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Folder Title:
HEA [Higher Education Act] - Pending [1]

Stack:	Row:	Section:	Shelf:	Position:
S	15	1	11	2

Bob - FYI on
HEA health + job
training consolidation.
I'm still working on a
piece for you on loan
forgiveness re. welfare
recipients, as we
discussed over
coffee. Hope all
is well -

Regards
Betsy

LRM ID: CJB230 **SUBJECT:** REVISED Statement of Administration Policy on S1882 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)
Bob Shireman (Name)
NEC (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

DRAFT -- NOT FOR RELEASE

June , 1998
(Senate)

including excessive subsidies in the student loan program, and inadequate funding for student aid management.

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

and is encouraged that S.1882 reflects numerous Admin. proposals. However, the Administration

The Administration is strongly committed to working with Congress to reauthorize the Higher Education Act (HEA) this year, ~~but~~ strongly opposes enactment of S. 1882 in its current form because of several highly problematic provisions in the bill including a change to the student loan interest rate structure that provides excessive new subsidies to lenders, and changes that would significantly increase payments to guaranty agencies. + guaranty agencies

The Administration is, however, encouraged that S. 1882 reflects numerous Administration proposals. We also understand that a number of issues of concern will be resolved as part of the managers' amendment to S. 1882. ~~One such issue~~ is the adequacy of funds in the section ~~458~~ account. These funds are critical to the Department of Education's ability to manage effectively the over $50 billion annual Federal investment in student financial aid, including such vital activities as student aid application processing, student loan default collection, and the urgently needed modernization of student aid delivery systems. The Administration appreciates the efforts that have been made by the managers to address these concerns, and wants to continue to work with the Congress to resolve other serious Administration concerns with S. 1882.

$2.7 billion in

Student Loan Interest Rates. The Administration is pleased that S. 1882 includes the Administration's proposal with respect to the interest rates paid by students. However, the Administration strongly objects to the bill's provisions that would provide arbitrary and excessive subsidies for lenders ~~and require taxpayers to finance these profits through an additional $2.7 billion subsidy to lenders~~ over five years. According to Department of the Treasury and Congressional Budget Office analyses, ~~the Senate bill would provide returns that are substantially higher than lenders' recent surging profit levels on loans, and~~ lenders should be willing to make these government-guaranteed loans at rates of return below the average for their portfolios. 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

ack

Yet the Senate bill would provide returns that ~~exceed the~~ substantially ~~average sub~~ exceed the average. Further, specified in the law.

~~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.~~

~~Statutorily set lender subsidies are not necessary to ensure access to Federal Family Education Loans (FFELs), and they ignore promising market-based mechanisms for addressing concerns expressed by the lender community~~. The Administration ~~has recently advanced an alternative proposal that would move~~ supports moving toward market mechanisms to set appropriate lender returns on FFEL loans~~.~~ ~~This~~ by studying and ~~alternative would require a study of alternative auction-based systems~~, pilot testing some models ~~of the most promising models, and full implementation after an independent evaluation shows the pilot projects have been successful~~. The goal of the pilots would be to demonstrate that long-term Federal costs could be lowered while ensuring loan availability to all students, minimizing administrative complexity for program participants, and facilitating program participation by a broad spectrum of lenders to ensure healthy long-term competition. ~~Further explanation of the Administration's position on the use of an auction mechanism to set lender returns is included in the letter the Secretary of the Treasury and the Secretary of Education recently sent to Congress.~~

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 would include new and excessive sources of revenue for guaranty agencies. The Administration hopes to work with the Congress to fashion an acceptable compromise that provides much-needed guaranty agency reform. The most objectionable features of the guaranty agency provisions in S. 1882 would:

- Stifle innovation and accountability for results by unduly restricting the scope of the voluntary, performance-based agreements that the Secretary may enter into with guaranty agencies.

- Establish an excessive portfolio maintenance payment to guaranty agencies. We understand that amendments may be offered to restore the funds available to the Department under section 458 to the levels established in the Balanced Budget Act of 1997; if these amendments also reduce the level of the portfolio maintenance payment, it would be a step in the right direction. We would like to continue to work with the Congress to reduce the level of these payments to more acceptable levels.

- Discourage guaranty agencies from preventing loan defaults by providing them with potentially much larger payments for collecting on loans *after* they default, totaling at least $644 million above the reasonable range of collection costs over five years.

- ~~Spend unnecessarily $183 million in taxpayer dollars over five years by paying guaranty agencies to bring delinquent loans back into repayment, when lenders already perform this function at no cost to the taxpayer.~~

<u>Other issues</u>. In addition, there are other significant provisions in S. 1882 that the Administration will seek to improve during further congressional consideration. Among these issues are the following:

- The Administration is very disappointed that S. 1882 fails to include the Administration's High Hopes and College Awareness Information initiatives. High Hopes would provide over ~~1 million~~ students in ~~high-poverty schools~~ low-income middle schools with effective information, tutoring, mentoring, and academic preparation to prepare them for college and deepen their aspirations and commitment to pursue postsecondary education. ~~The College Awareness Information initiative would address the widespread problem of poor academic preparation for college and use the media to promote increased awareness of the value of a college education, the availability of student financial aid, and the academic planning and other steps that must be taken to prepare for postsecondary education.~~ The Administration understands that an amendment may be offered to incorporate aspects of the Administration's High Hopes and College Awareness initiatives into S. 1882, and if enacted, such an amendment would be ~~a step in the right direction~~ an important step.

- The Administration is ~~also~~ very disappointed that S. 1882 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 Administration understands that an amendment may be offered to eliminate the one percent insurance premium for borrowers of subsidized FFELs, and to comparably reduce the loan fee for subsidized Direct Loans, and would strongly support such an amendment.

- 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.

- S. 1882 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 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. These provisions would provide essentially the same result as Adminstration proposals on this issue. We also support the bill's provisions that would provide an extended repayment plan for FFEL borrowers with outstanding loans of more than $30,000. This is a step in the right direction, and would provide for greater comparability between the repayment options available for FFEL and Direct Loan borrowers. The Administration would also like to work with Congress to add further amendments to S. 1882 that would improve the terms of FFEL Consolidation Loans to match the terms of Direct Loans.

- The Adminstration supports making student financial assistance more widely available, through the use of flexible and innovative policies and procedures, to students enrolled in distance education programs. We understand that amendments may be offered to eliminate the bill's excessive restrictions on participation in the proposed distance education demonstration program, to provide other adminstrative flexibilities necessary for the success of the program, and to include the Administration's Learning Anytime Anywhere Partnership initiative. Such amendments would greatly improve these provisions of S. 1882.

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.

<u>Pay-As-You-Go Scoring</u>

S. 1882 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 offset this increase in outlays. 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 outlays by $2,258 million during FYs 1998-2003:

Fiscal Years
(In millions of dollars)

	1998	1999	2000	2001	2002	2003	1998-2003
Outlays	-$291	$355	$501	$520	$560	$613	$2,258

* * * * * * * * * *

UNITED STATES
DEPARTMENT OF EDUCATION NEWS

FOR RELEASE:
July 10, 1998

Contact: Julie Green (202) 401-3026
Jane Glickman (202) 401-1307

STATEMENT BY U.S. SECRETARY OF EDUCATION RICHARD W. RILEY
On Senate Passage of S. 1882, the Higher Education Amendments of 1998

One of the hallmarks of the Clinton Administration's education policy has been our determined effort to help families and students pay for college and have greater access to higher education. I am pleased the Senate took a step forward last night to further efforts to make college affordable and accessible for all Americans who work hard and make the grade. The bill approved by the Senate will: save students billions of dollars by adopting the President's proposal to lower student loan interest rates; improve teacher quality, training and recruitment; promote high quality distance learning efforts; help disadvantaged students prepare for college; and create the federal government's first-ever performance based organization for the delivery of student aid.

I still have serious concerns about the excessive taxpayer subsidy to lenders and cuts that would jeopardize the delivery of student aid in this bill and I will continue to work to improve this legislation as it moves to conference so that all Americans have access to a high quality postsecondary education.

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UNITED STATES DEPARTMENT OF EDUCATION

THE SECRETARY

June 5, 1998

Honorable Trent Lott
Majority Leader
United States Senate
Washington, DC 20510

Dear Mr. Leader:

I am writing to urge prompt consideration by the Senate of S. 1882, the "Higher Education Amendments of 1998," as well as to convey my views on some of the more significant provisions of that bill.

I am very pleased that S. 1882 reflects many of the Administration's proposals for the reauthorization of the vitally important Higher Education Act of 1965 (HEA). I also understand that a number of issues of concern, including the adequacy of funds in the section 458 account, which is critical to the Department's ability to manage effectively the over $50 billion annual Federal investment in student financial aid, including such vital activities as student aid application processing, student loan default collection, and the urgently needed modernization of student aid delivery systems, will be resolved as part of the managers' amendment when the bill reaches the floor. I am most appreciative of the work that has gone into addressing these concerns.

However, S. 1882 fails to address adequately major policy issues addressed by the Administration's reauthorization proposals, including issues concerning student loan interest rates and fees, the guaranty agency financing system, ways to reduce the administrative burden on high-performing schools, ways to improve the integrity of the student aid programs, and the Administration's High Hopes, College Awareness, and Learning Anytime Anywhere Partnership initiatives.

I look forward to working with you to develop mutually acceptable provisions on these and other issues. My concerns on some significant issues are described in greater detail below, and further analysis of S. 1882 is also included in the attachment to this letter.

Student loan interest rate structure: I am pleased that the Senate bill includes the Administration's proposal with respect to the interest rates paid by students. However, the Administration strongly objects to the arbitrary and excessive subsidies for lenders. The Administration has recently advanced an alternative proposal that would move toward market mechanisms to set appropriate lender returns. Our alternative 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.

The goal of the pilots would be to demonstrate that long-term Federal costs could be lowered while ensuring loan availability to all students, minimizing administrative complexity for program participants, and facilitating program participation by a broad spectrum of lenders to ensure healthy long-term competition. Further explanation of the Administration's position on the use of an auction mechanism to set lender returns is included in the letter Secretary Rubin and I recently sent to Congress.

Fees: I am very disappointed that S. 1882 does not lower origination fees for students to help reduce their 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 funded from resources that would be made available through the guaranty agency reforms proposed by the Administration. I understand that amendments may be offered to eliminate the one percent insurance premium for borrowers of subsidized FFELs, and to comparably reduce the loan fee for subsidized Direct Loans. The Administration would support such an amendment.

Guaranty agency financing and reform: As evidenced by the Administration's proposals, I support reform of the guaranty agency system in the FFEL program. However, I am deeply concerned that the reforms proposed in S. 1882 fail to make adequate performance-based reforms to encourage and reward efficient service delivery by guaranty agencies, and would include new and excessive sources of revenue for guaranty agencies. Particularly objectionable provisions are identified in the attachment. I look forward to working with the Congress to fashion an acceptable compromise that provides much-needed guaranty agency reform.

High Hopes: I urge that S. 1882 be amended to include the Administration's High Hopes initiative. High Hopes would provide over one million students in low-income middle schools with effective information, tutoring, mentoring, and academic preparation to prepare them for college and deepen their aspirations and commitment to pursue postsecondary education. We are currently working with the Congress and hope to find a way to incorporate High Hopes into S. 1882.

Community Service: I also urge that S. 1882 be amended to include the Administration's proposal for 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.

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. S. 1882 would increase direct spending and, 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 direct spending. Therefore, if the bill were enacted, its net budget cost could contribute to a sequester of mandatory programs. OMB's preliminary scoring of this bill is that it would increase outlays by $2,258 million during FYs 1998-2003:

Fiscal Year	1998	1999	2000	2001	2002	2003	1998-2003
Outlays (In millions of dollars)	-$291	$355	$501	$520	$560	$613	$2,258

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

Yours sincerely,

Dick Riley

Richard W. Riley

Attachment

Attachment

Teacher Education
We are very pleased that S. 1882 incorporates the Administration's "Recruiting New Teachers for Underserved Areas" proposal and many components of our "Lighthouse Partnerships for Teacher Preparation" proposal. We have some concerns with the provisions of the proposed new part A of title II of the HEA, Teacher Quality, in particular the limited percentage of funds available for teacher preparation partnerships under subpart 2, and look forward to working with Congress to resolve those concerns as the reauthorization process continues.

Pell Grants
The Administration appreciates the bill's strong support for the Federal Pell Grant program. We are particularly pleased that S. 1882 contains a version of the Administration's proposals to set new limits on the period during which a student may receive Federal Pell Grants in a way that accommodates students attending part-time and does not place onerous reporting burdens on institutions. We also support the bill's inclusion of the Administration proposal to make the Pell Grant Program eligibility of a stand-alone English-as-a-Second-Language program contingent on a minimum percentage of the program's graduates passing a standardized test. Both of these provisions will reduce the potential for program abuse. We are also pleased that a version of the Administration's proposed improvements to the tuition-sensitive award rule is included in S. 1882.

Federal TRIO programs
We are disappointed that S. 1882 fails to include the Administration's proposal to allow priority points to be given to TRIO applicants proposing projects in underserved geographic areas. This amendment would help the program respond to changing national demographics by encouraging the establishment of TRIO outreach services in areas currently underserved by these programs.

College Awareness Information Initiative
In addition to the inclusion of the Administration's High Hopes initiative in S. 1882, we also believe that S. 1882 should be amended to include provisions to support the Administration's proposed College Awareness Information initiative. This initiative would address the widespread problem of poor academic preparation for college and use the media to promote increased awareness of the value of a college education, the availability of student financial aid, and the academic planning and other steps that must be taken to prepare for postsecondary education. Information would be targeted to students at various grade levels beginning in middle school, parents, teachers, and counselors, as well as adults pursuing further education.

Federal Supplemental Educational Opportunity Grants

We are disappointed that S. 1882 does not amend the allocation formula for the campus-based programs (Federal Supplemental Educational Opportunity Grants, Federal Work-Study, Federal Perkins Loans) to increase gradually the portion of campus-based funds allocated based on "fair share." Such an amendment would reflect more accurately the current distribution of needy students. Allocations for most schools currently reflect the way in which program funds were distributed 20 years ago. An update of this formula is long overdue.

Federal Family Education Loan (FFEL) Program

Although S. 1882 purports to change the compensation of guaranty agencies to a fee-for-service basis, the bill in fact would create an improper incentive structure that provides excessive payments to guaranty agencies and rewards inefficiency. The provisions described below would collectively direct about $1 billion of federal funds to guaranty agencies and would result in poor guaranty agency performance, excessive taxpayer costs and missed opportunities to help needy students. These objectionable features of S. 1882 would:

- Allow the unjustified use of Federal funds held by guaranty agencies -- in some cases to subsidize their competition with for-profit companies -- and create financial incentives to neglect the taxpayers' interests in the management of Federal funds.

- Stifle innovation and accountability for results by unduly restricting the scope of the voluntary, performance-based agreements that the Secretary may enter into with guaranty agencies.

- Establish an excessive portfolio maintenance payment to guaranty agencies. We understand that amendments may be offered to restore the funds available to the Department under section 458 to the levels established in the Balanced Budget Act of 1997; if these amendments also reduce the level of the portfolio maintenance payment, it would be a step in the right direction. We would like to continue to work with the Congress to reduce the level of these payments to more acceptable levels.

- Discourage guaranty agencies from preventing loan defaults by providing them with potentially much larger payments for collecting on loans *after* they default, totaling at least $644 million above the reasonable range of collection costs over five years.

- Spend unnecessarily $183 million in taxpayer dollars over five years by paying guaranty agencies to bring delinquent loans back into repayment, when lenders already perform this function at no cost to the taxpayer.

We are also disappointed that the Administration's loan proration changes are not included in S. 1882. These provisions would be simpler for institutions to understand and administer, and would be more equitable to students.

We are concerned that the loan forgiveness provisions for teachers and child care workers in S. 1882 are needlessly complex and administratively cumbersome as currently drafted. We would like to work with the Congress to improve these provisions.

We are pleased that S. 1882 includes provisions based on Administration proposals related to electronic exit counseling, information verification on PLUS loans, delegation of authority, the posting of surety during the appeal of an elimination of eligibility on the basis of cohort default rates, and the qualified exemption provided to Historically Black Colleges and Universities from elimination on the basis of cohort default rates. However, we do not support the use of the program participation index in the process for determining cohort default rates (as opposed to using this index in the appeal process), and would like to work with the Congress further on this aspect of the bill.

We support 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. These provisions would provide essentially the same result as Administration proposals on this issue. We also support the bill's provisions that would provide an extended repayment plan for FFEL borrowers with outstanding loans of more than $30,000. This is a step in the right direction, and would provide for greater comparability between the repayment options available for FFEL and Direct Loan borrowers. The Administration would also like to work with Congress to add further amendments to S. 1882 that would improve the terms of FFEL Consolidation Loans to match the terms of Direct Loans.

Federal Direct Loan Program

The Administration is disappointed that S. 1882 fails to exclude from Federal taxation the amounts forgiven after the maximum number of years of income-contingent repayment. Income-based repayment ensures that the 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.

Federal Perkins Loan Program

We are disappointed that the Perkins Loan forbearance provisions, including mandatory forbearance on Perkins Loans during a term of national service, were not expanded for comparability with the forbearance available under the FFEL program.

With regard to the Perkins revolving account, we understand that technical corrections will be made to retain sections 467(a) and (b) of the HEA, and support that correction.

Need Analysis
The Administration is pleased that S. 1882 moves toward the Administration's higher income protection allowances for dependent students and independent students without dependents. Students should be given help and incentives to work and save for postsecondary education, and to do so without jeopardizing the amount of aid that would otherwise be available. The Administration would prefer that S. 1882 also be amended to change the treatment of assets to encourage savings, increase fairness, and simplify the financial aid process for students and families. The Administration's reauthorization proposal includes language to achieve these goals.

We would also prefer that S. 1882 be amended to include language clarifying that adjustments made by financial aid administrators to determinations of need may be made to assist dislocated workers.

General Provisions
The Administration is disappointed that a number of its specific proposals to reduce burden, such as a much-needed simplification of refund requirements, were not adopted in S. 1882. We understand that amendments may be offered to add a variation of the Administration's refund proposal to S. 1882. If this amendment were added to S. 1882 on the Senate floor, it would be a major step in the right direction, although we hope to work with you further to resolve our remaining concerns on this issue.

The Administration is also disappointed that S. 1882 does not provide the Secretary with the authority to approve alternative versions of the Free Application for Federal Student Aid (FAFSA); this authority was provided in the Administration's proposal. The use of alternative free versions of the FAFSA, especially electronic versions, would reduce burden significantly for students and families while streamlining the aid award process and maintaining the integrity of the delivery system.

The Administration is pleased that S. 1882 includes the Administration proposal to authorize the Secretary to designate regulatory provisions that institutions or other entities may choose to implement before the otherwise applicable effective date. These changes would provide the Secretary and program participants with greater flexibility, as well as more lead time, in implementing regulations.

The Administration is also pleased that the bill provides express authority for the Secretary to develop and implement a multiyear promissory note that will simplify the loan application process for students, schools, lenders, and guaranty agencies.

The Administration is disappointed that S. 1882 does not do more regarding distance education, and hopes that the Senate will broaden the opportunity to participate in this program further. We understand that amendments may be offered to eliminate the bill's excessive restrictions on participation in the proposed distance education demonstration program, and to provide other administrative flexibilities necessary for the success of the program. Such amendments would greatly improve these provisions of S. 1882. In addition, the Administration's Learning Anytime Anywhere Partnership initiative would encourage partnerships to develop innovative ways of delivering education, ensuring quality, and measuring student achievement that are appropriate to distance learning.

The Administration opposes the provisions in S. 1882 concerning the Quality Assurance (QA) and Experimental Sites programs. S. 1882 would unacceptably limit the waivers that would be available to institutions participating in the QA program to only those regulatory provisions that pertain to verification requirements. In addition, the bill would impose reporting requirements on the Secretary that would have to be fulfilled before any new participants could be added to the Experimental Sites program. The current programs have provided administrative flexibility from statutory and regulatory provisions to a number of institutions, and have a documented history of success without compromising accountability. The National Commission on the Cost of Higher Education also supported reducing regulatory burden through a performance-based approach.

The Administration also opposes the provision in S. 1882 that would suspend 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 S. 1882.

We are disappointed that S. 1882 does not provide for the reporting of performance-based information by occupationally-related programs that would assist students in making informed choices.

Program integrity

The Administration has several strong objections to the institutional oversight provisions in S. 1882. We strongly oppose the S. 1882 requirement that the Department of Education conduct program reviews based on specific criteria. The Department recently initiated a new approach to institutional oversight that determines the focus of program reviews by using information from a data-driven risk analysis system and the Department's information on institutional compliance with program requirements. This "case management" approach to oversight is much more effective at targeting institutions with compliance problems, as well as more cost-effective and less time-consuming for both institutions and the Department, than the approach in S. 1882. Moreover, this approach was also endorsed by the National Commission on the Cost of Higher Education.

We strongly oppose the provision in S. 1882 that would require the Department to make available the complete, unredacted program review guide. This requirement would undercut the Department's ability to monitor institutions effectively by forcing disclosure of information that could be used by a small minority of unscrupulous schools to evade monitoring. This provision is also unnecessary, since the Department provides virtually all of the program review guide, with only small portions redacted, to anyone who requests it under the Freedom of Information Act.

We also oppose the provision in S. 1882 that would require the Secretary to allow institutions to "cure" inadvertent administrative errors. It is unlikely that the Department would have the information needed in most cases to divine an institution's intentions and determine whether such errors are truly inadvertent. This provision would likely result in additional administrative burden and litigation over whether a violation was inadvertent, and whether the cure was sufficient.

We also oppose the lengthening of the recertification period from the current 4 years to 6 years. In many instances, this longer period is likely to be too long a period between the thorough institutional reexaminations of the recertification process, especially as the Department continues to refine its monitoring efforts by relying to a lesser degree on program reviews and more on other processes, such as recertification. Moreover, if the rationale for the longer period between recertifications is burden reduction, the Department's new electronic recertification application is expected to streamline the recertification process for both institutions and the Department.

Negotiated Rulemaking

While the Administration strongly believes in promoting the active involvement of the public and the education community in the development of student financial aid regulations, we are seriously concerned, based on our prior experience with regulatory negotiation, that the bill's overbroad scope and unrealistic time requirements would actually impede effective collaboration. In addition, the bill's apparent requirements that all future title IV regulations, no matter how technical or urgent, be subject to negotiated rulemaking, would seriously distort regulatory efforts and resources away from the most important issues and generate unnecessary litigation, delay, and expense. We understand that amendments may be offered that would address many of the Administration's concerns, and look forward to working further with Congress to develop an effective regulatory negotiation provision that includes priorities that are needed to achieve both broad community involvement and timeliness. Excessive, inflexible requirements imposed by Congress on this process would not serve the Department's customers.

Finally, we also oppose the provisions that would require the Secretary to conduct biennial reviews of regulations as overly intrusive on the Secretary's management of the Department.

Performance-based Organization

The Administration shares the goal of adopting a performance-based organization (PBO) for the administration of the student aid programs. We understand that there may be amendments offered to S. 1882 that, if added to the bill, would address most of the Administration's concerns about personnel and procurement flexibility for the PBO.

In addition, the Office of Government Ethics has advised that the one-year cooling off post-employment restrictions in 18 U.S.C. 207(c) might not apply to the Chief Operating Officer and would not apply to the senior managers of the PBO under S. 1882 as currently drafted.

Advanced Placement Incentive Program

The Administration supports the reauthorization of the advanced placement incentive program, and would like to work with Congress to modify the program in order to encourage States to undertake activities, such as information dissemination, teacher training, and curriculum development, that would increase the participation of low-income students in advanced placement courses and exams.

Education of the Deaf Amendments of 1998

Finally, we are concerned with certain aspects of S. 1882's reauthorization of the Education of the Deaf Act, such as the change to the Federal endowment program provisions that would eliminate the requirement for each institution to reinvest 50 percent of its endowment income. This change would mean that no funds would have to be reinvested. One of the primary purposes of the Endowment Grant program is to create permanent, and increasing, sources of funds for enrichment activities and special projects. This purpose is compromised if there is no requirement for the funds to grow.

Vote "Yes" to Rob Jones becoming a programmer.

Vote "Yes" to the Higher Education Act.

Rob Jones has always wanted to become a programmer. But like most other Americans, he'll only be able to go to college if he can get federal student aid.

That's why it is crucial for Rob that Congress votes "Yes" to the Higher Education Act and that the President approve it by July 1st.

You see, the Higher Education Act will guarantee the continuation of the student grants, loans, and work-study programs. It will make 40 billion dollars in aid available next year alone. And it will allow students to receive loans at the lowest interest rate in nearly two decades.

Federal student aid programs work. In the last 30 years, these programs have helped 40 million Americans go to college and fulfill their dreams. And this coming year, 6 million more students will benefit.

On May 9th, the U.S. House of Representatives voted 414 to 4 in favor of the Higher Education Act. And the Senate Committee on Labor and Human Resources has endorsed it unanimously.

Now is the time for the full Senate to act. So please vote "Yes" to the Higher Education Act. And "Yes" to the continuation of federal student aid programs.

Otherwise, instead of going to college to become a programmer, Rob Jones may be going nowhere.

• American Association of Community Colleges • American Association of Dental Schools • American Association of State Colleges and Universities • American Council on Education • Association of American Medical Colleges • Association of American Universities • Association of Jesuit Colleges and Universities • The College Fund/UNCF • Consumer Bankers Association • Council of Graduate Schools • Education Finance Council • Hispanic Association of Colleges and Universities • Independent Bankers Association of America • National Association of College and University Business Officers • National Association of Graduate and Professional Students • National Association of Independent Colleges and Universities • National Association of State Universities and Land-Grant Colleges • National Association of Student Financial Aid Administrators • National Association for Equal Opportunity in Higher Education • National Council for Higher Education Loan Programs • SLM Holding Corporation • United States Student Association • U.S. PIRG

ISTEA Negotiators To Work Through Weekend For Deal

TRANSPORTATION

DESPITE THE daunting task ahead of them, House and Senate negotiators for the Intermodal Surface Transportation Efficiency Act plan to work through the weekend on the program structure and formulas for highways and mass transit, aides said Thursday.

Senators and House members hope to move a conference report agreement to the House and Senate floors before the Memorial Day recess.

But with issues such as transit funding, program structure, earmarked projects, environmental programs, and the complex state allocation formula still to be resolved, negotiators will have their work cut out for them.

House Transportation and Infrastructure Chairman Shuster, **Senate Environment and Public Works Chairman Chafee**, and other top ISTEA conferees met briefly Thursday afternoon to talk about ISTEA program structure, following a deal Wednesday on the highway funding levels.

Now that the Senate has accepted Shuster's desire to guarantee that all gas tax revenues will be spent on transportation, Senate conferees Thursday worked on the House members to cede some issues to them.

Those issues include the 0.08 percent blood alcohol content limit, state use of ISTEA funds for Amtrak, and environmental program structure.

With the highway funding levels now set at $167 billion in contract authority, plus another $10 billion in authorizations with the hope of future appropriations in later years, conferees today will begin working on the highway formula.

Meanwhile, the transit funding has yet to be settled. Aides said reports of a $33.5 billion transit funding level are premature. That figure is the offer Shuster made to the Senate, but to which the Senate has not agreed.

The House offer also added $2 billion in extra contract authority that, like the added highway money, appropriators would have to fund later.

But **Senate Banking Chairman D'Amato** wants more, and is working with the leadership and ISTEA conferees to raise that figure to at least $36 billion — which would bring it closer to the historical 20 percent share transit has received from transportation bills. The original Senate bill contains $41 billion in contract authority for transit over six years.

Sources said D'Amato is urging the Senate Budget Committee to come up with $3 billion to $7 billion more in offsets. D'Amato met with **Budget Chairman Domenici** and **Majority Leader Lott** Thursday afternoon to discuss the issue.

While Shuster has a commitment from the leadership that all gas tax revenues will be spent on transportation, aides said they are still working on the complex details of how that will work with firewalls and other budget mechanisms. Reports that they had reached agreement on the details of the budget mechanism were premature, aides said.

— *By Matthew Morrissey*

GOP Leadership Ready To Fire Back After Burton Vote

HOUSE LEADERSHIP

THE HOUSE Republican leadership is ready to return partisan fire on the floor next week in response to the privileged resolution unsuccessfully offered by **Minority Leader Gephardt** Thursday that would have disapproved of how **Government Reform Chairman Burton** has conducted his panel's investigation of 1996 campaign fundraising abuses.

Rules Committee Republicans Thursday set up at least three more votes aimed at putting Democrats on record in the controversy over the probe.

These include votes on a resolution by **Majority Whip DeLay** expressing the sense of the House on President Clinton's assertions of executive privilege; on a resolution by **Rules Chairman Solomon** calling on the president to urge his friends, former associates and appointees to cooperate fully with the congressional investigations; and on the rule itself for considering the resolutions.

DeLay later told *CongressDaily* that while the leadership has made no final decisions about additional floor votes next week, his office is looking at "any opportunity we may put together in order to bring some sunlight" to the issues he charged that Democrats are trying to cover up.

For his part, **House Speaker Gingrich** Thursday said he is considering a full House vote to grant immunity to four witnesses — which has twice been blocked by Democrats in the Government Reform panel — and to take their testimony in the chamber.

Gingrich said he is researching whether there is any precedent for conducting an investigation in the chamber. "I'm looking at the possibility ... for the House to hear the witnesses. It would be an educational experience for the American people," Gingrich told the *Associated Press*.

He said **Government Reform ranking member Henry Waxman**, D-Calif., "wanted them [the witnesses] silenced. I'm checking the precedents to see if this has been done before."

DeLay said of the various proposals to take a dramatically new approach to the debate: "That's just talk, just going over the options. Everybody is talking about all kinds of options."

Also Thursday, Burton sent a letter to Gephardt "to let you know how personally disappointed I was that you decided to offer a privileged resolution on the House floor about me that was based on misinformation and filled with inaccuracies."

Three conservative Democrats joined Republicans Thursday in defeating Gephardt's motion: **Reps. Gene Taylor** of Mississippi, **Ralph Hall** of Texas, and **Virgil Goode** of Virginia.

— *By Lisa Caruso, with Mark Wegner contributing*

UNITED STATES
DEPARTMENT OF EDUCATION NEWS

DRAFT DRAFT DRAFT

FOR RELEASE:
July 10, 1998
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Contact: Julie Green (202) 401-3026
Jane Glickman (202) 401-1307

STATEMENT BY U.S. SECRETARY OF EDUCATION RICHARD W. RILEY
On Senate Passage of S. 1882, the Higher Education Amendments of 1998

One of the hallmarks of the Clinton Administration's education policy has been our determined effort to help families and students pay for college and have greater access to higher education. I am pleased the Senate took a step forward last night to further efforts to make college affordable and accessible for all Americans who work hard and make the grade. The bill approved by the Senate will: save students billions of dollars by adopting the President's proposal to lower student loan interest rates; improve teacher quality ~~training~~ and recruitment; promote high quality distance learning efforts; help disadvantaged students prepare for college; and create the federal government's first-ever performance based organization for the delivery of student aid.

I still have serious concerns about the excessive taxpayer subsidy to lenders and cuts that would jeopardize the delivery of student aid in this bill and I will continue to work to improve this legislation as it moves to conference so that all Americans have access to a high quality postsecondary education.

###

7/29/98

Clay, Kildee, Martinez, Andrews

① - Budget issue - subsidy, technical / CBO vs. OMB

- ?, sequestration ?

McKeon: worried they'll all ask to consolidate...

Andrews: Do a trigger so sequestration comes from banks, or students...

- What?
Kennedy - Petri discussions on mkt-based approaches

② H.H. - House version?

③ Distance Learning - House flex.
+ Senate LAAP

④ Sec. 458

⑤ Nat'l Bd:
- Clay: salary - drumming up opposition...

We need
- Sec. 458
- Nat'l Board for non-trdg stds..
- Budget / sequestration
- H.H.

(6) Tchr Training & Recruitment...
Senate: 59/60 (thru 1/3 - 2/3)

(7) Miller-Bingaman
- Title IV cutoff

(8) PBO

(9) Year 2000
- Hom is impt.

Andreas: Use auctions on plg & grdp.

Use $ to expand ICH to FPEL.

- veto overa
- defense limb - have to see that...

Clay - sidebar issues shouldn't become the reason for veto threats...

Wellspare:

7. Marshall: Palau etc. — sanctions here vs. there??

Other Senate events

Wed. 9 – Ed. Tech
Sen Kerrey & Steering Comm 10–3

8th – Pre-game call R. call.

Previous week: PTA & School Bd – personal?
– video...

- formula rules economy into consideration less ...
  no hh. — ?R from economies

- Bricklayers - pull bec. haven't been able
  to recover why wish...

Jeffords mtg. 7/31/98

Riley

- ? rates
  - Budget issue - trying to address
  - Market mech.
  - Cunslderation - Jeffords "we'd like to pursue that, anything for the students"

- H-H.
  - will at staff level ??

- sec. 408 - "$ for sched"
  - "follow up a/cs"

- T.T.

- NBPTS -

- ?

- year 2000

Jeffords

- T.T. - Carnegie/Gregorian (Vartan) - need to have mtg to discuss what we go on this. (He wants to go first...)
  - What is a qualified teacher? certified/
  - How to work w/ prof. standards on the ladder
    - → bring in lists of schools ?
  - How to replace 4 million teachers on any time schedule..?
  - 1 for each school by 2005? Need 4 million..

- Univ. Vt - dean. asst something.

Fdrey: 25% . Pnu reelly not certified

Dickinson College prog

Dyslexia - can identify by age 3-4
→ can reduce special ed need...

7/31/98

Goodling & McKeon

Goodling: You want to do them all out;
You don't want to be here when the whole thing crashes.

Consolidation rate -

Sally:
"CBO has our budget docs that say 10 yr bond ..."

3 positions
- CBO
- Distance Learning.
- H.W. - "Oh, I'm thrilled... partially real."
  - Want to consol. progs.

Sec. 458 - GSA cuts

Board - Problem is:
Where they are - need 'em where they're needed most...
McKeon said: first a yr or two, will pay for itself...
Plurality of rebs are N.C.

Tchg. -
Family Lit.

IDEA Reauth - colleagues getting killed
- Some states weren't complying before...
- Regs went beyond the legislation...
- 10 day discipline thing

- Wells spoke Andy:

Mcll - no probs personally.
Wrdl - looking @ leadership... Dolly start
sinking with it...
strongly opposed

- Vic. Rd.

S. C.

- defining issue for Dems
- Rangel / Corey, leadership.

A. R.

HEA

Maryam, Doris, Maria T., Jocelyn + Victoria Council

☐ Draft requests for groups..

Mtg

- House
- Sen

- AFT - Gov't agencies etc

- NEA - have videos

- AIA

-

- Tu - small

- next week: Congress, press or web.

- Key people..

- Category / + campaigns.
  - Fact - ed Repub
  - Candidate materials help

Campaigns
Senate: don't do much
→
House: Crazy
→

- Comm
- C.A.
- I.G.A. - lyon, Ford
- political

-

- Jocelyn

- CBO: ✓ Nat'l Board / Master Tchrs
✓ Sec. 458
✓

EB: We can't negotiate over sending a bill over...

- Ascene

- work out Master Tchrs → thru approp. process
in exchange for scoring...

- HHA Scoring must be dealt w/ integrally...

* Only ad do it to explicit level we're otherwise comfortable [illegible] w/

[This is outrageous powerplay.]

Gen, Chen, White, Cohen & Stern, Reed, Sperl. 8/5/98

* - Board (HEA + Approps)

* - Sec. 458 - s+e

+ 2nd level - i rate on consol. loans

* - "Fully finance" CBO

+ 2nd level - High Hopes - Porrs brought up @ Cares(?)

Resolve w/o prejudice on other issues...

Gore: - Nothing for the signing...

-

Veto

McKeon call: - Scoring a big issue, also Sec. 458 + dist bd.

→ to make it work - either offsets & elim. threat of sequester, or language in bill to resolve scoring issue.

→ shd. also direct CBO + OMB to work eg. to eliminate diff in future...

Wd be a huge concession... if we cd resolve dispute this...

- Bd: No prohibition or mutually agd. lang. - for the year (not in approps)

- McK called Gaddy — said he'd consider it...

- → Going to Gaddy on the floor...

Chow → Bob Cochran

- Negotiate w/ language; CBA-9MB scoring difference ~~[illegible]~~ cost & rate — fully offset to that level...
- no lang. on NBPTS unless mutually agreed
- Good faith effort to resolve all other issues... in h.e. cmte.;

PREPARER/EXT: Kathy Stack/54687
TYPE OF ISSUE: Composition of 1999 Budget package, and tactical strategies for presenting these to Congress

Issue Paper 9: Student Loan Programs
Department of Education

BACKGROUND

The 1993 amendments authorizing the Direct Loan program included an explicit goal that Direct Loans would make up 60 percent of new student loan volume by 1998, with an assumed ramp-up to 100 percent in subsequent years. That has not occurred. Direct loan volume has stagnated at about one-third of the total volume, and neither ED nor CBO project it will change -- though in fact it is in serious danger of declining in the face of aggressive competition from the guaranteed loan system. About 1,300 participating schools will provide slightly more than $10 billion in new direct loans in FY 1998. Under credit reform scoring rules, the program subsidy is currently 3.85% under ED scoring and 6.59% under CBO scoring.

The Federal Family Education Loan (FFEL) program, or guaranteed loan program, now provides about two-thirds of new student loans each year (nearly $20 billion in FY 1998). The program subsidy is currently 12.09% under ED scoring, and 11.17% under CBO scoring.

Some of the subsidy difference between the two programs results from the different treatment of administrative costs and borrower repayments. Federal administrative costs are excluded from the calculation in direct loans while Federal payments to lenders and some guarantee agency subsidies for administrative costs are included in the FFEL subsidy. Borrower repayments in direct loans come into the Federal government, but guaranteed loan repayments remain outside the Federal budget. CBO, OMB, and ED have been unable to agree on a methodology for making the subsidy calculations comparable. It is virtually impossible to do so given the statutory structure of the programs. Under current economic assumptions, however, it appears that direct loans would still be cheaper for the government even if Federal administrative costs were factored in.

In recent years, as FFEL began to lose market share, banks and guaranty agencies have responded with improved services and discounts to borrowers. A consortium of banks established ELM, an electronic loan origination system, and many banks and Sallie Mae also now provide electronic access to loan balances and repayment information. Many banks are also offering slightly lower interest rates to students who pay their loans through automatic debit. Some guaranty agencies are offering lower insurance premiums to borrowers. (While it is hard to quarrel with lender discounts, the cost of GA discounts are simply passed on the the Federal government who reimburses GAs through administrative cost allowances tied to GA loan volume.)

The improvements in the guarantee program coupled with ED's recent troubles managing its Direct Loan contracts and traditional failures managing the guaranteed loan program have caused a shift in expectations for the future of direct lending. Recently, policy officials from ED, OMB, and NEC met to discuss our fundamental assumptions about the future of FFEL and Direct Loans as we move into the higher education reauthorization. There has always been general agreement that the viability of the dual program structure cannot be sustained in the long run, but nobody has a good plan for a hybrid replacement. The benefits of competition are still significant (even if a detriment to direct lending), and direct lending provides the Administration with important leverage in getting Congress and the FFEL industry to consider changes that will cut costs and inefficiency in the FFEL program. Within the Administration, there seems to be consensus that our short-term focus should be on legislative and management changes that will improve the efficiency of both programs.

Nonetheless, because there may be an opening during HEA negotiations over the next year or two for serious discussion of a hybrid program, ED, OMB, and NEC have agreed to quietly analyze alternatives after the budget and the HEA reauthorization proposals are done. These alternatives could include a HEAL-type auction model that is bank-based, or a program involving Federal origination in which loans would be sold to a secondary market. Any replacement program would have to be designed to support certain key principles: competition, program efficiency, universal access to income contingent repayment, and preserving benefits to students. Perhaps the major challenge in any program redesign will be how to ensure borrower access to income contingent repayment, which direct loan borrowers can now opt for at any time during the repayment phase, but is only available to guaranteed loan borrowers if they can consolidate into direct lending.

This paper focuses on the short-term issues that must be addressed in the FY 1999 Budget.

- The first issue addresses the overall composition of the Administration's student loan package for FY 1999. The Department's 1999 request for student loans is essentially a repeat of the 1998 policies: reduced student fees; significant cuts in lender subsidies, and savings from guaranty agencies through restructuring (recalling reserves and establishing a performance-based fee structure). HRD believes that certain events over the last year call for rethinking certain aspects of last year's proposals.

- The second issues concerns a scheduled interest rate change affecting both programs that will go into effect under current law on July 1, 1998. Because HEA reauthorization will probably not be enacted until next fall (or perhaps even the following year), there will be strong pressure from lenders to pass an interest-rate fix next spring. Since the "problem" in current law provides us our greatest leverage over lenders, we need to decide what other critical program changes we would want to insist be included in a Congressional bill to fix the interest-rate problem.

- The third issue highlights a number of savings proposals (e.g., recalling GA reserves) that could be used as offsets for discretionary increases within the appropriations process and discusses the potential risks and benefits of this strategy.

At the back of this paper is a table displaying the costs and savings associated with each of the key elements of the student loan proposals.

Student Loans

ISSUE 1: What should be the overall composition of the Administration's FY 1999 budget proposals for student loans?

		FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	99-03
Baseline OL		3,520	3,551	3,565	2,747	4,045	17,428
Option 1:	**Agency Request**	-554	-529	-564	-582	-611	-2,839

Education reproposes the President's FY 98 Budget proposals: reduce lender yield, restructure guaranty agencies, and reduce borrower fees.

		FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	99-03
Option 2:	**Recommendation**	-477	-496	-575	-424	-444	-2,418

Reduce lender yield less dramatically than ED request; restructure guaranty agencies with an emphasis on electronic origination; reduce borrower fees but to a lesser degree than proposed by ED.

		FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	99-03
Option 3:	**Alternative**	-477	-496	-575	-590	-610	-2,750

Same as option 2 with a smaller cut in borrower fees.

DESCRIPTION OF ISSUE: The BBA negotiations this past year brought about some splits within the FFEL industry. Banks began pointing out the inefficiencies of the guaranty agencies, hoping to make GA's the targets of program cuts. Among the 36 remaining guaranty agencies, six or seven (including those in Pennsylvania, California and Massachusetts) have signalled their willingness to restructure by entering into new arrangements with lenders and the Department.

Despite this progress, guaranty agencies still have significant influence in Congress, and the chairmen of both education authorizing committtes have strong agencies in their States. While House Chairman Goodling's agency (PHEA) has signalled some interest in restructuring, the Vermont agency in Senator Jeffords' state has not. While a year or two ago it would have been impossible to imagine an alliance developing between FFEL lenders and the Administration, such an alliance may now be the only way to achieve improved efficiency in the guaranteed loan program. This fact needs to be considered in analyzing options.

Option 1, the ED request, would require lenders to absorb much larger reductions than already required by the July 1 interest rate change. ED proposes to reduce lender insurance from the current 98 percent to 95 percent (saving $500 million over five years), and to cut the interest rate students pay while in school from the 10 year bond rate plus 1 percent, to the 10 year rate (saving $746 million over 5 years). ED proposes to save $1.6 billion by recalling remaining guaranty agency reserves and restructuring GA's (moving to performance-based fees) as proposed last year. ED would also cut loan origination fees from 4 percent to 2 percent for need-based loans and from 4 percent to 3 percent for non-need-based loans. This option provides $2.8 billion in net five-year savings.

Option 2, HRD's recommendation, would make more modest reductions in lender subsidies. No change would be made to the lender insurance rate, and instead of cutting the in-school interest rate by one percent as ED proposed, the in-school rate would drop by only 0.6 percent (saving $474 million over 5 years). The Department's GA restructuring proposals would be included, building on the apparent willingness of some GA's to move in this direction. Borrower fees would be reduced from 4 percent to 3 percent for all loans in FY 1999, and a further cut to 2 percent for need-based loans would occur in 2002. This option provides $2.4 billion in five-year savings.

Option 3 is the same as the HRD recommendation, except that borrower fees would remain at 3 percent in all years. This option provides $2.75 billion in five-year savings.

A few other notable proposals are included in all three options:

- Lenders would be required to offer the same flexible repayment terms to borrowers that are offered under direct lending, with the exception of income-contingent repayment. This provision is not expected to be a significant burden on banks, but should lead to program savings because of lower default costs.

- The Department also proposes five-year savings of $745 million through elimination of bankruptcy discharges for student loan debtors. This proposal is consistent with the HEA law that makes student loans collectible without regard to statute of limitations. However, it is not consistent with recent recommendations of the Bankruptcy Commission. We are conferring with Justice to determine whether they strongly object to ED's proposal. ED believes that given deferments, forbearances, and flexible repayment options such as income-contingent and income-sensitive repayment plans, and the detrimental effect of a bankruptcy on a borrower's credit history, the current bankruptcy discharge should not be continued. (If Justice takes a strong position, it may require dropping this item and the substantial savings associated with it.)

- Special allowance payments to lenders, now adjusted quarterly, would be adjusted annually (as are student interest rates).

None of the options presented includes the effects of a regulatory change under review within the Department that would authorize the Secretary of Education to discount interest rates for consolidated loans. This idea came up in recent discussions between OMB, NEC and Education over ways to level the playing field between the guaranteed and direct loan programs. Until recently, OPE officials had assumed that current law did not give the Secretary any flexibility to lower interest rates to compete with the discounting practices of lenders and Sallie Mae. When OMB questioned this assumption, ED attorneys indicated that the Secretary can offer lower rates to borrowers who consolidate their loans, but only if current regulations are changed. ED's policy officials are now considering proposing a regulation that would allow the Secretary to set lower rates for new loan consolidations in regulation. While this general regulation would not trigger increased baseline costs, any future regulation that lowered the interest rate would require an upward adjustment to the baseline. As part of HEA reauthorization, we may wish to give the Secretary authority to lower the maximum interest rate for both new loans and consolidations.

ANALYSIS

Options 2 and 3 recognize that the reductions in lender yield proposed last year (and in ED's 1999 request) were probably excessive. As explained in the following issue paper, the President's 1998 proposals failed to acknowledge the significant reduction in lender yield that was already scheduled to go into effect on July 1, 1998. On that date, student interest rates will drop from a rate set at the 91 day T-bill plus 3.1 percentage points to a new rate set at the 10 year bond plus 1 percentage point (now comparable to T+2.1).

Lenders claim that the July 1 change will make the program so unprofitable that they may drop out of the program. At current interest rates, profit margins for the major lenders are quite large; ED staff report that Sallie Mae's rate of return on equity is about 50 percent, while Nellie Mae's is over 20 percent and Citibank's is 19 percent. Nonetheless, it is possible that the July 1 change may cause some of the smaller lenders without such large profit margins to leave the program. It may not be realistic to expect that an additional cut of 0.6 percent in the in-school interest rate (included in Option 2 and 3) would be enacted. HRD believes including this cut in our proposal provides some bargaining room, and can be defended because lender costs of servicing these loans during the in-school period are significantly lower than during the repayment period.

Last year's GA restructuring proposal is included under all the options. This proposal eliminates the illusory guaranty function (no non-Federal funds are presently at risk), and requires the GA's to operate under performance-based agreements. Under ED's proposals, $1.2 billion in GA reserves would be recalled in equal amounts over 5 years, and administrative cost allowances would be replaced with a performance-based fee structure. Savings would also be achieved by reducing payments to GA's for default collections from 27 percent to 18.5 percent (the same rate paid to ED's private collection agencies).

HRD believes that for ED to make the strongest possible case for restructuring, ED should be prepared to offer concrete implementation strategies to demonstrate how the new structure will encourage operational improvements. Banking representatives recently told HRD that significant program efficiencies could be achieved through modernization, pointing to electronic origination as the obvious starting point. They assert that six or seven progressive guaranty agencies (the same ones that have been most responsive to ED's proposals) would likely sign on to an Administration proposal for "modernization" that would include a streamlined front-end process for electronic origination using the "Education Loan Management (ELM)" network. Despite advances by the banking industry (who have adopted standard data formats for a shared electronic network), guaranty agencies have avoided standardization. They still play a major front-end review role, most often paper-based, which could be significantly streamlined or eliminated altogether in an electronic environment.

Borrower fees are different under each of the three options. ED's formal proposal (Option 1) is generous to students, but the Secretary has indicated he would like to eliminate fees altogether if there is room in the budget. The recent tax change authorizing deductibility of student interest is a new benefit that was not available when these proposals were made last year. All three options include at least a 1 percent reduction for all borrowers, since in FFEL (which now has two-thirds of the loan volume) students pay this one percent to guaranty agencies (not the Federal government) as an insurance premium. Elimination of this fee is important for two reasons: (1) it is an element of the larger GA restructuring proposal; and (2) it would limit the ability of GA's to discount (by waiving this insurance premium) in an effort to lure borrowers into FFEL. Granting direct loan borrowers the same one percent reduction costs $580 million over five years, which is the only fee reduction included in Option 3.

HRD's recommendation - which provides for ED's additional 1 percent reduction for need-based loans but delays it until FY 2002 - falls between Options 1 and 3. (Like our recommended reductions affecting lender yield, these origination fee proposals may go beyond what Congress would be willing to enact.) NEC has stressed to us that the 1999 package must provide Democratic authorizers with enough proposed benefits to students that they will have cause to go after savings from GA's.

RECOMMENDATION: HRD recommends Option 2. We note, however, that getting enactment of GA restructuring probably depends on having strong Departmental leadership that can overcome ED's past anomosity towards lenders and instead work with the banking industry to pursue modernization objectives that will serve both programs.

Student Loans

ISSUE 2: What package of amendments should the Administration be prepared to put forward, and when, in the event Congress decides to change the July 1, 1998 student interest rate prior to HEA reauthorization?

Option 1: The Administration's HEA proposals should recognize the problem underlying the July 1 rate, and remedy it by changing the rate to the 91-day T-bill plus 2.1 percentage points (i.e., using the benchmark instrument lenders prefer, but setting the spread at a level that will not increase costs to students).

Option 2: The Administration should not include any changes to the July 1 rate in its HEA reauthorization proposals. If Congress decides to act prior to reauthorization, the Administration should use the leverage this issue provides to squeeze out inefficiency in the FFEL program (e.g., through GA restructuring and recall of reserves), ensuring that students are held harmless. (HRD Recommendation)

DESCRIPTION OF ISSUE: HEA sets the maximum interest rate paid by students at the same level for both programs. The rate in effect today is 91-day T-bill + 2.5 percent while students are in-school (when loans have minimal servicing requirements), and T-bill + 3.1 percent for loans in repayment, with an 8.25 percent cap. The 1993 amendments, which envisioned most of the volume in direct lending by 1998, changed the rate beginning July 1, 1998 to the 10 year bond rate + 1 percent (roughly equivalent to T-bill + 2.1 percent), capped at 8.25 percent for students and 9 percent for parents. Borrower rates are adjusted annually. The July 1 rate is the Department's rate for borrowing from Treasury, and was also the rate agencies were required to use for credit reform discounting until just recently.

Lenders claim that the July 1 rate change is seriously problemmatic for two reasons: (1) switching to the 10-year note creates interest-rate risk since there is currently no securitization market for loans at the 10-year rate (securitization is now tied to LIBOR, an instrument very similar to the T-bill); and (2) the new rate, even if benchmarked against T-bills (at T+2.1) would not provide enough profit margin for lenders to stay in the program. Bank analysts assert they will lose 140 to 160 basis points under the new rate. When direct lending was viewed as able to absorb significant new volume, this threat was not alarming. Given ED's current management problems and clear inability to take on a rapid increase in direct lending, however, Administration officials now want to avoid serious disruptions in FFEL that could limit student access to loans.

NEC asked Treasury for an analysis of the effect of the July 1 interest-rate change. Treasury's internal analysis indicates that switching to the 10 year benchmark will increase hedging risk by roughly 60 basis points, confirming the lenders' claims that the change will reduce lender yield by up to 160 basis points. ED, NEC, and OMB are all in agreement that the Administration should be willing at some future time to negotiate on the benchmark instrument (sticking with T-bills or perhaps adopting LIBOR). What's still at issue is what our starting point should be for negotiations, what rate we believe we should end up with, and what other legislative fixes we should try to get in return for lender relief.

This issue must be looked at in the context of other proposals affecting lender subsidies. There is wide variation in what is now in effect under current law, what is scheduled to go into effect on July 1, and what was included in the Administration's 1998 Budget and ED's proposals for 1999.

(Note: "Special allowance" is a Federal payment to noteholders when the borrower payment rate is below the guaranteed rate of return, or when T+3.1 is greater than 8.25%. Under current economic assumptions, ED is not projecting special allowance payments in 1999 through 2003. Default risk is the difference between a 100% Federal guarantee and the lender/holder default liability in the event of default.)

	Now in Effect: Current Law	July 1, 1998: Current Law	FY 98 Budget FY 99 ED Request	HRD 99 Rec.
In-school rate	T+2.5	10 yr + 1 (= T+2.1)	10 yr	10 yr +0.4 (=T+1.5)
Repayment rate	T+3.1	10 yr + 1 (= T+2.1)	10 yr + 1	10 yr + 1
Special allowance	Paid qtr'ly if borrower interest hits cap	Paid qtr'ly if borrower interest hits cap	Paid annually if borrower interest hits cap	Paid annually if borrower interest hits cap
Lender/holder Default risk	2 percent	2 percent	5 percent	2 percent

At present, OMB does not have any analysis that shows what combination of lender subsidy reductions is most defensible: how much can lender profits be squeezed without forcing out so many lenders that loan access is threatened. Changes to certain subsidies could have differential effects on different types of lenders. For example, reductions to the in-school interest rate are thought to hit small lenders harder. Reducing the lender insurance rate would not significantly affect lenders/holders with effective servicing and low default rates such as Sallie Mae.

During the BBA negotiations, lenders/holders fended off cuts in their subsidies by claiming that their continued participation in the guaranteed loan program was already jeopardized by the scheduled July 1, 1998 interest rate change in current law. Throughout the summer and fall, Congress has given serious consideration to amendments to cancel the July 1 change, but has held off because of pressure from higher education and student associations and the Administration's firm position. Recently, representatives of the lending industry have told OMB that they could "live with" a rate of T- plus 2.75 percent (assuming no reductions in other subsidies). ED officials have signalled no interest in changing their 1999 policies, but ED staff acknowledge that their proposals were not based on analysis of how the proposals would affect lenders. Treasury has given very preliminary indications that lenders could live with an interest rate of T+2.1 (the current law equivalent), but have not been asked to factor in the other proposed subsidy cuts.

Proposals to pay the special allowance annually and to reduce lender insurance <u>save</u> the government money. Reducing student the student interest rate <u>costs</u> the government, while increasing the rate <u>saves</u> money. To illustrate, if the scheduled rate change were cancelled and the rate after July 1 remained at T+3.1, then:

- the Direct Loan program would save $3 billion over five years, because of increased interest payments from students; and

- FFEL costs would increase by $1 billion, because of increased default costs and special allowance payments to lenders.

On a net basis, the higher interest rate (about 100 basis points) would save $2 billion for both programs combined.

Option 1 would openly acknowledge the work done by Treasury (already known to the banking community) and the conclusions that are being reached within the Administration regarding the unnecessary hedging risk. Shifting to T+2.1 would not raise the effective rate paid by students, but would reduce projected costs to holders and lenders by 60 basis points, and would thus be a major gesture and perhaps the starting point for an alliance with lenders aimed at program modernization. There are serious risks to this approach, however. Republicans in Congress could find a vehicle for passing the Administration's proposed interest rate change before July 1 and before HEA negotiations get in full swing.

Option 2 holds back from public view the endgame strategy and allows the interest rate issue to be used to its full advantage in negotiating GA restructuring and other program reforms. This strategy appears to be preferred by both NEC and Education, and HRD supports it. If the lenders are successful in getting Congress to move on this issue next spring, the Administration could adopt a negotiating strategy with the following objectives:

- Students should be held harmless from the effect of an interest rate change.

- Savings through modernization (e.g., GA restructuring, electronic origination and reporting by lenders) should translate into lower interest costs for students and smaller administrative subsidies to guaranty agencies.

- If we cannot reach agreement with Congress and the FFEL community on an appropriate interest rate, the Administration could compromise with legislation that (1) annually lowers the maximum interest rate over a two or three year period, and (2) requires a study by a recognized non-partisan body (e.g., the National Academy of Sciences) on a methodology for setting the rate to go into effect July 1, 2000. This study could include an examination of possible auction models.

RECOMMENDATION: Option 2. Do not include any change to the July 1, 1998 interest rate in the higher education reauthorization. But task ED, under NEC tutelage and with OMB support, to engage in open discussion and debate on the issue involving the student groups, the college associations, and Republicans and Democrats on the Hill. Use Treasury analysts to run forums on the interest change. Keep attention focused on the tension between maintaining loan access (i.e., keeping banks in) and not hurting students (i.e., not increasing their net costs) and find other sources of savings for some movement on interest rates (i.e., GA restructuring and modernization of the relationship with banks). The debate should commence in December in a staged fashion so that by February/March, serious negotiations in a well informed climate can begin. Assuming no change in leadership at ED, a leadership role for NEC (Shireman) is essential.

Student Loans

ISSUE 3: Should a portion of the mandatory student loans savings be proposed to offset discretionary increases in the appropriations process?

Option 1: Apply all savings to the student loan programs

Option 2: Propose discretionary appropriations language to recall all excess guaranty agency reserves in 1999 (and perhaps 2000) to offset discretionary expenditures. Appropriations language could also propose to capture one year of 1999 savings for other student loan proposals.

DESCRIPTION OF ISSUE: Some student loan savings could be used to offset the discretionary increases we know will be provided for Education. In 1999, approximately $800 million in excess GA reserves would be available for recall through the appropriations process. (Under ED's HEA proposals, these funds would be recalled over 5 years. Recalling them over a five year period yields a larger savings estimate of $1.2 billion, since the interest these funds are earning during this period would be returned to the Treasury.) In addition to GA reserves, it might be possible to write appropriations language to capture one year of savings from other student loan savings proposals (see table that follows).

Proposing that the savings be used by the appropriators rather than the authorizers has obvious benefits on the discretionary side but has some serious political drawbacks for Hill Democrats in reauthorization. If GA reserves (or other savings) are shifted to the discretionary side:

- Democratic authorizers have little to bargain with. There are no other *likely* savings that could be used to pay for increased benefits to students.

- We are in a weaker bargaining position during probable negotiations over the July 1 interest rate change.

- Higher education groups may question the Administration's commitment to Pell grants, if they see loan savers offered explicitly to finance Pell increases but believe appropriators won't go along, thus imperiling Pell and casting doubt on the Administration's commitment.

RECOMMENDATION: We defer to the Director on where offsets are most needed. In tables throughout this book, the recommended levels assume student loan savings will remain on the mandatory side.

PHOTOCOPY
PRESERVATION

Ways & Means

A black student in Alabama has teamed up with a politically conservative law center to challenge race-based college scholarships in the state.

Lawyers for the Center for Individual Rights brought Jessie J. Tompkins to their office in Washington last month to confer. Last week, the center agreed to represent him.

Mr. Tompkins, a graduate student at Alabama State University, sued the historically black public institution in March after it refused to give him a scholarship intended for white students. A federal judge created the scholarships in 1995 as a desegregation remedy for Alabama State and Alabama A&M Universities, where most of the students are black.

Mr. Tompkins said he opposed the use of affirmative action to promote diversity, including grants for black students at predominantly white colleges. He expected to win some allies among black students.

"People say they support race-based affirmative action but don't support the program at Alabama State," he said. "People are beginning to realize what it feels like" to be denied benefits because of affirmative action.

Michael S. Greve, executive director of the legal-advocacy center, said the case could dissuade other states from using desegregation

Government & Politics

High-Cost Private Colleges Want Congress to Raise Limits on Student Borrowing

Lawmakers will consider the issue as they review the Higher Education Act

BY STEPHEN BURD

MIDDLETOWN, CONN.

WESLEYAN UNIVERSITY is being wooed.

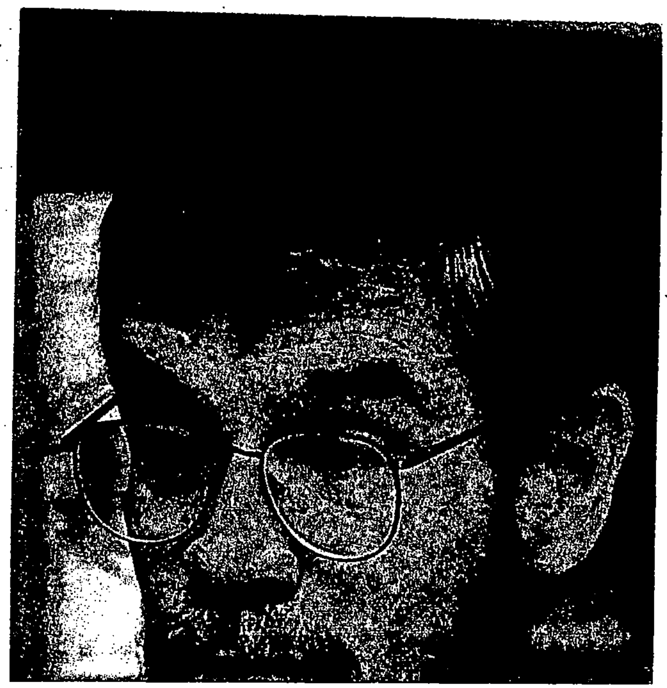
The suitors are lenders who are anxious to form an exclusive relationship with the pricey, private liberal-arts university.

Wesleyan's appeal: a steady supply of students who take out large loans and repay them reliably.

But the university remains a reluctant object of affection. While it has not entirely discouraged the advances, Wesleyan would prefer to remain faithful to its long-time partner—the federal government.

Like Wesleyan, almost all of the 30 other elite private colleges in the Consortium on Financing Higher Education are in discussions with banks and other financial entities that are seeking to become lenders on their campuses.

Some institutions have jumped at the offers. Beginning this fall, students at Co-



PRESERVATION

State," he said. "People are beginning to realize what it feels like" to be denied benefits because of affirmative action.

Michael S. Greve, executive director of the legal-advocacy center, said the case could dissuade other states from using desegregation rulings as a defense for affirmative action.

"We cannot imagine that a program that categorically excludes blacks on the basis of skin color can be constitutional," he said.

■

The job of acting Governor of Massachusetts is apparently too hectic to allow for a little academic moonlighting—which removes a political annoyance for A. Paul Cellucci.

Mr. Cellucci, who became acting Governor after William F. Weld resigned in July, had planned to teach a weekly, two-hour seminar this fall at Boston College. He had taught the course on politics and policy since 1995, earning $30,000 a year.

But last month, two weeks before the class was to begin, Mr. Cellucci told Boston College that he was too busy to teach.

"It has become very clear that given the scheduling demands and the fact that we don't have a Lieutenant Governor, it really wouldn't be fair to the students to try to teach this course this fall," he said at a news conference.

As Lieutenant Governor, Mr. Cellucci had come under fire from ethics watchdogs for being on the college's payroll while holding the Number 2 job in state government.

His promise at the time to abstain from influencing decisions affecting Boston College did not mollify most of the critics.

A spokesman for Boston College said the class probably would be canceled because of the difficulty of finding a substitute instructor so quickly.

Financing Higher Education are in discussions with banks and other financial entities that are seeking to become lenders on their campuses.

Some institutions have jumped at the offers. Beginning this fall, students at Columbia University who borrow more than the federal loan programs permit can take out additional loans from a new private program that Columbia set up with the Access Group, a non-profit lender, exclusively for its students.

Columbia made its choice after soliciting proposals from 25 lenders. Because Columbia's students rarely default on their student loans, the Access Group agreed to treat them as preferred customers, providing them with lower interest rates and origination fees than they would have had to pay under other private loan programs.

HUNDREDS OF DECISIONS

Columbia officials say they had to set up their own program to supplement the federal loan programs, which limit the amount of money students may borrow each year. For example, freshmen are able to borrow just $2,625 from the federal guaranteed-loan programs, far less than the $30,000 Columbia charges its students each year for tuition, fees, room, and board.

Wesleyan faces the same problem, but it is not ready to turn to a private loan program—at least not yet. As attractive as the private programs are, Wesleyan officials say, federal loans remain cheaper for students.

That is why officials of Wesleyan, like many of its peers in the consortium, say they would rather stay exclusively in the federal loan programs. But they will not be able to do so, they say, unless the government raises the federal loan limits and lets students borrow more money.

Whether to do so is one of hundreds of decisions that Congress will have to make as it considers legislation to extend the Higher Education Act for five years. But for expensive private colleges, few issues are more crucial.

Edwin Below, Wesleyan's financial-aid

Wesleyan's Edwin Below: Students should be able to repay "a much larger amount of money today" than could graduates 10 years ago.

VIRGINIA BLAISDELL FOI

director, says the current yearly loan limits are outdated. For example, he says, the government's borrowing limit for freshmen has remained the same for more than 10 years despite sharp increases in college costs, family incomes, and the starting salaries of college graduates. "If these limits were reasonable 10 years ago in terms of what students could afford to repay when they graduated, they should be able to afford to repay a much larger amount of money today," he says.

This argument outrages advocates for

THE FIRST IN A SERIES of articles that explore how different types of colleges will be affected by the Congressional review of the Higher Education Act.

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student-aid recipients, who say such students are already up to their necks in debt and sinking fast. The United States Student Association and the U.S. Public Interest Research Group have urged Congress not to increase the loan limits over the next five years.

In a letter to lawmakers in February, Erica Adelsheimer, legislative director of the student association, wrote that in the past decade, the government has allowed student loans, rather than federal grants, to become the primary form of federal aid—

to the detriment of students. "
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A SHORT-LIVED RECOMMENDA

Advocates for students were r
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the groups wrote in March. Th
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This argument outrages advocates for student-aid recipients, who say such students are already up to their necks in debt and sinking fast. The United States Student Association and the U.S. Public Interest Research Group have urged Congress not to increase the loan limits over the next five years.

Wesleyan's Edwin Below: Students should be able to repay "a much larger amount of money today" than could graduates 10 years ago.

VIRGINIA BLAISDELL FOR THE CHRONICLE

THE FIRST IN A SERIES of articles that explore how different types of colleges will be affected by the Congressional review of the Higher Education Act.

In a letter to lawmakers in February, Erica Adelsheimer, legislative director of the student association, wrote that in the past decade, the government has allowed student loans, rather than federal grants, to become the primary form of federal aid—to the detriment of students. "Increasing loan limits will only accentuate the federal grant/loan imbalance and force students into greater debt," she said.

A SHORT-LIVED RECOMMENDATION

Advocates for students were not alone in objecting to the consortium's short-lived recommendation—made in a January letter to Republican leaders in the House of Representatives—that the government increase the limits in its loan programs for all students. The proposal was also opposed by some Republican lawmakers and by 21 higher-education groups, led by the American Council on Education, which made their own proposals for reauthorization.

"While the total amount of student loan borrowing has increased significantly in recent years, most college students do not borrow at the maximum levels permitted," the groups wrote in March. They cited a recent Education Department finding that fewer than one-quarter of undergraduate recipients of student aid borrow at the maximum levels allowed by law. Undergraduates in college for 10 semesters, or five years, can take up to $22,625 in federal loans.

Significantly, among the signers of the American Council's plan—rejecting calls for raising student-loan limits—was the National Association of Independent Colleges and Universities, the main private-

PHOTOCOPY
PRESERVATION

UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF POSTSECONDARY EDUCATION

Office of the Deputy Assistant Secretary
Policy, Planning, and Innovation

7th and D Streets, SW
Room 4060, ROB-3
Washington, DC 20202-5143
Phone: (202) 205-2987 Fax: (202) 401-5749

Fax Cover Sheet

Number of pages following cover sheet: 2

TO: Bob Shireman FAX:

FROM:

Maureen A. McLaughlin ✓

Francine Picoult

Lynn Mahaffie

Sandy Wood

Tia Cosey

MESSAGE:

Plse see the attached info on Title III authorization levels. Call if questions

Maureen

P.S. We could do explanatory / selling letter to Hill on Title III if wished. (Assuming folks here agreed.)

Higher Education Act: Title III

Aid for Institutional Development: (In thousands)	FY1998*	FY1999**	FY 93*** Authorization Levels
Strengthening Institutions [Part A]	$ 55,450	$ 60,000	135,000
Strengthening Historically Black Colleges and Universities (HBCUs) [Part B: Sec. 323]	113,000	124,000	135,000
Strengthening Historically Black Graduate Institutions (HBGIs) [Part B: Sec. 326]	19,606	25,000	20,000
Strengthening Hispanic-serving Institutions (HSIs) [Part A: Sec. 316]/[proposed Part D]	12,000	24,000	45,000 ****
Strengthening Tribal Colleges & Universities (TCUs) [proposed Part E]	0	5,000	NA
Minority Science Improvement Program (MSIP) [proposed Part F]	5,255	7,500	10,000
Total Title III program:	$205,311	$245,500	$345,000

*President's proposed budget
** Proposed authorization levels

*** Note: these are FY93 authorization levels from the ~~HEA~~. Authorization levels for the 4 succeeding years are "such sums as may be necessary".

**** Statute states that funds for HSIs ~~have~~ are not authorized to be appropriated unless Part A equals or exceeds $80 million.

ons not receiving assistance under this

ible to carry out part B, between insti-
ance under part B and institutions not
er this title;
n section 311(b) or section 323, as the
sources of the cooperating institutions
ared to achieve the purposes of such
ative efforts and to enhance the devel-
eligible institutions.
etary shall give priority to grants for
der subsection (a) whenever the Sec-
cooperative arrangement is geographi-
d or will benefit the applicant institu-

to institutions having a cooperative ar-
nder this section for a period as deter-
section 323.

aled by P.L. 102–325, sec. 305(c), 106

TITUTIONS UNDER OTHER PROGRAMS.
LITY.—Each institution which the Sec-
institution eligible under part A or an
art B may be eligible for waivers in ac-

ITY.—(1) Subject to, and in accordance
ed for the purpose of this section, in the
an institution referred to in subsection
y programs specified in paragraph (2),
if such application is otherwise approv-
nent for a non-Federal share of the cost
or, to the extent not inconsistent with
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his section shall apply to any program
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Secretary shall not waive, under sub-
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that is inconsistent with a State plan of
cable to such institution; or

(4) for purposes other than the purposes set forth in the approved application under which the funds were made available to the institution.

(20 U.S.C. 1069c)

SEC. 358. PENALTIES.

Whoever, being an officer, director, agent, or employee of, or connected in any capacity with, any recipient of Federal financial assistance or grant pursuant to this title embezzles, willfully misapplies, steals, or obtains by fraud any of the funds which are the subject of such grant or assistance, shall be fined not more than $10,000 or imprisoned for not more than 2 years, or both.

(20 U.S.C. 1069d)

[Section 359 was repealed by P.L. 102–325, sec. 305(c), 106 Stat. 478.]

SEC. 360. AUTHORIZATIONS OF APPROPRIATIONS. — Title III

(a) AUTHORIZATIONS.—

(1) PART A.—(A) There are authorized to be appropriated to carry out part A, $135,000,000 (other than section 316) for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(B)(i) There are authorized to be appropriated to carry out section 316, $45,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(ii) No funds are authorized to be appropriated pursuant to clause (i) for any fiscal year unless the amount appropriated pursuant to paragraph (1)(A) for such fiscal year equals or exceeds $80,000,000.

(2) PART B.—(A) There are authorized to be appropriated to carry out part B (other than section 326), $135,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(B) There are authorized to be appropriated to carry out section 326, $20,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(3) PART C.—There are authorized to be appropriated to carry out part C, $50,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(b) USE OF MULTIPLE YEAR AWARDS.—In the event of a multiple year award to any institution under this title, the Secretary shall make funds available for such award from funds appropriated for this title for the fiscal year in which such funds are to be used by the recipient.

(c) RESERVATIONS.—If the amount appropriated under subsection (a)(1) for part A for any fiscal year beginning after September 30, 1986, equals or exceeds the amount appropriated for such part for fiscal year 1986, the Secretary shall, for such fiscal year—

(1) allocate 25 percent of the excess (above the amount appropriated for part A for fiscal year 1986) among eligible institutions at which at least 60 percent of the students are African Americans, Hispanic Americans, Native Americans, Asian