



American Council on Education
Office of the President

April 13, 2007

The Honorable George Miller
Chairman
Education & Labor Committee
U.S House of Representatives
Washington DC 20510

The Honorable Howard “Buck” McKeon
Ranking Member
Education & Labor Committee
U.S. House of Representatives
Washington DC 20510

The Honorable Ruben Hinojosa
Chairman
Subcommittee on Higher Education
Lifelong Learning & Competitiveness
U.S. House of Representatives
Washington DC 20510

The Honorable Ric Keller
Ranking Member
Subcommittee on Higher Education
Lifelong Learning & Competitiveness
U.S. House of Representatives
Washington DC 20510

Dear Chairman Miller, Ranking Member McKeon, Chairman Hinojosa and Ranking Member Keller:

On behalf of the undersigned 15 higher education associations, I write to thank you for your March 8 invitation to submit recommendations for the upcoming Higher Education Act reauthorization and to present our recommendations to the committee in the pages that follow.

The attached recommendations address the areas of access to higher education, improving the financial aid delivery system, enhancing college preparation, bolstering programs that provide need-based student aid and improving loan counseling and management. Additionally, we have included proposals for teacher training, international studies and graduate education – as well as important suggestions for improvements to the AC/SMART grant programs, accreditation and the negotiated rulemaking process.

In recognition of the committee’s scheduling and budget constraints, we are presenting a comprehensive but focused list of priorities – with a handful of timely new ideas for the committee’s consideration. Some of these recommendations will be familiar to the House from ongoing reauthorization conversations. Others have gained particular currency in the Senate. Still others arise from policy development and real world experience in the higher education community itself. Regardless of origin, we commend each of these recommendations to your thoughtful attention.

Again, we thank you for the opportunity to present these proposals, and we look forward to working with you to pass a strengthened Higher Education Act reauthorization this year.

Sincerely,



David Ward
President

DW/mmm

Enclosure

On behalf of:

American Association of Community Colleges
American Association of State Colleges and Universities
American Council on Education
American Indian Higher Education Consortium
Association of American Universities
Association of Community College Trustees
Association of Jesuit Colleges and Universities
Council for Higher Education Accreditation
Council of Graduate Schools
EDUCAUSE
Hispanic Association of Colleges and Universities
National Association of College and University Business Officers
National Association of Independent Colleges and Universities
National Association of State Universities and Land-Grant Colleges
National Association of Student Financial Aid Administrators

Reauthorization Recommendations

13 April 2007

1) Expand and Augment the Pell Grant Program -- 1(a) Increase the Pell Maximum Grant. In H.R. 2508 – introduced in the 109th Congress by Rep. George Miller and 15 cosponsors – the Pell Grant maximum award levels were authorized at \$7,600 in 2007, increasing to \$11,600 in 2012. We support these authorization levels, which restore the value of the Pell Grant as the foundation program for access to college for low-income students.

1(b) Permit institutions to award year-round Pell Grants. Students increasingly want flexibility in their educational programs. For example, many students would like to complete their academic degree in less time than the standard two- or four-year program. Such a step reduces the amount of time that a student spends in school, reduces educational expenses, and makes better use of campus facilities. On the other hand, some students require additional time to fulfill degree completion requirements. For them, we believe year-round attendance would increase student

persistence and graduation from college. While current law provides the Department of Education authority to implement a “year-round” Pell Grant, this has not yet happened. We ask Congress to reaffirm its intent to permit two- and four-year institutions to allow students to study year-round.

2) Maintain and Enhance the Federal Partnerships with States and Institutions -- The Leveraging Educational Assistance Partnership (LEAP) program, Federal Supplemental Educational Opportunity Grant (SEOG) program, Federal Perkins Loan program, and Federal Work-Study (FWS) program, are examples of the positive leadership role the federal government can have in engaging and coordinating partners to help solve the access problem.

But in recent years, the partnership idea has been lost on those who see these programs as being duplicative of federal efforts in the Pell Grant and Stafford Loan programs. As a result, programs have often been targeted for elimination—a step that would waste hundreds of millions of dollars of state and institutional matching funds. Also lost would be the consideration that can be given by financial aid administrators to an individual student’s unique economic circumstances in awarding aid—a feature common to all of the campus-based student aid programs. This case-by-case review is an important safety net that allows the overall need analysis system to be much simpler than would otherwise be the case without the availability of campus-based aid. Instead of eliminating programs, we urge Congress to strengthen this proven network of programs as follows:

2(a) LEAP: We encourage Congress to take steps to revitalize the federal-state partnership in providing student aid to financially needy students and families. In recent years, many states have diverted scarce need-based student aid dollars to increasing merit-based aid programs. While such programs provide welcome assistance to those who receive them, they do little to help some low-income individuals who do not qualify for them. To increase state grant support for low-income students, we recommend that Congress revitalize the LEAP program, which seeks to boost state spending on need-based student aid. One potential model for the committee to consider is S. 938, the Accessing College Through Comprehensive Early Outreach and State Partnerships Act, introduced by Sen. Jack Reed.

2(b) SEOG: The SEOG program supplements the Pell Grant program. First, more than one-third of all SEOG funding comes from colleges, making SEOG an example of prudent fiscal management by the federal government. Additionally, SEOG targets the neediest Pell Grant recipients at each participating institution. Overall, 90 percent of grantees are also Pell recipients. The program’s biggest challenge is that it is severely underfunded, preventing many schools that wish to from participating. This means less leveraging of federal dollars. We urge Congress to increase the authorized funding level for SEOG to \$1.5 billion to allow this program to enable more low-income students to pay for college with grants instead of loans.

2(c) Federal Work-Study: This program, in which campuses supply one-third of the overall funds awarded, is another example of a successful federal-institutional partnership. We believe that the program could be substantially enhanced and that a greater number and variety of suitable work opportunities could be developed by increasing the amount of Federal Work-Study allocations that can be used for Job Location and Development (JLD) Programs from 10 percent or \$50,000

to 15 percent or \$75,000. We recommend that the FWS authorization be increased to \$1.5 billion.

2(d) Perkins Loans: The Perkins Loan program leverages the same match of institutional aid dollars as SEOG and Work-Study. It also affords a model of generous loan forgiveness that is not available in the larger Stafford Loan program. We believe the program could be improved in the following three ways: (1) annual borrowing limits should be increased to \$5,500 for undergraduate students and to \$10,000 for graduate and professional students, with commensurate adjustments in the cumulative borrowing limits to \$27,500 for undergraduate students, and \$67,500 for graduate and professional students; (2) loan cancellation programs should be strengthened, streamlined, and simplified; and (3) consolidation lenders should be required to provide clear statements of the impact of consolidating Perkins loans, including providing explicit information about the loss of any benefits that a borrower might lose as a result of consolidation. We urge that annual capital contributions for the Perkins Loan program be increased to \$300 million.

3) Improve Access to College for Low-income Students through Financial Aid

Simplification -- We support several recent proposals that build upon important steps taken in last year's Higher Education Reconciliation Act (HERA) legislation to simplify the federal financial aid system. In particular, we support the proposal put forward by Chairman Miller and Rep. Rahm Emmanuel (H.R. 1608) and its companion legislation in the Senate (S. 939) to increase equity in need analysis, while maintaining a federal system that is useful for states and colleges in awarding their own aid. We encourage Congress to also consider additional changes to those already under consideration. The key improvements that we support include:

3(a) Reduce the work penalty by raising income protection allowances. We are analyzing the implications of the penalty on different types of students in different economic circumstances, age groups, attendance status, etc., and will share with you specific target allowances once our analysis has been completed.

3(b) Increase the maximum Pell Grant for students with a negative Expected Family Contribution (not to exceed \$750 or cost of attendance.)

3(c) Eliminate all extraneous questions (such as those dealing with the draft or drug offenses) from the Free Application for Federal Student Aid (FAFSA).

3(d) Extend the Simplified Needs Test to families in the lowest two economic quartiles, and the auto-zero to families in the lowest quartile with annual updates to the Consumer Price Index. Remove any complicated worksheet requirements for both groups.

3(e) Provide automatic student aid eligibility for children who have already qualified for certain federal means-tested programs.

3(f) Simplify the application process for children who have no access to parental income information, such as children being raised by a relative other than a parent.

3(g) Mandate the creation of a smart electronic form.

3(h) Require the Department of Education to conduct a study and/or to pilot a project with the Internal Revenue Service (IRS) to examine the feasibility, problems, and opportunities associated with pre-populating the FAFSA with IRS-supplied income information for those individuals who give their consent to the IRS.

4) Maintain TRIO and Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) -- These programs play a critical role in delivering high quality intervention and support services to low-income and first-generation college students. Only modest changes are needed to these two valuable programs – changes such as increasing the minimum grant levels to account for inflation and increasing the authorization levels.

4(a) Create a competitive grant program that would allow institutions of higher education to design and conduct summer enrichment programs for low-income high school students intended to acquaint them with campus culture, the range of career options available for them to pursue, and the kinds of coursework and instruction that will help them prepare for a postsecondary degree. These programs should be open to all low-income students, although students participating in TRIO or GEAR UP programs should be given special consideration in the selection process.

5) Reauthorize the Graduate Assistance in Areas of National Need (GAANN) and Javits Fellowship Programs -- There is widespread recognition that concerted efforts are needed to enhance our nation's ability to compete effectively in the global economy. Toward that end, we recommend that Congress invest in these two graduate assistance programs at levels sufficient to reinvigorate the programs and tap their potential to help maintain our competitive position in the world.

5(a) GAANN provides vital financial support for graduate students of superior ability and financial need to pursue the highest degree available in fields designated as areas of national need in order to enhance the nation's teaching and research capacity. These fields are determined annually by the U. S. Secretary of Education and currently include biology, chemistry, computer and information sciences, engineering, mathematics, nursing, and physics. We request that Congress authorize appropriations to support a minimum annual total of 1,200 GAANN fellowships, including 400 new fellowships each year. We also recommend maintaining the current "designation of areas of national need" provision, which directs the Secretary of Education to consult with appropriate federal and nonprofit agencies and organizations in order to designate areas of national need.

5(b) The Javits Fellowship program awards portable fellowships to students of superior ability who are seeking a doctorate or a Master of Fine Arts in the arts, humanities, and social sciences. It is the only federal program that supports graduate students in the arts and humanities. Eligible fields of study are determined annually by a board appointed by the U. S. Secretary of Education. Current fields include a number of less-commonly taught languages critical to our national security. We recommend designating an authorization level that will support an annual total of 400 Javits fellowships, including 100 new fellowships each year. We believe this level of investment will reinvigorate the Javits program at a time when our nation needs experts in a wide spectrum of fields to understand different cultures, languages, and religions.

5(c) We also recommend Congress eliminate the reference to Title IV, Part F need analysis as a requirement for GAANN and Javits, and restore the provision used prior to the 1998 reauthorization that required institutions to determine that individual students have financial need. While we fully support efforts to ensure that only those undergraduate students in need receive federal support, the reality is that graduate students are defined as independent by HEA and all other federal graduate education programs do not predicate financial support on demonstrated need.

5(d) Finally, as was proposed in the last Congress, we recommend the creation of a new Patsy T. Mink graduate education program that would provide assistance to graduate students from underrepresented groups who wish to enter the higher education professoriate.

6) Revise Academic Competitiveness Grants (ACG) and National Science and Mathematics Access to Retain Talent (SMART) Grants in Several Important Ways -- We urge you to make conforming changes in ACG and SMART to align eligibility standards with other Title IV student aid programs in regard to citizenship and attendance status. In addition, since the academic year language in the statute is the source of abundant operational complications, it should be changed to reflect year in school (freshman, sophomore, junior, senior) based on credit accumulation as determined by the institution. This is the basis on which other Title IV funds—such as federal student loans—are awarded.

6(a) Academic Competitiveness Grants -- Congress should revisit the use of the term “rigorous secondary school program of study” as a condition of eligibility for ACG with an eye toward clarification. Specifically, the law needs to be clearer in assigning states—not institutions of higher education—the responsibility for determining which high schools meet this standard. We believe that the statute should require that the states establish a certification process that affirms—as part of the high school transcript—that a student has met the criteria established by the Secretary for successful completion of a rigorous secondary school program. Institutions of higher education have no independent means for making such determinations. Moreover, colleges make their admissions decisions based on six—or sometimes seven—semesters of high school coursework and have no means of knowing at that time whether a student has completed the necessary math, science and foreign language course requirements. At a minimum, Congress should adopt a standard that assumes the requirement is fulfilled if an institution awards a grant in good faith using the best available information at the time the award is made. We also recommend that Congress consider replacing the 3.0 grade point requirement for second-year eligibility with the satisfactory progress standard that is used to determine Title IV eligibility.

6(b) SMART Grants -- First, we encourage Congress to revise the list of eligible majors to cover all fields of study that deal exclusively or primarily with science, math, technology, engineering and critical foreign languages. Second, implementation problems have arisen in conjunction with the Department of Education’s efforts to translate “pursuing a major.” We urge Congress to expand the statute to make clear that the statute be revised to define “pursuing a major” as a formal declaration of an eligible major, in accordance with the institution’s academic requirements, OR if the institution’s academic requirements do not allow a student to declare an eligible major in time to qualify for a SMART Grant on that basis – (1) enrolls in the courses deemed by the institution to be consistent with fulfilling the requirements of an intended eligible

major, and (3) declares an intention to complete a major in an eligible field. Leaving this matter open to interpretation by the Department of Education risks usurping an institution's prerogative to establish its own academic requirements.

Finally, the goal of the SMART Grant program is to have college graduates who are highly educated in the STEM or critical foreign language fields. Some schools may provide such an education in a way that doesn't currently mesh with some of the specific statutory requirements but nonetheless meets the goal of the program. For example, a student enrolled at a college with a curriculum that doesn't require students to declare majors, as prescribed, but requires students to take course work equivalent to a major in one of the SMART Grant requisite fields should be eligible for a SMART Grant. An appeals process should be provided whereby such an institution can request that its students gain eligibility.

7) Promote Healthy Competition between the Federal Family Education Loan (FFEL) and Direct Loan Programs -- The existence of two loan programs since 1993 has benefited students and schools alike. We stand by our long-stated position that federal law should ensure integrity and fair competition between both programs.

8) Create Flexible Borrowing Accounts for Upper Class Undergraduate Borrowers -- We believe that institutions should have the flexibility to disburse Stafford loan funds to students who are in the third year or above in a four-year degree program in excess of the annual loan limits, while still adhering to the current statutory aggregate borrowing cap. Such flexible disbursements would allow a student to take greater advantage of federal subsidized loan funds by drawing down any surplus or unused funds available within the aggregate borrowing limit. We believe that allowing juniors and seniors this flexibility will help curb the need for many borrowers to turn to the private loan markets for supplemental funding.

9) Proceed Cautiously with Regard to Plans to Auction the Right to Issue Federal Student Loans -- While we appreciate the appeal of creating a means to determine the true value of the federal subsidy in the FFEL program, we are concerned about the potential for unintended consequences with this kind of approach. For example, an auction regime could result in borrowers with different economic and demographic profiles receiving different interest rate offers. Existing borrower benefits could be reduced, and if past is prologue, problems could develop in regard to access to capital. The example of the failed Health Education Assistance Loan program that was terminated in the 1980s offers an historic object lesson that should be studied thoroughly before proceeding down this path. As Congress takes a fresh look at different ways to improve how student loans are financed, we encourage the committee to evaluate any new financing proposal on the basis of its ability to ensure program stability, protect borrower benefits and guarantee fair treatment for all students.

10) Mandate Better Information about Debt Management and Loan Repayment Options -- Congress should ensure that all borrowers have access to extended repayment whether they have borrowed \$30,000 or more as is currently required. Congress should mandate increased counseling about loan repayment options, for example, by telling borrowers about the availability of income-sensitive and income-contingent repayment, and making income-contingent repayment available to all borrowers. Congress should require the federal government to: provide institutions with the basic information needed for appropriate counseling such as regional data on

starting salaries, the impact of forbearance and capitalization of interest on unsubsidized loans and make available information to prospective borrowers about the government's extraordinary power to collect student loan debt.

Institutions should be asked to inform prospective borrowers about: the average indebtedness of borrowers at the institution, the amount of annual and aggregate debt needed to complete the student's academic program, sample payments for that amount of debt, as well as information made available to the institutions by the Department of Education on starting salaries for graduates in major fields, repayment options, capitalization of interest, and the consequences of default. In addition, older students, students from disadvantaged backgrounds, and those likely to enter low-salaried professions should be given additional information regarding their repayment options and strategies. Finally, Congress should require lenders, before loan disbursement and before repayment begins, to disclose to borrowers an explanation of repayment options, including both income-sensitive and income-contingent repayment, and the consequences of consolidation.

11) Consider New Ways of Alleviating the Repayment Burden -- We are attracted to the concept of instating a cap on the maximum percent of income borrowers can be assessed for monthly loan repayment amounts. We believe that the committee should explore the costs and structure of such a provision by requesting the Congressional Budget Office to provide a cost estimate, and consulting with the Department of Education and others to determine the operational details necessary to make such an income cap work effectively.

12) Minimize Unnecessary Borrowing -- Congress should allow institutions to adopt lower loan limits for broad categories of students on a nondiscriminatory basis. Some schools may, for example, want to preclude first-year students from borrowing as much as the maximum specified in the law. Because they have a detailed knowledge of their student body, we believe school officials are in the best position to make this decision. If this change is approved, schools that adopt lower limits should be required to disclose that information as part of their admission and financial aid materials.

13) Require the Secretary of Education to Develop a New Student- and Parent-Friendly Website to Give Students Advice About Access to College -- The Department should contract with a private firm that specializes in web design to completely overhaul the way in which it dispenses information on its website. The focus needs to be expressly geared toward attracting and holding the attention of students. Careful thought should be given to the content with an eye toward providing students only with as much information as they might need without overwhelming them with extraneous and often useless data. Thought should be given, as well, to making sure the information the Department intends to provide is accessible. Problems have arisen, for example, in regard to the inability to retrieve data if it isn't entered into the search engine in the precise – and sometimes erroneous – way that the Department has stored the information.

14) Continue Experimental Sites Authority -- This authority will lag if it is not extended, and schools will be forced to discontinue experimenting with fresh and innovative approaches toward fulfilling federal mandates while reducing administrative paperwork and burden. Instead of being permitted to lapse, we believe that this authority should be expanded to all sections of Title I and Title IV. The Secretary should be required to establish procedures and policies for conducting the

experiments, and should be asked to report annually to Congress recommendations for statutory changes that would diminish campus workloads without jeopardizing a desired legislative or regulatory objective.

15) Maximize Institutional Efforts to Develop a Highly Qualified Teacher Workforce by Revitalizing Title II, Teacher Preparation Programs -- As you continue to think about the federal government's role in helping prepare highly qualified teachers through HEA and the reauthorization of the Elementary and Secondary Education Act, we encourage you to consider importing the provisions of Title II from S. 1614 of the 109th Congress. Working closely with the bipartisan Senate staff, the higher education community supported the Senate amendments to Title II because it includes many of the widely recognized elements necessary to help new teachers attain higher levels of proficiency and succeed in the classroom.

To encourage teacher preparation, S. 1614 includes provisions that: a) increase the partnership allocation for institutions of higher education to 50 percent of the funding; b) create many new incentives to attract and retain teachers; c) address the need for minority, rural, special education and other niche categories of teachers needed across the country; and d) promote accountability by requiring institutions and states to report on the pass rates for students who have completed 100 percent of the teacher preparation program, while attempting to protect individually identifiable student information in any data collection related to teacher education.

16) Maintain Effective Levels of Support for Title III, Institutional Assistance – Title III is a key component of the architecture that helps institutions that educate large numbers of low-income students better serve the needs of their students.

16(a) Title III-A, the Strengthening Institutions Program, provides critical support to institutions that have few resources and serve high proportions of low-income and historically underrepresented populations. Title III-A is one of the most underfunded programs in the Department of Education, in part because it has been overshadowed by other programs that direct funding to specific types of institutions. Title III-A deserves recognition as a program that provides local flexibility with a high degree of accountability because proposals are generated on campuses but are subject to a vigorous national competition reflecting designated priorities. Over recent years, the population of low-income students served by these institutions has grown in number and in need, and the resources of these schools, which include two-year and four-year public and private institutions, have been stretched razor thin. We urge continuation of this important program.

16(b) Congress should expand and increase authority for the Tribal Colleges and Universities' Title III-A program. Currently, Sec. 316 of Title III-A specifically supports Tribal Colleges and Universities (TCUs) through two separate competitive grants programs: 1) a development grants program that awards five-year grants; and 2) a single-year award program designed specifically to address the critical construction and infrastructure needs at tribal colleges. We recommend that the Title III development grants program be redesigned as a formula grant program, provided the formula reflects the needs of these unique institutions and the intent of the Title III - Strengthening Institutions program. Additionally, the TCUs seek to retain a portion of annually appropriated Title III-A §316 program funds to continue the current competitively awarded construction grants program.

17) Congress Should Build on the Success of the Title V HEA Undergraduate Grants Program for Hispanic Serving Institutions (HSIs) and Authorize a New Competitive Grant Program to Develop or Expand Graduate Opportunities for Students Attending HSIs --

Companion bills (H.R. 451 and S. 565) have been introduced in the House and Senate that lay out the specifications for such a program, and we urge the inclusion of this legislation in the HEA reauthorization bill. The HSI post-baccalaureate program was included in H.R. 609 and S. 1614 in the previous Congress.

Enacting this program is an important step in closing attainment gaps that exist in the rates at which Hispanic students participate in graduate education relative to other students. At present, Hispanics are significantly underrepresented in the percentage of graduate degrees earned. While Hispanic individuals earn more than 10 percent of all associate degrees and more than 6 percent of all bachelor's degrees annually – they earn less than 5 percent of all masters and 3 percent of all doctoral degrees. We urge Congress to authorize \$123 million for this program annually through the duration of this reauthorization period.

18) Build on the Strengths of the Title VI International Education Programs --

Commissioned research for the January 2003 conference “Global Challenges and U.S. Higher Education” found that existing federal policies and programs in international education continue to be highly successful, but that present and future needs for United States citizens with international knowledge and foreign language skills seriously outstrip the current capacity of government and institutional support. The March 2007 National Academies of Sciences (NAS) report “International Education and Foreign Languages: Keys to Securing America's Future” reached similar conclusions about Title VI. To address these needs we submit the following recommendations which will be presented in greater detail under separate cover by the Coalition of International Education:

18(a) Title VI: Keep Title VI, International Education Programs, intact and retain their exclusive focus on international and foreign language education with several enhancements and an increase in authorization levels. In addition to fine tuning amendments, we propose new language in Sec. 602 to underscore the importance of outreach to K-12 by the National Resource Centers and reinstate Foreign Language and Area Studies fellowships for undergraduate students; provide undergraduate education abroad opportunities for foreign language and cultural study under Sec. 604; pilot institutional capacity building programs at minority-serving institutions through collaboration between Part C-IIPP and other Title VI partners; and provide Department of Education a discretionary percent set-aside authority for evaluation, national outreach and information dissemination under General Provisions.

18(b) Title VII-B: Enhance international education elements of Title VII-B, Fund for the Improvement of Postsecondary Education (FIPSE). We recommend placing under Special Projects, areas of national need Sec. 744(c)(4) the term “partnerships” to allow funding for international partnerships among postsecondary institutions in the U.S. and abroad.

18(c) Title II: As the NAS report underscored, the nation faces a critical shortage of foreign language teachers. We recommend incorporating foreign language and international education into Title II, Teacher Quality Enhancement Grants for States and Partnerships, Sec. 201 Purposes

statement, Sec. 203 Partnership Grants program for teacher preparation, and Sec. 206 Accountability and Evaluation.

18(d) Department of Education Organization Act: We endorse the recommendation of the National Academy of Sciences that the Department of Education should consolidate administration of its international education and foreign language programs under an executive-level person reporting to the Secretary who will provide more strategic direction and coordination with other federal agencies and the nation's education community. We specifically recommend amending the Department of Education Organization Act to create an Assistant Secretary for International and Foreign Language Education reporting directly to the Secretary who will be appointed by the President and approved by the Senate. The appointee would be an individual with extensive background and experience in international and foreign language education and would have authority for the administration and coordination of all Department programs on international and foreign language education, interagency coordination on international and foreign language education and Department of Education international affairs.

19) Enhance the Capacity of the Fund for the Improvement of Postsecondary Education (FIPSE) to Engage the Higher Education Community in Creative Responses to Contemporary Problems --

19(a) Allow FIPSE funds to be used to assist colleges and universities to develop model programs and policies to reduce illegal file-sharing and downloading of copyrighted music and video materials.

19(b) Create a new competitive grant authority within FIPSE to encourage campuses to design innovative programs to develop and conduct financial literacy programs encompassing debt management, credit card usage, etc.

20) The Department of Education Could Play a Positive Role in Boosting the Ability of Students to Transfer from One Institution of Higher Education to Another -- This could be achieved by authorizing the creation of a new competitive grant program to enable broad-based consortia to develop articulation agreements that cross state boundaries and include multiple sectors of postsecondary education. As just one example, with funding from a Department of Education grant, the National Articulation and Transfer Network established a nationwide articulation agreement that links more than 100 high schools, community colleges, Historically Black Colleges and Universities, and Hispanic Serving Institutions. The creation of a new competitive grant program could be instrumental in accelerating the pace of articulation and transfer agreements, and could help overcome the primary obstacles—time and money—that impede progress in the development of these vital relationships.

21) Protect Mission Diversity and Institutional Autonomy in Accreditation -- For more than a century, U.S. colleges and universities have been effectively evaluated, challenged and improved by our uniquely American system of self-regulation called accreditation. We believe accreditation remains an effective process of institutional peer review for driving continuous innovation and quality improvements while preserving the mission diversity and institutional autonomy so critical to the success of American higher education. As Congress examines the accreditation process, we ask that the committee preserve the current institution-driven, mission-

centric assessment of performance and reject rigid measures that would lead to the federalization of American higher education.

22) Crosswalk the Language Contained in the General Education Provisions Act (GEPA) into HEA that Describes the Limits of the Department of Education's Authority --

Incorporate the language in the Sec. 438. [20 U.S.C. 1232a] of GEPA into HEA and, to the list of items which the Department of Education and any officer or employee of the Department are expressly banned from exercising authority over, add a prohibition that states unambiguously that the Department may not mandate or control or interfere with the award of academic credit by an institution of higher education.

23) Place Certain Limits on the Secretary's Authority to Regulate -- We believe that there are certain areas of the Act where the congressional role should be strengthened and congressional intent clarified. Specifically:

23(a) Currently, all 15 members of the National Advisory Committee on Institutional Quality and Integrity (NACIQI) are appointed by the Secretary. We believe that the NACIQI appointment process should be consistent with the general procedure for nominations to other federal advisory boards such as the Advisory Committee on Federal Student Aid. Having nominations from the Congress as well as the Secretary would assure that a greater diversity of views is reflected in the panel's deliberations than is now the case.

23(b) Another area of concern is the open-ended authority currently provided to the Department with respect to information collection under the Integrated Postsecondary Education Data System (IPEDS). We believe that the Department of Education is unaware of the true impact on our campuses of the required data collections. Therefore, we urge Congress to mandate that a baseline study be conducted by an impartial independent contractor to gauge the average time and effort that campuses expend on the current eight IPEDS collections. Once the baseline study has established the parameters of the burden/cost to institutions of the current collections, going forward, we urge Congress to require an independent study of the additive burdens that will be imposed on campuses prior to each subsequent new proposed IPEDS collection.

23(c) We would also suggest several changes in the negotiated rulemaking provisions of HEA that we believe would strengthen legislative intent, as follows:

23(c)(1) More explicit language should be employed to convey the representational nature of the negotiated rulemaking process that Congress intended to achieve. Congress intended the negotiated rulemaking provision to establish a process by which individuals representing broad interests could provide useful input about the real-world impact of proposed changes on those stakeholders. However, the negotiated rulemaking sessions now underway do not serve that function. The individuals appointed to the panels speak only for themselves, and there is often no connection whatsoever between the interests and experience of a negotiator and the individual assigned as his/her alternate. The law should be clarified as well to avoid situations in which an individual is designated as a representative of a group or interest even though he or she lacks the breadth of experience to undertake that role.

23(c)(2) Groups with significant policy differences should not be forced into “coalitions,” nor should the Secretary of Education assign the representative or spokesperson for any group without the consent of that group.

23(c)(3) Negotiators should have a demonstrated capacity to communicate to the constituency they represent throughout the negotiated rulemaking process to ensure that a variety of views from "beyond the beltway" are represented.

23(c)(4) The law should also be amended to assure adherence to the protocols adopted by each negotiated rulemaking group at the start of its deliberations. For example, several of the groups have formally adopted protocols indicating that the materials to be discussed be made available seven days in advance. The Department of Education has consistently ignored this deadline to deliver timely documents without penalty. At a minimum, meeting dates should be changed to assure that the negotiators have adequate time to consider the significant changes they are being asked to approve.

23(c)(5) Prior to the onset of the actual negotiations, we suggest that the Secretary of Education, or his or her representatives, in consultation with the non-federal negotiators, should consider proposals for the addition or deletion of topics for negotiation and that the Secretary include topics proposed by the non-federal negotiators in the final agenda for the negotiations.

23(c)(6) The accuracy of the summaries of the negotiating sessions in recent negotiations has been called into question. Since these summaries are part of the public record and are used in pushing negotiators to reach a consensus, we recommend that the Department be required to provide meeting transcripts prepared by independent third parties.

24) Congress Should Maintain the Gate-Keeping Provisions in Current Law That Protect the Integrity of the Title IV Programs and Protect Taxpayers and Student from Abuse --

24(a) Congress enacted the precursor of the “90-10” provision in 1992. (85-15 was the early standard, borrowed from the standard used by the military to guard against abuse.) The 90-10 provision is intended to ensure that no institution is wholly supported by or has profits entirely derived from taxpayer largesse. This provision has been continually weakened over the past decade – most notably, the amount that a school has to raise from non-federal sources has been reduced to 10 percent. Only the U.S. military academies enjoy greater levels of federal support and they are entirely not-for-profit federal entities. We do not believe it is prudent to risk the removal of the 10 percent “market test” which serves as a litmus test that the school is of sufficient quality to attract a small amount of its resources from non-federal sources.

24(b) In the markup of H.R. 609 last year, an eleventh hour compromise was struck that sought to apply the 90-10 provision to all institutions, not-for-profit as well as for-profit. We would like to make it clear that we do not view this as a necessary nor workable solution. It is not necessary to apply the provision to not-for-profit institutions, since the majority of these institutions are close to a reverse, or 10-90, ratio. However, the most unworkable feature of the compromise language was its requirement to calculate the federal and non-federal revenues on the basis of the cash accounting methods used in the profit-making sector rather than the accrual accounting methods used by the entire not-for-profit sector. Moreover, the inclusion of not-for-profits under the 90-10

requirement would require that they keep two sets of financial books, since 90-10 must be calculated using "cash accounting" and the institutions are required to report their overall financial situation using "accrual accounting."

24(c) We urge Congress to retain the two definitions of institutional eligibility located in Sections 101 and 102 of current law. We do not believe that having two definitions is discriminatory or confusing as some have contended. On the contrary, these definitions continue to make useful distinctions. Importantly, Sec. 102 ensures that Title IV funds go to students without discriminating on the basis of whether the institution the student wishes to attend is not-for-profit or profit-making. Sec. 101 makes an appropriate distinction between not-for-profit and for-profit institutions in regard to the receipt of institutional grant funds from the non-Title IV programs. In addition, a single definition would affect scores of federal programs that cross reference the two separate definitions in current law. In developing their own programs, federal agencies beyond the Department of Education have opted to reference the particular definition that suits their particular purpose and program design. Their considered decisions should not be nullified by changing the underlying HEA definitions. While these other federal programs are not cited in HEA, changing the two definitions in the statute to a single definition would appear to have consequences for programs at the Departments of Health and Human Services, Education, Interior, Justice, Labor, State, Energy, Agriculture, and the Environmental Protection Agency, National Science Foundation, and the Corporation for National Service. Changing to a single definition also has implications that will affect state policies and funding formulas with potentially significant budgetary consequences.

25) Create a New Disaster Loan Assistance Program -- We urge Congress to authorize the Secretary of Education to establish an Education Relief Loan Guarantee Program that will provide funds for long-term, low-interest guaranteed loans to postsecondary educational institutions that are severely impacted by federally declared disasters, as specified in the Robert T. Stafford Act. The loan guarantees should be available for direct or indirect losses to assist institutions with critical recovery initiatives. Initially, we expect that the early recipients of such loan guarantees will be those institutions who suffered extensive damage and service interruptions on or after August 28, 2005, resulting from the impact of Hurricane Katrina. These institutions should be a model for the award of loan guarantees for disaster relief in future federally declared disaster situations by stipulating that funds should be available to any institution that was closed for thirty (30) days or longer and was unable to sustain normal business operations as a direct consequence of a disaster such as Hurricane Katrina. A loan reserve of \$800 million should be established for this purpose.

26) Expand Efforts to Ensure Students with Disabilities Receive a Quality Education -- In the 1998 reauthorization, Congress created a new program, "Demonstration Projects to Ensure Students with Disabilities Receive a Quality Education," to boost enrollment of disabled students. This modest program is designed to address the low participation rates of students with disabilities through model demonstrations, technical assistance, and professional development for faculty, staff and administrators. In order to address the significant under representation of students with disabilities in higher education, we strongly urge the expansion of this program as part of the reauthorization. We feel that expanding this program could have particular resonance for the very large number of disabled Iraq war veterans.

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April 13, 2007
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