicted of any drug offense under Federal or state law. This provision would largely duplicate existing law denying Federal benefits to individuals convicted of a drug offense under Federal or state law. Current law also contains important judicial discretion provisions that are lacking in both versions.

Freely Associated States

Under current law, citizens of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau attending any eligible institutions may be eligible for Pell Grants and certain other forms of student financial aid. (Students who are permanent residents of the Freely Associated States may be eligible for such aid to attend institutions in the Freely Associated States.) The Senate version makes no change to these provisions. The House version would terminate the eligibility of students who are citizens or permanent residents of Micronesia, the Marshall Islands on October 1, 2001, and until then, they would be eligible only if they attend an institution in Guam, Micronesia, the Marshall Islands, or Palau. We strongly oppose the House provisions. The United States has a special relationship with these countries, as well as a responsibility to assist them in nation-building, and the State Department has raised questions about the international significance of curtailing Federal student aid and its potential impact on the negotiation of future compacts with the Freely Associated States. Finally, it would be useful if the final version of H.R.6 were to include a clearer expression of congressional intent that the eligibility of these students from the FAS was not affected by the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Refunds

Although we are pleased that the Senate adopted the Administration's general approach for calculating refunds, we have strong concerns about allowing schools to retain all Title IV funds for students who withdraw from an institution without going through an official withdrawal process. This policy would create a huge loophole that would encourage

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abuse in reporting withdrawals and recouping appropriate funds. It would reward institutions for unofficial withdrawals by students by giving those students the same amount of student aid as is given to students who complete the term. We also have some drafting concerns regarding this provision. We hope to work with you to adopt the Senate approach with some changes.

Program integrity

The Administration opposes a variety of provisions in the House version that would weaken program integrity. The House provision to allow proprietary institutions to include revenues from job training contracts as part of the requisite 15% of revenues from non-Title IV sources would seriously undermine the intent of the 85-15 rule, which was to ensure that eligible institutions are not primarily dependent on public monies to exist.

The House version also would vitiate the anti-injunction provision in current law. This provision prohibits injunctions against the Secretary that interfere with the Secretary's responsibilities in the loan programs. This provision has prevented institutions whose loan eligibility has been terminated on the basis of high cohort default rates from receiving loan funds while they sue the Secretary over the termination. These schools received loan funds while the Secretary processed their administrative appeals, and the anti-injunction provision has prevented millions of dollars of loan funds from going to high default schools that were properly terminated from the loan programs when those administrative appeals were resolved. It would undermine program integrity to undo this well-established precedent.

~~The House version would exempt institutions with default rates of less than 20 percent and fewer than 100 students who have loans from the requirement that the institutions establish default management plans. We oppose this exemption. The Senate version provides that schools with default rates of over 50 percent for three consecutive years would not be eligible to participate in the Perkins program. We believe this provision would be too lenient, and prefer a provision that would end participation for an institution with default rates of 25% or higher for three consecutive years. This change would standardize the cohort default rate cap across Federal student loan programs.~~

Finally, we oppose the provision in the Senate version of the bill that requires the Department to calculate a program participation rate index for each institution subject to loan eligibility termination on the basis of high cohort default rates. The participation rate index is currently used in the mitigating circumstances appeals process, where the calculation is performed by the institution. The Department does not have data on the number of loan-eligible students at each institution, and therefore cannot calculate the participation rate index for all institutions without imposing significant new reporting requirements on institutions for no substantial benefit.

Electronic exit counseling

The Senate version of the bill would allow institutions to provide personalized electronic

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exit counseling for borrowers. We support this change, which would give institutions the flexibility to utilize communications technology to counsel students, thereby reducing costs while improving service to borrowers.

Campus security

The Administration generally supports most of the changes made by the House and Senate versions of the bill. Both versions would require institutions to maintain open crime logs and expand the number of crimes that must be reported; we support these changes. They also contain language permitting disclosure of campus disciplinary records. Both versions have drafting flaws that would undermine their effectiveness and compromise legitimate privacy interests. We look forward to working with the conferees to develop more acceptable language.

The Senate version of the bill clarifies and expands the definition of campus, so that institutions have to report crimes that take place on public property contiguous to the campus, e.g. sidewalks, and in any building owned by the institution or a student organization. This information is critical for students to know and will help provide a more accurate picture of crime on campus.

Quality assurance (QA) and experimental sites programs

The House version of the bill effectively would end these two programs, replacing them with a "Regulatory Simplification Program," that would not allow for waiver of statutory requirements, or provide for alternatives for administering the programs. The Senate version of the bill does attempt to expand the areas included in the QA program, but then undermines that expansion by specifically limiting waivers to verification, as is now the case in the current QA program. The Administration supports the inclusion of the waivers necessary to give effect to the expanded scope of the QA program included in the Senate version.

The Senate version of the bill would make less drastic changes to the experimental sites program than the House version, including requirements that the Secretary review all projects and report to Congress his recommendations to streamline and improve student aid programs based on the projects (these reporting requirements would also be applicable to the QA program). It is important that the experimental sites program be continued, as it has provided administrative relief to institutions with strong performance managing the student financial assistance programs and has supported important research into alternatives to current law and regulation. The provisions in the Senate bill for both programs are preferable to those in the House version of the bill.

~~The House version of the bill effectively ends these two programs, replacing them with a "Regulatory Simplification Program" that does not allow for waiver of statutory requirements. The Senate version of the bill makes less drastic changes to the programs, including requirements that the Secretary review all projects and report to Congress his recommendations to streamline and improve student aid~~

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~~programs based on the projects. The provisions in the Senate version of the bill for both programs are preferable to those in the House version of the bill. It is important that the experimental sites program be continued, as it has provided administrative relief to high quality institutions and has supported important research into alternatives to current law and regulation. However, the Senate provision appears to contradict itself by broadening the areas covered by QA but also specifically limiting waivers to verification as is now the case in QA. We recommend the inclusion of the waivers necessary to give effect to the expanded scope of the QA Program included in the Senate version.~~

Negotiated rulemaking

The House and Senate version of the bills are overly broad in scope and include unrealistic time requirements that would actually impede effective negotiated rulemaking. The Administration strongly opposes the requirement that all future Title IV regulations be subject to negotiated rulemaking regardless of their technicality or urgency, skewing resources away from the most important issues and generating unnecessary litigation, delay, and expense. We hope to work with Congress to develop a workable process for fashioning more focused and flexible regulations. That process should include the ability to negotiate with the higher education community to identify the issues to be subject to negotiated rulemaking.

Loan proration

We support the House version's language on loan proration. The House provisions move in the direction of the Administration proposal and would simplify proration by allowing it to be done proportionally for all types of loans affected.

Ability to implement regulations earlier

The Senate version of the bill includes the Administration's proposal to authorize the Secretary to designate regulatory provisions that institutions or other entities may choose to implement before the otherwise applicable effective date which, as required by the Master Calendar, includes a delay of at least seven months. These changes would provide the Secretary and program participants with greater flexibility.

Biennial review of regulations

The House version of the bill would require the Secretary to conduct reviews of regulations every two years. The Senate version also requires the Secretary to review regulations, but does not specify frequency. The Department already reviews its regulations regularly, and feels that either version of this provision ~~this requirement~~ would be an unnecessary and inappropriate intrusion upon the Secretary's authority and responsibility to manage the Department.

Financial responsibility

The House version of the bill contains confusing language that could be read to undermine the well-received financial responsibility regulations that the Department recently developed in close cooperation with the higher education community and to

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establish a dangerously low standard for the financial health of institutions participating in student financial aid programs. We oppose these provisions. ~~For example, the House version of the bill includes a requirement that the Department develop a process for assessing financial responsibility that does not duplicate other requirements. The vague language in this provision may create several significant policy and legal problems. It could be interpreted to constrain the Secretary to have to accept the financial responsibility determinations of accrediting agencies or other third parties, a situation that is contrary to the responsibility given to the Secretary to evaluate directly the financial responsibility of institutions. This requirement may also allow the Secretary to be sued over allegations that the Department did not do enough to determine the cost effectiveness of regulations.~~

Program review criteria

The Administration opposes the provision in both versions of the bill that would require the Department to prioritize program reviews based on criteria in statute, such as high default or withdrawal rates, or large fluctuations in Pell Grant and loan volume. This is unwarranted micro-management. The Department selects its program review sites based on a probabilistic risk analysis model. While this model incorporates many of the criteria listed in the Senate provision, strict adherence to the provision would require the development of a new model and would remove all flexibility for the Department. We are confident that the current program review selection model effectively targets problem institutions while maintaining an element of randomness to promote broad program compliance.

Student loan ombudsman

The Senate version of the bill would establish a Student Loan Ombudsman Office to assist borrowers with problems with their student loans. ~~We are uncertain as to the need for an ombudsman, in light of the functions of the PBO. Furthermore, We understand the desire to provide a place for students to go if they have particularly complex student loan problems or have been frustrated by other attempts to resolve these problems. This is the kind of customer-oriented activity that we would want a PBO to address, and we would prefer for the new Chief Operating Officer (COO) to determine its structure and mission. However, if the conferees intend to include statutory language regarding an Ombudsman, we would seek changes to the Senate provisions. For example, the relationships between the Secretary, the COO, and the ombudsman are very unclear, which would result in a substantial danger of poor coordination in providing services to students. We hope to work with Congress to look at the role and function of an ombudsman and to relate any such office appropriately to the PBO.~~

Graduate education

The House version would eliminate the Javits, Faculty Development, and Legal Training for the Disadvantaged programs, retaining only a modified Graduate Assistance in Areas of National Need (GAANN) program. The Senate version authorizes all of these programs with some changes: Javits and GAANN eligibility would be limited to students

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who demonstrate financial need; forward-funding of Javits would be permitted; the Faculty Development Fellowship program would be redesigned; and Assistance for Training in the Legal profession would be replaced by the Thurgood Marshall Legal Educational Opportunity Program. The Administration supports the House approach to consolidate all graduate programs into one, which is closer to the approach proposed by the Administration, with the addition of the Administration's provisions for students from underrepresented groups.

Teaching students with disabilities

We support the Senate version of the bill's new program to provide competitive grants to colleges to improve teaching for students with disabilities. The grants would support technical assistance and training for faculty and administrators to enable them to effectively teach students with disabilities. Many more students with disabilities are now benefiting from higher education; the grants would help faculty members better reach these students.

Advanced Placement

We are pleased that both versions of the bill would reauthorize the current Advanced Placement Fee Payment Program, the Senate with significant modifications. We prefer the Senate version of the bill; however, we recommend that the final bill clarify that any state in which all low-income individuals are required to pay no more than a nominal fee may use any remaining funds to increase the participation of low-income students in Advanced Placement courses and exams through activities such as information dissemination, teacher training, and curriculum development.

The Senate version of the bill attempts to accommodate this recommendation in part by permitting states to use up to 5 percent of grant funds to disseminate information about the program and by providing an exception to the "supplement, not supplant" rules when funds are used to increase the participation of low-income individuals in advanced placement courses through teacher training and other activities directly related to increasing the availability of Advanced Placement courses. However, the supplanting language is problematic. It provides that funds may be used to supplant and not supplement "if the funds used to supplant are used to..." It is inconsistent with the Senate committee report's description of the program as well as internally inconsistent since states can only supplant if they use the AP funds for activities that are not authorized activities for the funds.

Another problem with the Senate language concerns the provision that notwithstanding an appropriation, the Secretary shall only award grants for this program if the College Board funds its fee assistance program at no less than the level as the previous year. It is inappropriate for the behavior of a private organization to determine whether a nationwide Federal program, for which funds have been appropriated, should be carried out. We recommend that this language be eliminated, and that the conferees instead include report language recommending that members of the appropriations committees should consider whether the College Board and other private efforts are

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~~continuing at least the same level of support. Furthermore, this provision raises significant logistical questions. What does the Secretary do with the appropriation if he may not award it? How does the Secretary know what the College Board spent? Would the Secretary have to wait until the last day of the fiscal year to determine if the College Board maintained its effort?~~

Education of the Deaf Act

The provisions in the House version that would reauthorize the Education of the Deaf Act include a provision to eliminate the 10 percent cap on enrollment of international deaf students. The current tuition charges for these students cover less than one-third of the educational costs related to their attendance, and the Administration is concerned about the high Federal cost of subsidizing these students. Elimination of the cap, without a corresponding increase in the tuition surcharge for international students, would result in resources being diverted from other university level programs to support these students. We support the provisions in the Senate version, which retain current law and add language clarifying that no qualified United States citizen shall be denied admission because of the admission of an international student.

Violence against women on campus

We support the language in both the House and Senate versions of the bill that would authorize a grant program to prevent violence against women on campus. Violence against women is a serious issue, and this program would help female students feel safer on their campuses. The Senate also authorizes a study of campus sexual assault policies, which would shed new light on the controversial issue of how campus authorities handle sexual assaults.

Proprietary school liaison

The Senate version of the bill would establish a Liaison for Proprietary Institutions of Higher Education within the Department. The need for such a liaison has not been demonstrated. The Department works with many different kinds of schools, all with their own specific interests. To single out the proprietary sector for special representation is inappropriate and opens the door to a multitude of liaisons.

Voter registration

The House and Senate versions each contain variations on requirements to provide mail voter registration forms to students by institutions, or by States to institutions. While these provisions have a laudable goal, we believe that this would duplicate other efforts in the area of voter registration (such as providing these forms through departments of motor vehicles), and therefore neither version of this provision is necessary.

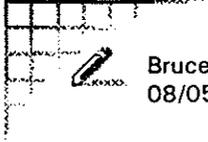
New and reauthorized programs

~~The Administration has made a priority of eliminating programs that have not been funded or are no longer needed. The Administration proposed to eliminate a net of 42 programs. The Senate version would repeal a net of only 29 programs, the~~

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~~House version would eliminate a net of 40 programs. Both the Senate and the House versions would authorize a number of new programs as well as reauthorize many currently authorized programs that have not been funded in several years, if ever. These authorizations hold out the expectation of future funding to prospective applicants for these programs. Congress should not authorize programs that it does not intend to support through appropriations.~~



Bruce N. Reed
08/05/98 10:28:39 AM

Record Type: Record

To: Constance J. Bowers/OMB/EOP
cc: Elena Kagan/OPD/EOP, Michael Cohen/OPD/EOP, Robert M. Shireman/OPD/EOP, Broderick Johnson/WHO/EOP
Subject: ED conferee letter of HR 6 (HEA) = opening language and statement of position

I'm fine with the threat coming from ED, but it should be a veto, not a "not recommend signature". The list of concerns is long enough that we have plenty of wiggle room if we want to sign this in the end. We don't get any additional wiggle room by saying "not recommend signature" -- we just send the signal that we're afraid to use the word veto.

----- Forwarded by Bruce N. Reed/OPD/EOP on 08/05/98 10:23 AM -----

Constance J. Bowers

08/04/98 07:32:36 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: ED conferee letter of HR 6 (HEA) = opening language and statement of position

The language that follows is proposed as the opening text and statement of position for ED's draft conferee letter on HR 6. It contains replacement text proposed by OMB (Barry White/ with Barbara Chow's concurrence). Please opine on who should be delivering the "threat" (ED proposes it be the Secretary; the alternative would be senior advisers."). Note: ED has suggested that the opening position not use the "veto" word, but rather the "not recommend signature" formulation below. Please give me your reaction to this language by 10:00 a.m., tomorrow, Wednesday, August 5th. Thanks.

Rev. August 4, 1998

I am pleased that versions of H.R. 6, a bill to reauthorize the Higher Education Act of 1965 (HEA), have passed both the Senate and the House, and I greatly appreciate the hard work that you and your staff have devoted to this important legislation. I am especially pleased that both bills have adopted the student

interest rate on new loans at the level proposed by the Vice President last winter. This will help students manage better their postsecondary education debt and thus make college more affordable.

We now have the opportunity to work together during the conference deliberations to enact a strong bipartisan bill that will help more Americans prepare for and gain access to college, improve teacher recruitment and preparation, and promote better program management. In this work, we must all keep our focus on the goal of producing legislation that is grounded in sound educational and fiscal policy to provides maximum benefits to students. That is the ultimate purpose of the Higher Education Act.

This letter and its attachment highlight the issues in the HEA reauthorization that are of particular importance to the Administration. They include issues such as: ensuring that the bill is fully paid for and there is no risk of a government-wide sequester; ensuring that there are adequate funds available to administer effectively both the Federal Family Education Loan Program and the Federal Direct Student Loan Program; maintaining a key aspect of the nation's commitment to raising the quality of teaching and learning -- the ability of the National Board for Professional Teaching Standards to continue to test teachers against tough, high standards by continuing to offer master teacher certification; offering borrowers the same low interest rate on consolidation loans in FFEL and FDSL; and others. I am confident that the issues presented by the bills now in conference can be resolved to our mutual satisfaction. I must inform you, however, that if the Conference approach to these issues does not serve students well, and if the Conference should incorporate other provisions that are unfavorable to students, then *[the President's senior advisers?]* *[I?]* would not be able to recommend that the President sign HR 6.

Message Sent To:

Bruce N. Reed/OPD/EOP
Elena Kagan/OPD/EOP
Robert M. Shireman/OPD/EOP
Broderick Johnson/WHO/EOP
Michael Cohen/OPD/EOP

Message Copied To:

STATEMENT OF ADMINISTRATION POLICY

TO: RAHM EMANUEL
LARRY STEIN
JOHN PODESTA
SYLVIA MATHEWS
GENE SPERLING
ELENA KAGAN
JANET MURGUIA
TRACY THORNTON
BOB SHIREMAN
MIKE COHEN
BRODERICK JOHNSON
EDDIE CORREIA
RON KLAIN
KEVIN MORAN

CC: ACTING DIRECTOR LEW
CHARLES KIEFFER
BARBARA CHOW

DATE: 6/15/98
FROM: Kate Donovan, OMB Legislative Affairs
RE: FOR YOUR CLEARANCE – Draft SAP for S. 1882 - Higher Education Amendments of 1998

Attached is a draft SAP on S. 1882 - Higher Education Amendments of 1998.

Position: Strongly Oppose.

Background: On May 6, 1998, the House passed H.R. 6, its counterpart to S. 1882, by a vote of 414-4. A SAP was released with a President's senior advisers veto recommendation (copy attached). On June 5, 1998, Secretary Riley sent a letter to members of the Senate objecting to the same provisions as in this draft SAP.

Timing: The Senate is expected to consider S. 1882 early this week. Therefore, we aim to send the SAP **c.o.b. today, Monday (6/15)**. Please get comments/clearance to me (5-4790) by 4pm today. Thank you.

June 15, 1998
(Senate)

S. 1882 - Higher Education Amendments of 1998
(Sen. Jeffords (R) VT and 5 others)

The Administration is strongly committed to working with Congress to reauthorize the Higher Education Act (HEA) this year and is encouraged that S. 1882 reflects numerous Administration proposals. However, the Administration strongly opposes enactment of S. 1882 in its current form because it contains several highly problematic provisions. These include excessive subsidies to lenders and guaranty agencies in the student loan program and inadequate funding for student aid management in the section 458 account. The Administration understands, however, that the inadequate funding will be resolved in the managers' amendment to S. 1882.

Student Loan Interest Rates. The Administration is pleased that S. 1882 includes the Administration's student loan interest rate proposal. The Administration, however, strongly objects to the bill's provisions that would provide \$2.4 billion in arbitrary and excessive subsidies for lenders over five years. Lenders typically are willing to accept below-average rates of return on government-guaranteed loans because of the lower risk associated with such loans. Yet, according to Department of the Treasury and Congressional Budget Office analyses, the bill would provide returns that are above lenders' profits on their overall loan portfolio. Much of the additional \$2.4 billion of spending is not offset in S. 1882 and therefore would trigger a possible sequester of several entitlement programs as specified by law.

The Administration supports moving toward market mechanisms to set appropriate lender returns on FFEL loans by studying and pilot testing some models. A policy that moves toward an auction mechanism for this purpose should be part of the interest rate structure.

Guaranty Agency Reforms. The Administration is deeply concerned that S. 1882 fails to make adequate performance-based reforms to encourage and reward efficient service delivery by guaranty agencies and instead includes new and excessive sources of revenue for guaranty agencies. The most objectionable features of the bill's guaranty agency provisions would:

- Stifle innovation and accountability for results by unduly restricting the scope of the voluntary, performance-based agreements between the Secretary and the guaranty agencies.
- Establish an excessive portfolio maintenance payment out of the section 458 account to guaranty agencies. The Administration understands, however, that the inadequacy of funds in the section 458 account for the Department of Education student financial aid administration will be resolved in the managers' amendment to S. 1882.
- Discourage guaranty agencies from preventing loan defaults by providing them with potentially much larger payments for collecting on loans *after* they default. This would result in costs of at least \$644 million above the reasonable range of collection costs during five years.

Other Concerns. The Administration will seek to address other deficiencies in S. 1882 including the following.

- S. 1882 fails to include the Administration's High Hopes and College Awareness Information initiatives. The initiatives would provide students, particularly those in low-income middle schools, with effective information, tutoring, and mentoring to prepare for college and deepen their commitment to pursue postsecondary education. The Administration understands that an amendment may be offered to incorporate aspects of these initiatives into S. 1882. Such an amendment would be a step in the right direction.
- S. 1882 does not lower origination fees for students. The Administration understands that an amendment may be offered to eliminate the one percent insurance premium for borrowers of subsidized FFELs, and to reduce comparably the loan fee for subsidized Direct Loans. The Administration strongly supports such an amendment.
- S. 1882 does not include the President's proposal to allow individuals with unsubsidized student loans to serve their communities for up to three years without accruing interest on these loans.
- S. 1882 fails to exclude from taxation any loan balances that are forgiven after the maximum number of years of income-contingent repayment. Income-based repayment ensures that borrowers who remain low-income relative to their debt do not have to carry that burden for more than 25 years. Saddling them with an additional tax liability is neither appropriate nor was it ever intended.

In addition, the Administration will seek to improve further other provisions of the bill, such as the following.

- The Administration supports the provisions of S. 1882 that would prohibit consolidation of loans that are subject to a judgment secured through litigation or a wage garnishment order. The Administration also supports the provisions that would provide an extended repayment plan for FFEL borrowers with outstanding loans of more than \$30,000. This would provide greater comparability between the repayment options available for FFEL and Direct Loan borrowers. The Administration will work with Congress to improve the terms of FFEL consolidation loans to match the terms of Direct Loans.
- The Administration supports making student financial assistance more widely available to students enrolled in distance education programs. The Administration supports amendments that may be offered to eliminate the bill's excessive restrictions on participation in the proposed distance education demonstration program and include the Administration's Learning Anytime Anywhere Partnership initiative.

The Administration looks forward to working with Congress to resolve these and other issues, such as those recently articulated in a more detailed letter from the Secretary of Education, as Congress works to reauthorize the Higher Education Act.

Pay-As-You-Go Scoring

S. 1882 would increase direct spending; therefore, it is subject to the pay-as-you-go requirements of the Omnibus Budget Reconciliation Act of 1990. The bill does not contain provisions to offset this increase in direct spending. Therefore, if the bill were enacted, its net budget costs could contribute to a sequester of mandatory programs. OMB's preliminary scoring of this bill is that it would increase direct spending by \$1,560 million during FYs 1998-2003:

PAY-AS-YOU-GO ESTIMATES

Fiscal Years

(In millions of dollars)

	1998	1999	2000	2001	2002	2003	1998-2003
Net Budget Cost	-\$440	\$126	\$421	\$440	\$480	\$533	\$1,560

(Do Not Distribute Outside Executive Office of the President)

This draft position was developed by LRD (Connie Bowers) in consultation with HR (Stack/Noe/White) and the Department of Education (Templeman/). The Departments of Justice (Jones), Labor (Morin), Interior (Carnevale), VA (Gallin), HHS (Taylor), and the Treasury (Dorsey), the Corporation for National and Community Service (Sofer), Equal Employment Opportunity Commission (White), General Services Administration (Ratchford), Office of Personnel Management (Gardner), Office of Government Ethics (Ley), Peace Corps (Hendry), Social Security Administration (Warner), NEC (Shireman), CEA (Korenman), WHC (Correia), VA/PERS (Kogut), DDM (Breul), BRCD (McAllister), HLTH (Davis), and BASD (Sullivan) agree with or do not object to this position.

OMB/LA clearance:

BACKGROUND

The Administration's Proposals

HEA Reauthorization Amendments. The appropriations authorizations for programs under the Higher Education Act (HEA) will expire at the end of fiscal year 1998. Legislative language to reauthorize the HEA was provided by the Department of Education (ED) to congressional staff in various pieces between September 1997 and February 1998. The Administration's reauthorization proposal is based on the following principles: (1) making college more affordable; (2) simplifying the student aid process; (3) ensuring students receive a high quality education and taxpayer dollars are well spent; (4) encouraging Americans to work and save for college; (5) helping more low-income Americans prepare for and go to college; (6) helping working Americans improve their wages and their lives through further education; and (7) recruiting qualified teachers to high-need communities with a teacher shortage.

New Budget Initiatives. Among the specific HEA amendments proposed by the Administration to carry out these principles are several new initiatives included in the President's FY 1999 Budget. These include: (1) High Hopes for College, which would establish partnerships to provide high-poverty, middle-school students with information, tutoring, mentoring, and rigorous course work to prepare for college; (2) Learning Anytime, Anywhere Partnership program, to encourage institutions to use innovative technology to promote lifelong learning; (3) College Awareness Information Program, to provide information on preparation for college and financial aid programs to young students and their families and to out-of-school youth and adult learners; (4) Access and Retention Innovations, which would authorize experimental studies to explore effective and efficient ways to package financial aid for low-income students; and (5) Teacher Recruitment and Preparation initiatives, which would fund scholarships to students who will teach in high-poverty areas and fund other programs to improve teacher quality. S. 1882 does not include these Administration initiatives.

Student Loan Interest Rate Structure Change. On March 2, 1998, as part of the HEA reauthorization, ED provided to Congress legislative language to adjust student loan interest

rates. That proposal, announced by Vice President Gore on February 25, 1998, would address concerns articulated by banks that the interest rate structure scheduled to go into effect on July 1, 1998, would lower their profits and result in many banks withdrawing from student lending. The Administration's February proposal would maintain lower student loan interest rates for students, but would eliminate unnecessary costs to lenders by changing the benchmark for setting the interest rate to an instrument that more closely tracks lenders' own financing practices.

In response to the Administration's proposal, Congress devised a plan that included the Administration's proposed interest rate for students, but would require taxpayers to pay lenders an unnecessary subsidy. The Administration recognized the difficulty of justifying any statutorily set rate for lender subsidies, and therefore advanced an alternative proposal in May that would move toward an auction mechanism for setting lender rates, while keeping the same student rates proposed earlier. The new proposal would require a study of alternative auction-based systems, pilot testing of the most promising models, and full implementation after an independent evaluation shows the pilot projects have been successful.

House Action -- H.R. 6

On May 6, 1998, the House passed H.R. 6, its counterpart to S. 1882, by a vote of 414-4. A Statement of Administration Policy sent to the House stated that the President's senior advisers would recommend veto of H.R. 6 because it would: (1) change the student loan interest rate structure to provide excessive profits to lenders and require unnecessary new spending; (2) provide significantly increased payments to guaranty agencies and insufficient funding for the Department of Education to manage effectively all the student aid programs (i.e., the Sec. 458 guaranty agency administrative funds provisions); and (3) repeal authority for the National Board for Professional Teaching Standards. It also stated that strongly objectionable amendments could also be added, such as an amendment by Rep. Riggs to incorporate the text of the Anti-Discrimination in College Admissions Act. As passed, H.R. 6 does not contain the Riggs amendment or repeal authority for the Teaching Standards board.

Additional Administration Comments on S. 1882

On June 5, 1998, Secretary Riley sent a letter to members of the Senate objecting to the same provisions as in this Statement of Administration Policy, and expressing numerous other concerns about the bill.

SUMMARY OF S. 1882

S. 1882 was reported by the Committee on Labor and Human Resources on May 4, 1998, by a vote of 18-0. It would reauthorize for five years and amend in various respects student financial assistance and other higher education programs. Major provisions that differ from the Administration's proposal are described below.

Student Loan Interest Rates and Fees. The bill would set the rate students pay on loans equal to the 91-day T-bill plus 1.7 percent while a student is in school, and to the 91-day T-bill plus

2.3 percent while a student is in repayment. Lenders would receive an additional 50 basis point subsidy during the in-school and repayment periods. This same rate structure was included as a temporary 3-month provision in the Transportation Equity Act for the 21st Century, which the President signed on June 9th.

The Administration proposed setting the student and lender rate at the same level that S. 1882 would establish for students. The Administration proposal was based on an analysis by the Treasury Department that showed that lender profitability would be adequate to ensure continued availability of guaranteed student loans at a lower cost to the taxpayer. Since the Administration offered its proposal in February, it has advanced an alternative proposal that would preserve the lower student rates in both the congressional and Administration proposals, but move toward a market-based mechanism for determining lender subsidies. S. 1882, unlike the Administration's proposal, would provide a \$2.4 billion subsidy to lenders.

S. 1882 does not include the Administration's proposal to lower origination fees for students to lower their costs of borrowing. The Administration proposed to lower fees by one percentage point for all borrowers, and to phase them out entirely for borrowers of subsidized loans. The reductions would be funded from resources from guaranty agency reforms proposed by the Administration. As noted above, an amendment is expected to be offered to lower the fees.

Administrative Funding Reduction. The bill would increase administrative payments from section 458 to guaranty agencies in the FFEL Program, taking away funds necessary for ED's administration of student financial aid loan and grant programs. Such increased payments to guaranty agencies would require ED to reduce its other administrative payments for student aid application processing, loan default collections, and student aid systems modernization. The additional payments to guaranty agencies are unwarranted, since guaranty agencies already receive adequate funding to carry out their operations.

Student Assistance. S. 1882 contains a number of provisions proposed by the Administration, and others that are objectionable. These include the following:

- Pell Grants. S. 1882 would establish maximum Pell Grants of \$5,000 in 1999-2000 increasing to \$5,800 in 2003-2004. The Administration had proposed to set the maximum award annually in the appropriation bill after establishing a maximum of \$3,100 in 1999-2000. The bill contains a version of the Administration's proposals to (1) set new limits on the period during which a student may receive Federal Pell Grants, and (2) make the Pell Grant Program eligibility of a stand-alone English as a Second Language course contingent upon a minimum percentage of the course's graduates passing a standardized test. These provisions would reduce the potential for program abuses. The bill does not contain the Administration's proposal to terminate Pell Grant program eligibility for institutions with high student default rates. S. 1882 would authorize a new child care grant program for institutions with large numbers of Pell Grant recipients. The Administration did not propose such a program.
- New Initiatives. The bill fails to include the following Administration initiatives: (1) High

Hopes for College (described above); (2) College Awareness Information, which would use the media to improve preparation among secondary school students for college; (3) Learning Anytime, Anywhere initiative, which would improve technology-based postsecondary learning; and (4) Access and Retention Innovations initiative, which would support large-scale student financial assistance research packages.

- Federal Family Education Loan (FFEL) Program. In addition to the administrative funding reduction described above, S. 1882 would change the compensation of guaranty agencies by creating an incentive structure providing excessive payments to guaranty agencies and rewarding inefficiency. The bill would, however, authorize ED to enter into voluntary flexible agreements with up to six guaranty agencies to waive or modify related statutory requirements. Other provisions are objectionable because they fail to include Administration proposals that would: (1) require the Secretary to pay the interest that accrues on an unsubsidized FFEL or Direct Loan while the borrower is receiving an economic hardship deferment on the loan and performing community service; (2) change FFEL consolidation loan terms to match those of Direct Loans; and (3) eliminate the current law “anti-injunction” provision that provides that injunctions cannot be issued against the Secretary that would interfere with the discharge of his responsibilities under the loan programs. In addition, provisions in S. 1882 for loan forgiveness for teachers are unworkable and an ineffective way to encourage additional individuals to pursue teaching careers.
- Direct Loans. S. 1882 fails to exclude from Federal taxation the amounts forgiven after the maximum number of years of income-contingent repayment. That Administration proposal would ensure that borrowers who remain low-income relative to their debt do not have to carry that burden for more than 25 years.

Teacher Training. S. 1882 incorporates the Administration’s Recruiting New Teachers for Underserved Areas” proposal and many components of the Administration’s “Lighthouse Partnerships for Teacher Preparation” program. The bill, however, contains new provisions on teacher quality that raise concern. For example, it would limit funding available for teacher preparation partnerships.

Performance-Based Organization. S. 1882 would establish a PBO within ED to simplify and improve the delivery of student financial aid. Under amendments expected to be added to the bill, the Secretary would provide the PBO with certain personnel and procurement flexibilities in order to allow for the establishment of an organization rewarded for meeting specified contractual goals for management and delivery of student aid. The Administration has supported the creation of such a PBO, but did not submit a specific legislative proposal.

Other General Provisions. The following miscellaneous provisions of S. 1882 are also objectionable:

- Suspension of aid eligibility for students who have been convicted of any drug offense under Federal or State law.

- Institutional oversight provisions, e.g., the requirement that ED conduct program reviews based on specific criteria.
- Requirement that ED make available the complete, unredacted program review guide.
- Requirement that the Secretary allow institutions to “cure” inadvertent administrative errors.
- Lengthening recertification period from four to six years.
- Requirements that all future title IV regulations be subject to negotiated rulemaking, and requirement that the Secretary conduct biennial reviews of regulations.

PAY-AS-YOU-GO SCORING

According to HRD (Stack) and BASD (Sullivan), S. 1882 is subject to the pay-as-you-go (PAYGO) provisions of the Omnibus Budget Reconciliation Act of 1990. S. 1882 would decrease direct spending by \$440 million in FY 1998 and result in a net increase in direct spending of \$1,560 million during FYs 1998-2003.

LEGISLATIVE REFERENCE DIVISION DRAFT

June 12, 1998 - 3:45 p.m.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

April 28, 1998
(House)

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

H.R. 6 -Higher Education Amendments of 1998 (Rep. McKeon (R) CA and 3 others)

The Administration is strongly committed to working with Congress to reauthorize the Higher Education Act (HEA) this year. The Administration has serious concerns with several provisions that are in the bill or likely to be added, but is encouraged that H.R. 6, as reported by the House Committee on Education and the Workforce, reflects many of the Administration's proposals, particularly the authorization for the High Hopes for College initiative.

Unfortunately, there are a number of highly problematic provisions in the reported bill, such as the repeal of funding for the National Board for Professional Teaching Standards, a change to the student loan interest rate structure that provides excessive profits to lenders and requires unnecessary new spending, and significantly increased payments to guaranty agencies and insufficient funding for the Department of Education to manage effectively all of the student aid programs. Further, the Administration understands that provisions may be added to the bill that are also strongly objectionable, such as an amendment to incorporate the text of H.R. 3330, the so-called Anti-Discrimination in College Admissions Act of 1998. Overall, if such provisions are in the bill as presented to the President, particularly in light of other concerns raised in this Statement of Administration Policy, the President's senior advisers would recommend that he veto H.R. 6.

National Board for Professional Teaching Standards. The National Board recognizes and rewards excellent teachers who thereby become an observable standard of excellence to which other teachers can aspire. Upgrading the teaching corps and raising teaching standards in this way is a key element necessary for long-term improvement in student achievement.

Student Loan Interest Rates. The Administration cannot accept the bill's provisions that would provide lenders with excessive profits and require taxpayers to finance those profits through an additional \$2.7 billion subsidy to lenders over five years. Most of the additional \$2.7 billion of spending is not offset in the bill and therefore would trigger a possible sequester of several entitlement programs specified in law. Statutorily set lender subsidies are not necessary to ensure access to Federal Family Education Loans (FFEL), and they ignore promising market-based solutions, such as an auction mechanism, for addressing concerns expressed by the lender community. A policy that moves toward an auction mechanism should be part of the interest rate structure.

A budget sequester would raise student loan origination fees -- which are already too high -- and reduce Federal mandatory spending across-the-board. Vital programs such as vocational rehabilitation, foster care and adoption assistance, and Medicare should not have to bear the cost of lender subsidies.

H.R. 3330. The Administration strongly opposes H.R. 3330, which may be offered as an amendment during House consideration of H.R. 6. The Administration strongly supports properly constructed affirmative action to achieve the compelling interest of eradicating the effects of discrimination or promoting the educational benefits of diversity. For Congress to deny Federal funds to institutions that promote such efforts would unduly constrain their ability to meet their constitutional obligations and would be an unwarranted Federal intrusion into the freedom of public and private institutions to establish their own admissions policies.

Section 458 Funding Reductions. The Administration strongly opposes provisions in H.R. 6 that would reduce administrative funds available to the Department of Education under section 458 of the HEA by more than \$220 million during fiscal years 1999 to 2003, while increasing administrative payments to guaranty agencies by roughly \$350 million during that period. These provisions directly threaten the Department's ability to manage the over \$50 billion annual Federal investment in student financial aid by taking away the funds necessary to carry out vital activities, such as student aid application processing, student loan default collection, and urgently needed modernization of student aid delivery systems.

In addition, there are other significant provisions in H.R. 6 that the Administration will seek to improve during further congressional consideration. Among these issues are the following.

- H.R. 6 fails to make adequate performance-based reforms to encourage and reward efficient service delivery by guaranty agencies, and it would include new and excessive sources of revenue for guaranty agencies. The Administration is also very concerned that the Department of Education's authority to advance funds to guaranty agencies for lender-of-last-resort loans would be eliminated. This would impair the Department's ability to work with guaranty agencies to ensure students' access to guaranteed loans under a program that is efficient and cost-effective for the FFEL program and the taxpayer. The Administration hopes to work with the Congress to fashion an acceptable compromise that provides much-needed guaranty agency reform.
- The Administration is also very disappointed that H.R. 6 does not lower origination fees for students. The Administration proposed to lower the fees by one percentage point for all borrowers and to phase them out entirely for borrowers of subsidized loans, and offered the necessary offsets to finance these fee reductions.

- The bill does not include changes necessary to implement the President's proposal to allow individuals with unsubsidized student loans to serve their communities for up to three years without accruing interest on these loans. Under current law, individuals with subsidized loans do not accrue interest while receiving a deferment and performing community service, but those with unsubsidized loans continue to accrue interest. This proposal is part of the President's call to action to encourage all Americans to serve their communities.
- H.R. 6 also fails to exclude from taxation any loan balances that are forgiven after the maximum number of years of income-contingent repayment. Income-based repayment ensures that borrowers who remain low-income relative to their debt do not have to carry that burden for more than 25 years. Saddling them with an additional tax liability is neither appropriate nor was it ever intended.
- The Administration appreciates the bill's strong support for postsecondary education programs, but notes that certain proposed authorization levels are not realistic in the current budget environment.
- The Administration shares the goal of adopting a performance-based organization (PBO) for the administration of the student aid programs, but is concerned that H.R. 6 fails to incorporate fundamental components of the Administration's model legislation for PBOs. That model was carefully crafted to provide more personnel management and procurement flexibility than H.R. 6 provides, while ensuring accountability for the exercise of that flexibility.
- The Administration opposes Title X of H.R. 6 as reported out by the Committee because these changes to the Age Discrimination in Employment Act go too far in allowing arbitrary, differential treatment on the basis of age. However, the Administration understands that the managers will be proposing new language which should address these concerns. If those changes are made, the Administration would have no objection to the provision.

The Administration looks forward to working with Congress to resolve these and other issues, such as those articulated in more detailed letters from concerned departments, as Congress works to reauthorize the Higher Education Act.

Pay-As-You-Go Scoring

H.R. 6 would increase direct spending; therefore, is subject to the pay-as-you-go requirements of the Omnibus Budget Reconciliation Act of 1990. The bill does not contain provisions to

fully offset this increase in outlays. Therefore, if the bill were enacted, its deficit effects could contribute to a sequester of mandatory programs. OMB's preliminary scoring of this bill is that it would increase outlays by \$2,061 million during FYs 1998-2003:

Fiscal Years
(In millions of dollars)

	1998	1999	2000	2001	2002	2003	1998-2003
Outlays	-\$281	\$308	\$460	\$479	\$520	\$575	\$2,061
