HEA Reauthorization

CITIZENS' SCHOLARSHIP FOUNDATION *of* AMERICA

Dollars for Scholars® -- Scholarship Management Services™ -- ScholarShop®

October 10, 1997

Bill Kincaid
Associate Director for Education Policy
Domestic Policy Council
The White House
Washington, DC 20500

Dear Bill:

Thanks so much for taking time to meet with Steve Kingsley and me last Wednesday morning. We appreciated greatly the opportunity to share with you the mission, programs, and vision for Citizens' Scholarship Foundation of America.

Thanks also for your interest and advice concerning the Community Scholarship Mobilization Program, an important proposed amendment to the Higher Education Act. As we discussed, this unique legislative initiative would provide a tremendous "return on investment" for the federal government. Please share this initiative with others in the White House. We are certain that the President would find great meaning and excitement in this effective strategy to mobilize caring Americans in thousands of communities in support of their local youth.

Bill, as you requested, I am enclosing additional information concerning the ScholarShop Program. Also, under separate cover, I am sending you a copy of the ScholarShop video. Return it at your convenience. For further information, feel free to directly contact David Bach, CSFA Vice President for ScholarShop, at 507-931-0540.

With best wishes,

Sincerely,

Bill

William C. Nelsen
President

WCN/tk

cc: Philip J. Webster, President, The Webster Group and CSFA Governing Board Member
Daniel F. Jorgensen, Vice President, Public Affairs and Communications, CSFA
Steve Kingsley, Strategic Government Relations, Washington, DC
David Bach, Vice President, ScholarShop

1505 Riverview Road, P.O. Box 297, St. Peter, MN 56082 -- 507-931-1682 - 507-931-9168 (fax)

CITIZENS' SCHOLARSHIP FOUNDATION *of* AMERICA

Dollars for Scholars® -- Scholarship Management Services℠ -- ScholarShop®

ScholarShop® Fact Sheet

ScholarShop ScholarShop, a program of Citizens' Scholarship Foundation of America, Inc. (CSFA), is a community-based resource center designed to motivate and prepare young people to achieve their full potential as students and as productive members of society. Students use ScholarShop to inventory their own personal and academic assets, pursue service-learning opportunities, explore career options, and prepare for postsecondary education. ScholarShop is currently located in fifteen sites across the country.

Seven Modules The ScholarShop curriculum is comprised of seven modules supported by a multi-media resource library containing interactive computer programs, print materials, and videos. The modules are: Self-discovery, Career Options, Postsecondary Options, College Options, College Admissions and Financial Aid, Community Involvement, and Transition to College.

Individualized Components ScholarShop *Talk* is a newsletter that allows students to add a summary of what they learn in each module to factual information and tips on preparing for college. This individualized newsletter allows participants to share what they're learning with their families.

Software programs for exploring career opportunities, college, and financial aid are packaged together in one menu-driven ScholarShop program. Opportunities exist for each site to input local information. ScholarShop's parent organization assumes the licensing agreements for the software and provides updates as they become available.

Training Each ScholarShop sites receives training for its coordinators in the curriculum as well as program software and other resources. On-going technical support is also provided and materials are updated regularly.

Implementation ScholarShop is designed to be an integral part of a youth-serving agency's programming or existing mentor programs. Companies may also offer ScholarShop to employees' children. Schools with limited staff resources may find ScholarShop an attractive way to meet student needs - either in the classroom or as an extra curricular activity. And colleges and universities may find ScholarShop an important resource for summer enrichment programs.

CSFA Citizens' Scholarship Foundation of America, Inc. (CSFA) is a national, nonprofit, educational support and student aid service organization. CSFA, founded in 1958, is headquartered in Minnesota with regional offices in key locations across America. CSFA's mission is to expand access to educational opportunities by involving and assisting the private sector in the support of students and in the encouragement of educational achievement.

1505 Riverview Road, P.O. Box 297, St. Peter, MN 56082 -- 507-931-1682 - 507-931-9168 (fax)

ScholarShop™ NEWS
Winter 1997 -- Vol. 1 -- No. 1
A publication of Citizens' Scholarship Foundation® of America

Cargill Awards $150,000 for Ten New ScholarShops

Cargill, Inc. recently announced it will expand its commitment to ScholarShop from four to fourteen sites. The $150,000 grant from Cargill will allow ScholarShop to prepare more young people for postsecondary education.

According to Cargill's assistant vice president, Jim Hield, "ScholarShop is a critical component of our company's goal to strengthen and expand its partnership with local organizations in Cargill communities. We've been fortunate to identify partners in our communities who also view ScholarShop as a permanent, integral strategy in meeting their mission. Together we are helping youth prepare for life-long learning and economic stability. In the process, our youth are identified as important assets - and contributing members of our communities."

Three of the ten new sites have already been identified: the St. Martin DePorres Church (Martin Luther King Center) in Crosby, TX (Exporter Forwarder/Cargill Incorporated), the Urban League in Wichita, KS (Cargill Oil Seeds), and the Jane Boyd Harambee House in Cedar Rapids, IA (Cargill Corn Milling).

"I am really excited about getting started," reported Andrea Laurant of the Crosby Cargill facility. "It'll be a challenge to me." Her partnership plans to set up plant visits, mock interviews, hospital tours and so forth. "I'm confident that the program will also be supported by the Ministerial Alliance, Civic League, and other local businesses and organizations," she added.

In Wichita ScholarShop will be used to support the Urban League's Young Engineers and Scientists (YES) program. Other students will be recruited through local youth-serving agencies. "ScholarShop will help our youngsters become better educated, self sufficient, and responsible adults, contributing to the achievement of the Urban League's mission," said Robert E. Garrett, Director, Education and Career Development.

According to Carl Werner, Youth Specialist at the Jane Boyd Harambee House, ScholarShop will support its Positive Youth Development Program for 12 to 18 year olds. "The addition of ScholarShop will complete our ability to help youth see life beyond high school," he said. Presently Harambee House has 112 youth enrolled. In addition to the academic component, the students are involved in a variety of social and personal development activities.

Existing Cargill ScholarShops note early success

"ScholarShop meets with all our goals," said Columbia High School Principal Barbara Mannion. "I really think this is going to be big."

Mannion is excited by the initial improvement seen among ScholarShop students in Burbank, WA. "We're seeing increased involvement in school activities and improvement in their attendance patterns," Mannion explained. "Some dreams are being presented (at ScholarShop) that wouldn't have been thought of before. I just can't say enough good things."

Mark Duncanson, site coordinator at the YMCA of Fremont and Newark (CA) ScholarShop observed that students get tired of being in school and ScholarShop is less threatening. "If I had had ScholarShop, I would have gone right to a four-year program," Duncanson said. "ScholarShop would have helped me discover my personal strengths and determine what I wanted to study. I wouldn't have wasted so much time," he added.

ScholarShop offers students an opportunity to prepare for college through its resource library and computer programs. Here, a student from the Los Angeles Ketchum YMCA pores over resources in the ScholarShop library.

ScholarShop Sites and Coordinators

Site	Coordinator	Phone, Fax, E-mail	Address	City, State, Zip
Boat Rock Public Housing Housing Authority of Fulton County	Bobby Frady	404-629-4316 404-629-3913 404-629-3904 (fax)	132 Mitchell St., Third Floor	Atlanta, GA 30303
Boys & Girls Clubs of Greater Fort Worth	Lisa Retamozo	817-834-4711	3218 East Belknap St.	Ft. Worth, TX 76111-4739
Boys & Girls Clubs of Metro-Atlanta	Charlyn Fareed	404-624-1005 770-997-9938 770-997-6374 (fax)	990 Steeplechase Lane	Riverdale, GA 30296
Boys & Girls Clubs of Oakland	Mozetta Jackson	510-444-8211	P.O. Box 23203	Oakland, CA 94623
Boys & Girls Clubs of the Peninsula Mervin G. Morris Branch	Lucia Ribeiro-da Silva	415-364-0176 415-322-9042 (fax) Ribeiro@aol.com	1109 Hilton St. P.O. Box 1029	Redwood City, CA 94063 Menlo Park, CA 94026
Boys & Girls Clubs of the Peninsula Herbert Hoover Branch	Rick Washington	415-322-6255	400 Market Place	Menlo Park, CA 94025
Center for a New Generation Menlo Oaks School	Todd Whitmire	415-329-2828 x124	475 Pope St.	Menlo Park, CA 94025
Chicago Youth Centers - Elliott Donnelley Center	Todd Barnett	773-268-3815 773-268-9460 (fax)	3947 S. Michigan	Chicago, IL 60653
City of Bastrop	Ethel Fielder	318-281-9840 318-281-5783 (fax)	P.O. Box 431	Bastrop, LA 71221-0431
Columbia School District	Janet Heubach	509-545-8573 509-545-6553 (fax)	P.O. Box 548 Maple St.	Burbank, WA 99323
East Bay High School	Claudia Davis	813-671-5134	7710 Big Bend Rd.	Gibsonton, FL 33534
Eddyville-Blakesburg Community School District	Rodd Mooney	515-969-4288	105 Berdan	Eddyville, IA 52553
Evans Middle School	Linda Carroll	515-684-6511 515-684-2259 (fax)	812 Chester St.	Ottumwa, IA 52501
Fremont-Newark YMCA	Mark Duncanson	510-657-5200 510-657-9129 fax 510-451-8051 x717 VM TeenYguy@juno.com	41811 Blacow Rd.	Fremont, CA 94538
Frostproof Middle and Senior High School	David Lewis		1000 N. Palm Ave.	Frostproof, FL 33843

Site	Coordinator	Phone, Fax, E-mail	Address	City, State, Zip
Gainesville-Hall County Boys Club	Joe Webb	770-532-8102 ghbcadm@netdepot.com	P.O. Box 691	Gainesville, GA 30503
Humboldt Secondary School	Jerry Hilker	612-293-8600 x6346	30 East Baker St.	St. Paul, MN 55107
Jane Boyd Harambee House	Karl Werner	319-366-1408 319-366-0431 319-398-3375 (fax)	943 14th Avenue SE	Cedar Rapids, IA 52401
Mountain View High School	Barbara Bogomilsky	415-940-4616 415-961-6349 (fax)	3535 Truman Avenue	Mountain View, CA 94040
Northport Community Learning Center	Pat Leonard	608-249-9281	1740 Northport Drive	Madison, WI 53704
Packers Community Learning Center	Jackie Thomas	608-249-0160	1927 Northport Drive	Madison, WI 53704
Plainview High School	Dean Oshel	806-296-4051 806-296-4069 (fax)	1501 Quincy	Plainview, TX 79072
San Diego County Court and Community Schools		619-525-1564	6401 Linda Vista Rd.	San Diego, CA 92111
St. Martin DePorres Church	Denise Morgan-Branch	281-426-3953	12606 FM Road 2100 P.O. Box 3459	Crosby, TX 77532
St. Peter High School	Cindy Freeman	507-931-0462 507-931-9168 (fax) ShopCSFA@aol.com	1505 Riverview Rd.	St. Peter, MN 56082
Stuart M. Ketchum YMCA	Mauricio Sosa	213-482-8618	404 S. Bixel St.	Los Angeles, CA 90071
Urban League of Wichita	Robert E. Garrett	316-683-3315 316-262-8841 (fax)	2418 E. Ninth	Wichita, KS 67214
Wapato Youth Center	Mike Welton	509-877-9906	P.O. Box 1058	Wapato, WA 98951
Woodrow Wilson Middle School	Kindall Hamilton	712-279-6816 712-277-5940 (fax) Kindall@pionet.net	1010 Iowa St.	Sioux City, IA 51105
YMCA Black Achievers Program	Debra Bernat	617-927-8170 617-536-3240 (fax)	316 Huntington Avenue	Boston, MA 02115
YWCA of Dayton	Gabrella Clark	513-461-5550 513-222-0610 (fax)	141 W. Third St.	Dayton, OH 45402

5/13/97

ScholarShop®

. . . is a community-based resource center to motivate and prepare students for postsecondary education. It targets middle and high school age students from all socio-economic groups.

"ScholarShop was like a calling; it was exactly what I needed to add to my Talent Search program."

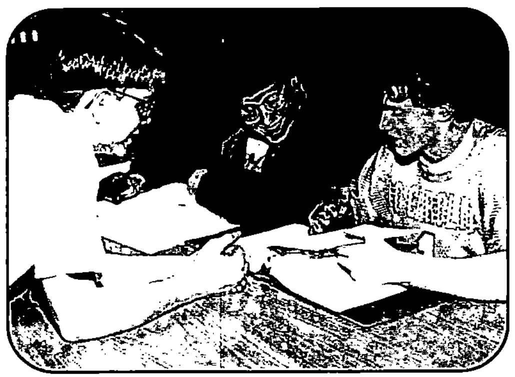
Teresa Thompson
Boys and Girls Clubs
Fort Worth (TX)

The goal of *ScholarShop* is to increase high school graduation rates and college enrollment and graduation rates. *ScholarShop* also helps connect what students are learning in school with real life.

Seven modules

The *ScholarShop* curriculum is comprised of seven modules supported by a multi-media resource library containing interactive computer programs, print materials, and videos. The modules are —

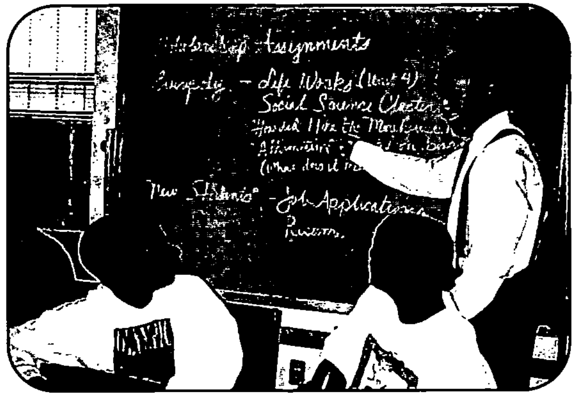
* Self-discovery
* Career options
* Postsecondary options
* College options
* College admissions and financial aid
* Community involvement
* Transition to college



THE ST. PETER (MN) SCHOLARSHOP is offered through the local community education program and is staffed by a federal AmeriCorps participant.

Each participant receives a *ScholarShop* student guide consisting of hands-on activities that engage students in life-long learning experiences. Many activities promote interaction with adults or organizations in the community.

Students carry out the activities alone or in teams. Each module concludes with opportunities for reflection and enrichment activities that may include other family members.



BOAT ROCK, A PUBLIC HOUSING COMMUNITY in Atlanta, has an on-site ScholarShop that's used by both students and community residents.

Individualized programs

ScholarShop Talk, the program newsletter, allows students to add a summary of what they learn in each module to factual information and tips on preparing for college. This individualized newsletter allows participants to share what they're learning with their families.

Software programs for exploring career opportunities, college, and financial aid are packaged together in one menu-driven *ScholarShop* program.

ScholarShop's parent organization assumes the licensing agreements for the software and provides updates as they become available. Some software programs allow local resources to be added.

Training, ongoing support

Each *ScholarShop* site receives training for its coordinators in the curriculum as well as program software and other resources.

Ongoing technical support is also provided and materials are updated on a regular basis. A quarterly newsletter, coordinator and computer guides, and a colorful tabletop display are all included.

A variety of promotional materials — including t-shirts, certificates, and posters — are also available, and participating students have the opportunity to compete for national scholarship awards.

Mentors

Employees of *ScholarShop* sponsors may be active partners in making the program succeed. In particular, *ScholarShop* coordinators encourage community volunteers to work one-on-one or with small groups of students.

THE STUART M. KETCHUM YMCA in downtown Los Angeles is using its ScholarShop to serve students from several area schools.

Educational incentives

Service clubs, companies, or other sponsors may be recruited to provide scholarships that are reserved for payment upon enrollment in a postsecondary program.

These funds may be awarded to students on a competitive basis as they complete each module. They offer a motive for sticking with *ScholarShop* and create an expectation for students to continue their education beyond high school.

Implementation

ScholarShop is designed to be an integral part of a youth-serving agency's programming or existing mentor programs. Companies may also offer *ScholarShop* to employees' children.

Schools with limited staff resources may find *ScholarShop* an attractive way to meet student needs — either in the classroom or as an extracurricular activity. And colleges and universities may find *ScholarShop* an important resource for summer enrichment programs.

"I do better in school because of being in ScholarShop!"

Ahmed Abdullah, Age 14
Boat Rock
Public Housing Community
Atlanta (GA)

ScholarShop®

. . . is a program of Citizens' Scholarship Foundation of America, one of the nation's largest nonprofit student aid and education support organizations.

For additional information, contact:

ScholarShop National Office
P.O. Box 297
St. Peter, MN 56082
1-800-537-4180

"I know of no product in the country that does as good a job of 'early intervention' as ScholarShop."

Frank Burnett, Ed.D.
Former Executive Director
National Association of
College Admissions Counselors

CITIZENS' SCHOLARSHIP FOUNDATION *of* AMERICA™

Dollars for Scholars® -- Scholarship Management Services℠ -- ScholarShop®

1301-#001
Rev. 4/97

ScholarShop®

A community-based resource center for motivating and preparing students for postsecondary education

WINDOWS TO SUCCESS®

ScholarShop®

Today's educators, parents, and community leaders are all striving to motivate young people to achieve their full potential as students and as productive members of society.

Because each *ScholarShop* has a local partner, sites are **conveniently located** in schools, public housing projects, community centers, or youth-serving organizations like YMCAs or Boys and Girls Clubs.

ScholarShop is **helping to meet that challenge** in communities as diverse as Burbank, Washington and Atlanta, Georgia.

ScholarShop **appeals to young people** because it uses the latest computer technology, has interesting and fun activities, and gets participants involved in their own communities.

FORT WORTH Boys and Girls Clubs added ScholarShop to an already successful Talent Search program at four of its sites.

And *ScholarShop* **produces results,** making education beyond high school a realistic goal for every student who takes the initiative to get involved.

"ScholarShop is a roadmap for adults who want to reach out to students."

Robert A. Wilkins
Executive Director
Stuart M. Ketchum YMCA
Los Angeles (CA)

Total Pages: 6

LRM ID: MNB88

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

Monday, December 8, 1997

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

Janet R. Forsgren

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

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

SUBJECT: **EDUCATION Report on the Administration's Student Aid Policy**

DEADLINE: **10:00 a.m. Thursday, December 11, 1997**

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

COMMENTS: A copy of Rep. Sawyer's letter follows the draft response.

DISTRIBUTION LIST

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OMB LA

LRM ID: MNB88 **SUBJECT:** EDUCATION Report on the Administration's Student Aid Policy

RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

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

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

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

FROM: ______________________ (Date)

______________________ (Name)

______________________ (Agency)

______________________ (Telephone)

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

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _________

Other: ______________________

_____ FAX RETURN of _____ pages, attached to this response sheet

56197

Honorable Thomas C. Sawyer
House of Representatives
Washington, DC 20515

REVISION

Dear Mr. Sawyer:

Thank you for your continued support of the President's education policies and for raising your concerns about student aid policy to me. As you pointed out in your letter, the Administration is committed to the continued improvements in both the FFEL and Direct Loan programs and ensuring that both programs provide the best benefits and services possible to students and schools.

As part of the President's Fiscal Year 1998 budget, the Administration introduced a number of proposals designed to streamline and simplify the FFEL program. In particular, the Administration proposed to restructure the guaranty agency system to address problems inherent in the current system that produce inefficiency, provide perverse incentives, and cost taxpayers more than necessary. In addition, the Administration proposed a number of changes to the loan programs designed to provide better benefits to students, including reducing borrower origination fees, providing new repayment options to FFEL borrowers, improving the terms of FFEL consolidation loans to be comparable to those in Direct Loans, and reducing the frequency limit of interest capitalization on most FFEL loans. These proposals are designed to ensure that all students obtain equivalent benefits regardless of the loan program in which their schools participate. In many cases, the Administration's proposals improve benefits to students who borrow through the FFEL program.

We do not believe that any of our reauthorization proposals will increase default rates on student loans. In fact, some of our proposals including lowering origination fees for students, providing more flexible repayment options to FFEL borrowers, and providing better incentives for FFEL lenders to collect loans, are likely to reduce default rates.

As to your concern about the current law shift in the interest rate index used to determine interest rates for new student loans that is scheduled to take place on July 1, 1998, the Administration believes that the scheduled change in the current law provides the best benefit to students, but we are open to other ideas regarding an interest rate index as long as they do not increase costs to students. Under both Congressional Budget Office and Administration projections, students in repayment will be better off using an instrument of comparable maturity plus one percent than the current index of 91-day Treasury Bill plus 3.1 percent in both the short and long term.

As you suggested, we are examining proposals that would allow both loan programs to offer broader benefits to borrowers. Under current law, FFEL lenders can offer lower interest rates even without regard to borrower repayment performance. We agree that these issues must be looked at carefully to ensure that these incentives encourage the right kind of behavior.

I look forward to working with you on these issues as they are discussed and developed as part of reauthorization.

Yours sincerely,

Richard W. Riley

THOMAS C. SAWYER
14TH DISTRICT
OHIO

COMMERCE
SUBCOMMITTEES
TELECOMMUNICATIONS, TRADE, AND CONSUMER PROTECTION
FINANCE AND HAZARDOUS MATERIALS
OVERSIGHT AND INVESTIGATIONS

Congress of the United States
House of Representatives
Washington, DC 20515–3514

1997 SEP -8 P 1:59

September 3, 1997

The Honorable Richard W. Riley
Secretary of Education
U.S. Department of Education
600 Independence Avenue, S.W.
Washington, D.C. 20202

Dear Mr. Secretary:

I am writing to express my growing sense of unease about the development and administration of student financial aid policy.

As you know, I have been a strong advocate of the President's education policies in both the K-12 and postsecondary arenas. I supported the creation of the Direct Loan Program in 1993 because I firmly believe that fair and level competition could only benefit schools and students.

In my own community, the nearly two dozen postsecondary institutions are evenly divided between the FFEL and the Direct Lending Programs. It is my understanding that their positive experiences have been mirrored nationwide. Both programs have worked to improve services for students and schools. Technological innovation has enhanced access to information about student aid and vastly improved the financial aid delivery system overall.

I know you agree that a large measure of this success can be attributed to the support of these programs by effective public-private partnerships. However, I have heard from some of the partners who are concerned that the "truce" between the two programs has not evolved into a meaningful peace.

A number of provisions in the Administration's 1998 budget submission, and several reauthorization concepts that have been circulated, have me concerned that we have moved away from our shared desire to maintain a "level-playing-field" between the two programs. I am grateful that the authorizing Committees crafted reconciliation savings that are well-balanced.

I have also been carefully following the other changes that have been proposed under the Direct Loan Program. I would be interested in hearing from you about whether you have concerns that default rates may rise as a result of these actions.

I am especially concerned about the change in the interest index used to calculate interest rates for student loans that is scheduled to take play on July 1, 1998. I understand that current Congressional Budget Office projections show that converting to the new index would save students money over the life of the budget agreement. However, a longer analysis of historical interest rate fluctuations shows that students would actually fare slightly better using the current index. I urge you to work to find a solution that would preserve the historical success of financing student loans.

I also urge you to pursue proposals that allow both programs to continue to offer borrower benefits to students. These benefits reward the kind of behavior that we should encourage -- getting students to pay their loans on time. Any incentive that encourages on time payment of loans, and helps to reduce costs, should be preserved.

I am deeply grateful to the continuing commitment of this Administration to improving education. I have enjoyed our relationship over the years and look forward to working with you on the challenges of education reform in the years ahead.

Sincerely,

Tom

Thomas C. Sawyer
Member of Congress

TCS/hs

I miss our work together. Special thanks for your leadership. You are the best.

HEA Reauth.

Total Pages: 51

LRM ID: MNB85

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

Tuesday, December 2, 1997

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

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

Janet R. Forsgren

OMB CONTACT: Melissa N. Benton
PHONE: (202)395-7887 FAX: (202)395-6148

SUBJECT: **EDUCATION Draft Bill on Higher Education Act Reauthorization - Title IV, Part G -- General Provisions**

DEADLINE: **COB Friday, December 5, 1997**

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

COMMENTS: This is a revised version of the draft sent 11/13/97. ED intends to transmit this bill language informally to congressional staff next week.

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Constance J. Bowers
Janet R. Forsgren
James C. Murr

LRM ID: MNB85 **SUBJECT:** EDUCATION Draft Bill on Higher Education Act Reauthorization - Title IV, Part G -- General Provisions

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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.

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(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: Melissa N. Benton Phone: 395-7887 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: ______________________ **(Date)**

______________________ **(Name)**

______________________ **(Agency)**

______________________ **(Telephone)**

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

_____ **Concur**

_____ **No Objection**

_____ **No Comment**

_____ **See proposed edits on pages** ________

_____ **Other:** ______________________

_____ **FAX RETURN of** ____ **pages, attached to this response sheet**

12/2/97 draft

PART G--GENERAL PROVISIONS
Section-by-Section Analysis

Section 481. Section 481 of the bill would amend the definitions in section 481 of the Act. Section 481(1) of the bill would amend the definition of an institution of higher education in section 481(a) of the Act, and section 481(4) of the bill would eliminate the definition of an "eligible program" in section 481(e) of the Act to reflect the changes that would be made to the definition of an institution of higher education in proposed new section 101(a) of the Act by section 101(b) of the bill. In combination, these amendments are intended to clarify the definitions and to move more of the definition of an institution of higher education for purposes of Title IV of the Act, currently in section 481(a) of the Act, to proposed new section 101(a), so that the interrelationship of the two definitions is more easily understood and to eliminate duplicative provisions.

Section 481(1) of the bill would also specify that an institution located outside of the United States would not meet the definition of an institution of higher education to the extent that it offers any distance learning program or courses. It is very difficult to monitor foreign institutions for their compliance with the requirements of the FFEL program (the only title IV program in which these institutions may participate), and the potential for abuse is particularly great in the developing area of distance learning. Given the monitoring difficulties and high risk for program abuse, it would not be an effective use of the Department's resources to permit U.S. students enrolled in foreign institutions to borrow FFELs for distance learning programs or courses offered by those institutions. Other changes to the treatment of foreign institutions are proposed in sections ___, ___, and ___ of the bill.

Section 481(1) of the bill would also update and modify the limitations on an institution's eligibility to participate in the title IV programs in sections 481(a)(3)(A) and (B) of the Act. Under current law, an institution does not qualify as eligible to participate in the Title IV programs if, for the latest complete award year, more than 50% of the institution's courses were correspondence courses unless the institution meets the definition of a technical institute or vocational school under section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act. In addition, an institution does not qualify as eligible to participate in the title IV programs if it enrolls 50 percent or more of its students in correspondence courses, unless the Secretary waives the applicability of this limitation to an institution that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree.

Section 481(1) of the bill would: 1) update the references in sections 481(a)(3)(A) and (B) of the Act from correspondence courses to distance learning (as defined in proposed new section 481(c) and discussed below); 2) eliminate the never-used exception for institutions that meet the Perkins Act definition; and 3) modify the current law limitations so that an institution that offered more than 50 percent of its courses through distance learning, or enrolled 50 percent or more of its students in distance learning, would not be eligible to participate in the title IV programs unless the institution provides at least a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree.

Although many forms of title IV student financial assistance were initially available for students in "correspondence courses," there were several instances of notorious program abuse in the 1970's and 1980's at institutions (primarily proprietary institutions) that offered correspondence programs. As a result, statutory and regulatory restrictions on the amount of aid students could receive to fund study by correspondence increased over time, and in 1992, the restrictions in sections 481(a)(3)(A) and (B) were added to the Act. The proposed amendments to these provisions would permit some institutions to have greater flexibility in implementing distance learning programs, while retaining appropriate safeguards by limiting the distance learning offerings of institutions that do not have degree-granting programs.

Section 481(2) of the bill would amend the definition of a proprietary institution of higher education in section 481(b) of the Act. The revised definition would include proprietary institutions that offer degree programs as well as training to prepared students for gainful employment, and would cross-reference the revised definition of an institution of higher education in proposed new section 101(a) of the Act (other than the requirement that the institution be a public or private nonprofit institution).

In addition, section 481(b) of the Act, as amended, would continue the current so-called "85-15" requirement that a proprietary institution could not receive more than 85 percent of its revenues from title IV. Finally, section 481(2) of the bill would amend section 481(b) of the Act to include within the definition a postsecondary educational institution that changes from a proprietary institution to a nonprofit institution, for a period of at least two complete fiscal years following the change. This amendment is designed to deter an institution from circumventing the 85/15 requirement by switching its status from for-profit to nonprofit.

Next, current section 481(c) of the Act, which contains a definition of a "postsecondary vocational institution," would be eliminated by section 481(3) of the bill. As a result, community colleges offering short-term programs would no longer be subject to a two-year waiting period for eligibility to participate in title IV programs. We understand that this requirement was not intended to apply to State-supported institutions.

In its place, "distance learning" would be defined in proposed new section 481(c) of the Act as an educational process that is characterized by the separation, in time or place, between instructor and student, or among students. Distance learning could include courses offered principally through the use of: television, audio, or computer transmission, such as open broadcast, closed circuit, cable, microwave, or satellite transmission; audio or computer conferencing; video cassettes or discs; or correspondence. Distance learning makes higher education more accessible by freeing the student, who is now often faced with balancing education, work and family commitmentsm, from time and place constraints.

Federal student financial assistance is currently geared toward the more traditional, classroom-based delivery of postsecondary education. As alternative forms of postsecondary education delivery evolve, the delivery of student financial aid must keep pace, through the use of flexible and innovative policies and procedures. The amendments proposed in this bill are intended as a first step in accommodating the growing demand for, and developing technology of, delivering postsecondary education through distance learning, while providing adequate safeguards against program abuse in this new, and hard-to-monitor, area. As our knowledge of distance learning increases, we will be able to do more to ensure that distance learners will have the same level of access to student financial assistance as campus-based learners.

Section 482. Section 482 of the bill would amend the "Master Calendar" provisions in section 482 of the Act. Section 482(1) of the bill would amend section 482(a) of the Act to eliminate outdated references to multiple data entry, in conformance with the changes proposed in section 483 of the bill, and would clarify that the dates specified in that provision pertain only to the development and distribution of Federal student aid forms.

Section 482(2) of the bill would amend section 482(c) of the Act, which currently requires that the the Secretary must publish any regulations affecting the Federal student assistance programs by December 1 in order for those regulations to be applicable to the following award year. Section 482(c) of the Act would be amended by: 1) limiting the applicability of the master calendar provisions in section 482(c) to regulations governing the calculation of awards and the delivery of funds to students, such as regulations governing student consumer disclosures, student eligibility, need analysis, cost of attendance, determination of award amounts, and delivery of funds to students; 2) moving the publication deadline from December 1 to November 1; and 3) authorizing 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.

Section 483. Section 483 of the bill would amend section 483 of the Act to reflect the amended section's broader focus, which would include provisions relating to technological development, as well as provisions relating to the production and processing of the student financial aid application form.

First, section 483(a) of the Act would be amended to clarify that the common financial aid reporting form produced, distributed and processed by the Secretary may include an electronic application process, and may be used as a FFEL application. The Secretary is not planning to use the common form as a FFEL application in the immediate future, but the authority for this use should be included in the statute now so that the Secretary may exercise it when the Department's use of technology in the student aid delivery system makes it appropriate to do so. Section 483(a) of the Act would also be clarified by specifying that the common form is used to determine the expected family contribution and, if appropriate, cost of attendance of a student seeking financial assistance.

New section 483(a) of the bill would eliminate the current reference to eight, nonfinancial data items that the Secretary may include on the common form, that are selected in consultation with the States to assist the States in awarding State student financial assistance. Instead, no specific number or limitation to "nonfinancial" data items would be included in the amended section 483(a)(1) of the Act; the data items to be selected in consultation with the States would be those that the Secretary determines are appropriate for inclusion. A conforming change would also be made to section 483(a)(1) of the Act to eliminate a reference to a Pell Grant provision that would be eliminated in section ___ of the bill.

Next, section 483(a)(3) of the Act would be amended to make some minor stylistic changes and to add a new subparagraph (B) to provide that the Secretary shall provide the data collected on the common form to a State only if, in determining a student's need for State financial assistance, the State does not use a data collection form or process for which a student (or the student's parents) is charged a fee that is payable to an entity other than the State. This provision is based on a requirement under the current State Student Incentive Grant program. That program is proposed for repeal in section ___ of the bill, but this particular provision should be continued in order to ensure that private entities are not profiting from the provision of State financial aid to students.

✓ Section 483(a)(4) of the Act would be amended to eliminate the requirement that the Secretary, to the extent practicable, enter into not less than five contracts for processing the common reporting form. This five contract requirement is artificial and unnecessary micromanagement; the Secretary enters into contracts as needed to meet the needs of the Department and its customers.

Section 483(a)(5) of the Act would be amended to eliminate outdated references to the multiple data entry process, to focus on the Secretary's ownership of the data collected under section 483 of the Act, and to ensure that any entity, not just a contractor, that is using or processing this data is subject to the requirements of proposed new section 483(a)(5) of the Act. These entities would be required to adhere to all editing, processing, and reporting requirements establihsed by the Secretary to ensure consistency, and would be prohibited from entering into arrangements to sell or share the data.

Section 483(a)(6) of the Act would be amended to eliminate the outdated requirement that the Secretary reimburse all contractors at predetermined rates. Instead, this provision of the Act would permit the Secretary to reimburse institutions, or third-party servicers for institutions, for filing electronic applications, reapplications, or corrections.

Section 483(a)(2) of the bill would amend section 483(b)(1) of the Act to reflect that the Secretary has developed the streamlined reapplication for and process required under current law, and add the requirement that institutions must use this process now that it has been developed.

Section 483(a)(3) of the bill would update a reference, in section 483(c) of the Act, to the

House Committee on Education and the Workforce.

Section 483(a)(4) of the bill would eliminate sections 483(e) and (f) of the Act. Section 483(e) of the Act currently requires that any title IV financial aid application include the name, signature, and other information regarding the preparer of the application. The vast majority of students either leave this section of the form blank, or provide erroneous information, so this requirement is of little, if any, value. Section 483(f) of the Act currently contains an outdated cross-reference.

Section 483(a)(5) of the bill would add new subsections (e), (f), (g), and (h) to section 483 of the Act. Proposed new section 483(e) of the Act would require the use of a promissory note applicable to more than one academic year, or type of loan, or both, for title IV loans made for periods of enrollment beginning on or after July 1, 2000, unless the Secretary determines that a later implementation date is required to ensure that the necessary technology is in place. The Secretary would also be authorized to develop and test the use of this new promissory note on a pilot basis. Students would continue to be subject to annual loan limits and eligibility requirements and would be required to reaffirm their desire to borrow either in writing or electronically every year. This change will eliminate the burden on schools of handling paper promissory notes annually. The proposal will result in faster loan processing. Implementation of a multi-year note will result in reduced administrative burden on the Department, cost savings for the federal government, and is a step towards the implementation of Project EASI.

Proposed new section 483(f) of the Act would require the Secretary to verify information reported on the aid application form by the student, the student's spouse (if any, in the case of an independent student) or the student's parents (in the case of a dependent student) by use of Federal income tax return information related to the information reported on the aid application form. The income tax return information would be limited to: taxpayer identity information, taxpayer filing status, adjusted gross income, and the amount of Federal taxes paid. The Secretary would also be authorized to require the names and social security numbers of the student's parents (in the case of a dependent student) and of a student's spouse (if any, in the case of an independent student), and would be authorized to use the Federal tax return information directly in the aid application process as well. If the Federal tax return information is unavailable or does not reasonably reflect the individual's income, the Secretary would be required to seek additional documentation in order to verify the information reported on the aid application form. Section 483(b) of the bill would make comparable changes to the disclosure provisions of the Internal Revenue Code (IRC) of 1986.

The need analysis methodologies rely heavily on Federal tax return information to compute a student's expected family contribution (EFC), but the applicant's information is self-reported. The current system of self-reported information is subject to error, and the Department has imposed a necessarily burdensome verification process on students, their families, and institutions in order to reduce error in the data used to determine students' EFCs. Under proposed new section 483(f) and the related IRC amendments, the Secretary would no longer need to require that a student, his or her spouse, and his or her parents, provide copies of their tax returns to the student's institution for review to determine that the application information is accurate. Moreover, the amendments would provide for verification of the tax return information of 100 percent of all federal tax filing applicants. The current verification system addresses only error and does not address potential fraud. The proposed amendments would not only eliminate the need for a separate verification process but would allow the Secretary to receive the information directly from the IRS into the application processing system and, thus, also eliminate the burden of collecting this same data from the student and the student's parents.

Proposed new section 483(g) of the Act would authorize the Secretary to waive or modify through regulation any statutory requirement regarding the aid application and delivery processes, if the Secretary determines that the waiver or modification would better meet the needs of students and program participants, and allow the Department to employ up-to-date technology and business practices. The Secretary would be required to consult with representatives of students, institutions of higher education, and other entities involved in the aid application and delivery processes prior to exercising this authority. The Secretary is often unable to take new approaches to the financial aid delivery system as a result of statutory language which fails to take into account innovations in technology and business processes. This authority will facilitate the Secretary's efforts to reengineer the student aid delivery system by giving him additional flexibility in delivering the student financial assistance programs.

Proposed new section 483(h) of the Act would authorize the Secretary to pay charges necessary to obtain essential data. By being able to pay entities for providing essential data, e.g., applicant data and data corrections by institutions, the Secretary would be able to encourage and provide support for the continued expansion of the use of electronic processes in the delivery of student aid.

Section 484. Section 484 of the bill would make a number of changes to the student eligibility provisions in section 484 of the Act. First, sections 484(1) and (2) of the bill would update cross references in sections 484(b)(2) and (d) of the Act. Next, section 484(3) of the ibll would eliminate seciton 484(e) of the Act, which currently permits an eligible institution to certify student eligibility for a FFEL to completing the review for accuracy of the information submitted by the applicant, if certain conditions are met. An institution should not certify an FFEL loan application unless it believes that all the information on the application is accurate. This provision of current law is attempting to address the issue of verification, not certification. [and the Secretary already permits an institution to certify a loan application while a student is undergoing verification.?] Section 484(e) of the Act is unnecessary.

Section 484(4) of the bill would amend section 484(f)(1) of the Act, which currently states that a student is ineligible to receive any title IV grant, loan, or work assistance if the eligible institution determines that the student fraudulently borrowed in violation of the annual FFEL, Direct Loan, or Perkins Loan limits in the same academic year, or if the student fraudulently borrowed in excess of the aggregate maximum loan limits for any of these loan programs. Section 484(4) of the bill would eliminate the reference to "fraudulently" in section 484(f)(1) of the Act. Without this amendment, the current provision has little practical effect, since it is highly unlikely that an institution will be able to prove that a student "fraudulently" borrowed more than he or she was entitled to borrow for a year or in the aggregate. That is, the institution will be unlikely to be able to prove that the student knowingly and willfully obtained funds in that manner. Moreover, it is highly unlikely that the institution will be able to make that determination within the same year, in time for this provision to have an impact. The student would still be protected by section 484(f)(2) of the Act, and would not lose eligibiliyt for an inadvertent violation of loan limits, provided that the student repaid the amounts borrowed in excess of those limits.

Section 484(5) of the bill would eliminate sections 484(k), (l), and (o) of the Act. Section 484(k) of the Act sets out a special rule for student eligibility while enrolled in correspondence courses, and section 484(l) of the Act sets out the student eligibility rules pertaining to telecommunications courses. Both provisions would be superseded by the definition of distance learning in proposed new section 481(c) of the Act. Section 484(o) of the Act currently states that a student may receive title IV assistance while in a program of study abroad approved for credit by the student's home institution. This provision has never been needed; students enrolled in study abroad programs have always been eligible for student aid. Moreover, section 484(a)(1) of the Act contains sufficient authority to ensure eligibility for title IV assistance for students enrolled in a study abroad program.

Finally, section 484(6) of the bill would redesignate sections 484(m), (n), and (p) of the Act as sections 484(l), (m), and (n) of the Act, to conform with the elimination of the subsections described above.

Section 485. Section 485 of the bill would make some minor clarifications to section 484A of the Act, and add new subsections (c) and (d) to that provision. Proposed new section 484A(c) of the Act would specify that a United States Attorney may register with the Federal courts for enforcement any State court judgment that is obtained to collect on a student loan (or grant overpayment) obligation that is assigned or transferred to the Secretary. Guaranty agencies have assigned several million defaulted FFELs to the Secretary, and have in many instances secured State court judgments. These judgments offer little benefit to the Federal taxpayer unless the judgments can be simply and expeditiously enforced by the Department of Justice. This provision would eliminate the need for new litigation and expedite the recovery process. It replicates the highly successful effort of the HEAL program, which similarly ensures that State court judgments obtained by its lenders are quickly enforceable as Federal judgments by the United States Attorney's offices.

Proposed new section 484A(d) of the Act would expressly provide that "imaged" documents, including promissory notes and repayment agreements, would be admissible and enforceable, and could substitute for the original document. Currently, FFEL lenders and the Direct Loan servicer use optical imaging technology to maintain most records required for the loan programs. Although courts admit imaged promissory notes into evidence under the Business Records

Exemption to the Best Evidence Rule and enforce these documents, there are no reported court decisions specifically addressing the issue of admissibility and enforceability of electronically imaged contracts, and only a few states have statutes addressing this issue. This amendment would provide much needed clarity regarding the use of these technological advancements in recordkeeping. Use of optically imaged documents would save significant costs and resources for the Department and lenders, and is consistent with the Department's development of a fully electronic financial aid system that would speed the delivery of funds.

Section 486. Section 486(a) of the bill would completely rewrite section 484B of the Act pertaining to refunds. Section 484B of the Act currently requires all participating institutions to have a fair and equitable refund policy, under which the institution returns unearned charges to the sources of student aid, in the order specified by statute, and the student when the student ceases attendance at the institution. The current law defines a fair and equitable refund policy as one that provides a refund of at least the larger amount calculated under requirements of State law, under any approved refund standards established by the institution's accrediting agency, or under the pro rata refund calculation prescribed in section 484B. Proposed new section 484B of the Act would replace this approach with provisions that apply only to the return of title IV grant and loan funds, and would be linked to the disbursement schedule for those funds.

Proposed new section 484B of the Act would prescribe in statute a schedule that would be used to determine the amount of Title IV aid a student has earned when he or she ceases attendance (in effect, a retroactive disbursement schedule that is applied when a student ceases attendance) without regard to the actual costs incurred to the student. This title IV requirement would focus on the amount the student earned from title IV sources only, and, apart from some minimum levels of consumer protection proposed in provisions relating to withdrawals by first-time students in the first two weeks of the payment period (discussed below), and to the requirement that all recognized accrediting agencies have in place fair and equitable refund policies (in proposed new section ___ of the Act, as added by title I of the bill), title IV requirements would not control the institution's overall refund policy.

Proposed new section 484B was developed after consideration of the feedback received from focus group meetings with the financial aid community on the current refund requirements, which are viewed by the financial aid community as burdensome, complicated, and unfair. This simplified, title IV-only approach would be easier for institutions to implement, easier for a student to understand, and easier for the Department to monitor than the current requirements. Proposed new section 484B of the Act would appropriately balance the needs of institutions, states, and accrediting agencies with the interests of the taxpayer and the need to provide a basic level of consumer protection for students.

Proposed new section 484B(a)(1) of the Act would set out the general rule for the return of title IV grant or loan assistance if a student (other than a first-time student in the first two weeks of the payment period) withdraws from, or otherwise fails to complete, a payment period (defined at 34 CFR 668.4, and where possible based on the traditional intervals in an academic year, such as the semester, trimester, or quarter). This provision would require that any title IV grant or loan assistance, other than the amount of such assistance that is "earned" by the student as of his or her last date of attendance, be returned to its title IV source in the order specified in proposed new sections 484B(c)(2) and (3) of the Act.

Proposed new section 484B(a)(2) of the Act would specify the way in which the amount of grant or loan assistance "earned" by the student would be calculated. First, the percentage of grant or loan assistance provided under this title that has been earned by the student would be determined. That percentage would equal the percentage of the payment period completed as of the student's last date of attendance, if that date occurs before the completion of more than 60 percent of the payment period; after the 60% point in the payment period, a student would earn 100% of the title IV funds. After determining the percentage of title IV grant or loan assistance that has been earned by the student, that percentage would be applied to the total amount of title grant or loan assistance that was disbursed, or that could have been disbursed to the student for the payment period, as of his or her last date of attendance. As described in proposed new section 484B(a)(3) of the Act, if the student received less grant or loan assistance than the percentage earned, the difference would be disbursed to the student, under current regulations pertaining to late disbursements. If the student received more grant or loan assistance than the percentage earned, these excess funds would be required to be returned by the institution or the student, or both, in accordance with proposed new section 484B(c) of the Act, discussed below.

Proposed new section 484B(b) of the Act would contain the return of funds requirements relating to a first-time student, which would be defined as a student who had not previously attended at least one class at the institution, or had received a full refund for previous attendance at the institution. A student would continue to be considered a first-time student until he or she withdrew after attending at least one class at the institution, or completed the payment period. These requirements would apply in lieu of the calculation in proposed new section 484B(a), as well as any applicable refund policy of the institution, and are intended to provide a two-week "cooling-off" period for first-time students.

If a first-time student withdraws within the first two weeks of the payment period, the institution would be required to cancel all institutional charges to the student, other than an optional administrative fee of up to $100, as well as charges for meals consumed by the student prior to his or her last date of attendance. The institution and the student would be required to return all funds received for institutional charges or other educational expenses for the payment period to the sources of these funds, other than the institution's administrative fee and meal charges, and up to $100 in title IV funds in excess of institutional charges that the student could retain as a partial offset against other costs of attendance (for example, the purchase of books and supplies that could not be returned).

Proposed new section 484B(c)(1) would require an institution to return excess funds (as calculated under proposed new section 484B(a)), up to the amount of institutional charges assessed the student. If the institution's applicable refund policy provides for a larger amount to be refunded than the excess title IV funds to be returned, the institution would be required to provide the difference to the student.

Proposed new section 484B(c)(2) of the Act would set out the student's responsibility to return, to their title IV sources, any excess funds remaining after the institution has returned the amount is required to return under proposed new section 484B(c)(1) of the Act.

Proposed new section 484B(c)(3) of the Act would specify the order of return of excess funds by an institution or the student, as the case may be, and would replace the order of return of refunds currently in section 485(a)(1)(F) of the Act. Under current law, a refund of unearned funds charged to a title IV recipient is to be returned in the following order: 1) the title IV loan programs (order specified by statute and regulation), 2) the title IV grant programs (order specified by statute), 3) any other title IV programs, 4) other Federal, State, private, institutional aid sources and 5) the student. Proposed section 484B(c)(2) of the Act would require institutions to return excess funds to title IV programs in the following order: 1) unsubsidized FFELs; 2) subsidized FFELs; 3) PLUS Loans under the FFEL program; 4) unsubsidized Direct Loans; 5) subsidized Direct Loans; 6) PLUS Loans under the Direct Loan program; 7) Federal Perkins Loans; 8) Federal Supplemental Educational Opportunity Grants; 9) Federal Pell Grants; and 10) any other title IV program. The order of return of funds would no longer include funds from sources other than title IV.

Proposed new section 484B(d) of the Act would define "last date of attendance" for purposes of this provision as the date that the student last attended the institution for academic purposes, or participated in an academically related activity, as defined by the Secretary (current guidance on this issue includes examples of academically related activity such as taking an examination, or meeting with a faculty member), and would describe students' and institutions' responsibilities concerning the last date of attendance. Since the last date of attendance is critical to the determination of the percentage of the payment period that the student completed, as well as the calculation of the amount of grant or loan assistance that the student earned, the student, who is in the best position to know this date and who is the beneficiary of the grant and loan assistance, would be required to provide the institution that he or she attends written notification of his or her withdrawal, including his or her last date of attendance. If the student fails to provide this official, written notification to the institution, the student would not earn any grant or loan assistance, and all such assistance would be required to be returned by either the institution or the student, or both, in accordance with proposed new section 484B(c). However, if the institution has in place, and adheres to, a written policy for documenting attendance, and does document a last date of attendance for the student, a student who did not provide written notification of his or her withdrawal to the institution may still earn grant and loan assistance under this proposed new section. In addition, each participating institution would also be required, for each payment period, to identify to the Secretary each student who has unofficially withdrawn from the institution.

Proposed new section 484B(e) would specify how, for purposes of the calculation of the amount of grant or loan assistance earned by a student under this provision, the "percentage of the payment period completed" would be determined. If a program is measured in credit hours, the percentage would be determined by dividing the total number of days comprising the payment period into the number of days completed in that period as of the student's last date of attendance. If a program is measured in clock hours, the percentage would be determined by dividing the total number of clock hours comprising the payment period into the number of clock hours completed by the student in that payment period as of the student's last date of attendance. If a program consists of distance learning, the percentage would be determined in accordance with regulations prescribed by the Secretary. Distance learning is an evolving means of delivering education, and until more is learned about this developing area of technology and its impact on the title IV programs, the Secretary needs a greater degree of flexibility in this area in order to ensure accountability.

Section 486(b)(1) of the bill would revise the consumer information requirements in section 485(a)(1)(F) of the Act to require an institution participating in title IV to disclose to prospective and enrolled students: 1) details of the refund policy of the institution, and any other refund policy with which the institution is required to comply; 2) the requirements for the return of title IV assistance if the student did not begin attendance at the institution; and 3) the requirements under proposed new section 484B of the Act for the return of title IV grant or loan assistance when a student ceases or does not begin attendance at an institution, including a specific statement informing the student of his or her rights as a first time student under proposed new section 484B(b) of the Act as well as his or her responsibility to provide a written notification of withdrawal and a last date of attendance to the institution, and the consequences to the student of failing to do so. These changes would ensure that a student would be well informed about the manner in which the amount of title IV grant or loan funds to be returned is calculated, as well as any other applicable refund procedures, so that he or she will be better able to evaluate the consequences of withdrawing from school, and the consequences of not providing a written notification of withdrawal and last date of attendance to the institution.

Finally, section 486(b)(2) of the bill would update a cross-reference in section 485(f)(1)(I) of the Act, in order to reflect the changes made in title I of the bill.

Section 487. Section 487 of the bill would amend section 485(b) of the Act to permit an eligible institution to provide the exit counseling required by that provision electronically, in accordance with any conditions on the use of electronic exit counseling that the Secretary may specify. This provision would permit institutions to take advantage of developing technology and create computer programs that would individualize exit counseling and allow students to receive counseling at their convenience. Institutions would continue to provide all required information to students, but would no longer be required to provide this information in person if the counseling is done electronically.

Section 488. Section 488 of the bill would amend section 487 of the Act to eliminate outdated references to State postsecondary review entities, to correct an erroneous cross-reference and to make some minor stylistic changes, and to conform the penalty provisions applicable to institutions with the penalty provisions in the FFEL program, as amended by section ___ of the bill. In addition, under proposed new section 487(c)(1)(A)(iii), the Secretary would specify in regulation the requirements for the submission of financial and compliance audits by a foreign institution. It is anticipated that at least some foreign institutions would be required to submit audits less frequently than annually, as is currently required for most participating institutions, because the vast majority of foreign institutions only minimally participate in the FFEL program (either the institutions only participate to the extent that attendance at the institution qualifies a FFEL borrower for an in-school deferment, or have very low loan volumes), and the Department has encountered substantial administrative difficulty in its effort to certify and monitor all foreign schools in the same manner as all other Title IV schools. Problems in certifying and monitoring foreign institutions include the difficulty in evaluating institutional financial strength that is expressed in foreign currencies, as well as the myriad complications inherent in monitoring schools on foreign soil. The Department believes that the costs and resources needed to fully monitor these schools that have, over time, posed limited problems with respect to title IV compliance, can be better spent elsewhere.

Section 489. Section 489 of the bill would amend section 487A of the Act in three principal respects. First, the section would be retitled Alternative Programs for Management Improvement, and the two types of programs authorized by the section --the Quality Assurance Program and Experimental Sites --would be treated in separate subsections.

Second, section 487A(a) of the Act would be amended to expand the scope of the Quality Assurance Program, in order to permit participating institutions to develop and implement more comprehensive, individualized, management systems to enhance program integrity in their delivery of student financial aid. These systems could include, but would not be limited to, processing and disbursement of student financial aid, verification of student financial aid application data, and related student services. The Secretary would be authorized to exempt participating institutions from any title IV statutory or regulatory requirements that were addressed by the institution's comprehensive management system and to substitute such quality assurance requirements as the Secretary deemed necessary to ensure accountability and compliance with the purposes of the title IV programs.

Finally, section 487A(b) of the Act would be amended to expand the scope of the Secretary's authority to test the impact and effectiveness of proposed regulations or new management initiatives through the use of experimental sites. In addition to institutions of higher education that are participating in the title IV programs, guaranty agencies and lenders would also be permitted to participate as experimental sites under section 487A(b) as amended. The Secretary would be authorized to exempt participating institutions, guaranty agencies and lenders serving as experimental sites from any title IV statutory or regulatory requirements that would bias the results of these experiments in student aid administration.

Section 490. Section 490 of the bill would redesignate section 487B of the Act as section 487C of the Act, and insert a new section 487B. Proposed new section 487B of the Act would authorize the Secretary to implement by regulation a system of oversight of the title IV student financial aid programs, based on the performance of institutions in administering those programs and the financial strength of those institutions. As a part of that system, Secretary would be authorized to waive or modify any title IV statutory or regulatory requirements, that relate to an institution's administration of student financial aid programs. However, the Secretary could provide such a waiver or modification only upon a determination, based on the institution's performance in administering those programs and its financial strength, that the waiver or modification would pose no substantial threat to program integrity.

Section 491. Sections 491(1) and(4) of the bill would add a new subsection (e) to section 488A of the Act that would clarify that student financial assistance is subject to garnishment or attachment in order to satisfy any debt that is not directly related to the student's attendance at an institution of higher education. There have been numerous attempts by private creditors of students to attach or garnish student aid funds held by a school for a student. In the typical case, a creditor (such as a landlord or prior business creditor) sues an individual, who is now a student, and secures a judgment for a certain amount of money. The creditor discovers that the student has few assets or income except for title IV student aid, and then tries to get a court order allowing the attachment of the student IV aid to pay the debt. At that point, since any attachment or garnishment order would be directed to the school as the custodian of the student aid funds, the institution is drawn into the proceedings. It is often very burdensome for the institution to convince the State courts that hear these cases that the student aid funds are provided for the very limited purpose of paying the student's costs of attendance at the institution and that the attachment or garnishment of those funds for private debts is inconsistent with that purpose. This amendment would help ensure consistent, national treatment and ensure that student aid funds are used for their intended purpose.

Section 491(2) of the bill would amend section 488A(a)(5) of the Act to specify that an individual subject to administrative wage garnishment has an opportunity for a hearing, not only on the existence or amount of the debt, but also regarding whether the deduction of 10 percent of disposable pay would impose an undue hardship on the individual, and whether a lesser amount should be withheld. Under current law, the individual has the opportunity for a hearing concerning the "terms of the repayment schedule," an imprecise phrase. As amended, the provision would provide greater specificity regarding the individual's hearing rights.

Finally, section 491(3) of the bill would amend section 488A(b) to specify the instances in which an individual is entitle to judicial review of an administrative wage garnishment, and the standard of review that a judge would be required to use in such a review..

Section 492. Section 492 of the bill would add a new section 488B to part G of title IV of the Act that would authorize the Secretary to obtain information from any United States department, agency, or instrumentality of the United States, or from any State agency [(**if the State has entered into an agreement with the Secretary to provide the information and to receive reasonable reimbursement for providing the information)?**], concerning the name, social security number, most recent address, and telephone number of an individual obligated on a loan held by the Secretary or a FFEL held by a guaranty agency, or an individual owing a refund of an overpayment of a grant, and the name, address, and telephone number of the individual's employer and the individual's salary information, if the Secretary determines that this information is needed to enforce the loan or collect the overpayment. The Secretary would also be authorized to provide this information to a guaranty agency holding a FFEL on which the individual is obligated. The reasonable costs incurred by any agency of the United States or of a State in providing the information to the Secretary would be reimbursed by the Secretary, and retained by that agency. A guaranty agency that is provided information under this provsion would be charged a fee in order to reimburse the Secretary for the expense of providing the information.

In addition, proposed new section 488B(c) of the Act would require the Secretary of Labor shall enter into an agreement with the Secretary to provide prompt access to the wage and unemployment compensation claims information and data maintained by or for the Department of Labor or State employment security agencies. Proposed new section 488B(d) of the Act would require the Secretary of Health and Human Services to enter into an agreement with the Secretary to provide prompt access to the information contained in the National Directory of New Hires maintained by or for the Department of Health and Human Services.

These amendments would increase access to information from other federal agencies [and, in some cases, State agencies] for purpose of debt collection. Currently, the Internal Revenue Service assists the Department with debt collection through the refund offset program. The Department does not obtain debt collection information from other federal sources. The IRS currently does not share employment information with any federal agencies in pursuit of defaulters. The Department's ability to recover defaulted student loans would be increased dramatically if the Secretary obtains the authority to gain access to these sources of accurate and up-to-date home address and personal employment information.

Section 493. Section 493 of the bill would add new sections 489A and 489B to part G of title IV of the Act. Proposed new section 489A of the Act would specify that an eligible institution, lender, or guaranty agency that contracts with another entity to perform any of its title IV functions, or otherwise delegates the performance of such functions to another entity shall not be relieved of its duty to comply with the requirements of this title. The institution, lender, or guaranty agency would also be required to monitor the activities of the other entity for compliance with program requirements, and could not be indemnified by the other entity against losses due to noncompliance. In addition, proposed new section 489A would specify that a lender that holds FFELs in its capacity as a trustee assumes responsibility for complying with all statutory and regulatory requirements imposed on any other holder of a loan made under this part. This new section of the Act would expand on requirements, currently found at 34 CFR 682.203(a), by requiring that eligible program participants monitor the activities of their contractors or delegees and by prohibiting indemnification of eligible participants by their contractors or delegees. Lenders and guaranty agencies frequently delegate some or all of their functions to third parties. Some lenders and guaranty agencies have delegated all or substantially all of the functions inherent in their participation in FFEL, which is inconsistent with the establishment of eligibility qualifications in the HEA. Although 34 CFR 682.203(a) states that delegation does not relieve the eligible participant from its compliance responsibilities under the statute and regulations, at present delegating parties are normally indemnified by their delegees and rarely monitor their activities. Proposed new section 489A would ensure that the Department has adequate redress against eligible participants for all activities relating to the FFEL program, and would encourage that all eligible participants become actively involved in monitoring their contractors or delegees.

Proposed new section 489B would authorize the Secretary to waive or modify the application of any title IV statutory or regulatory provision in two narrow circumstances that are very different from each other--distance learning programs and program modifications in response to natural disasters--but that both require a greater degree of Secretarial flexibility to address the unusual qualities of each situation. The Secretary could exercise this authority when necessary to address the unique characteristics of a program or course of distance learning (or other nontraditional method for providing education or training to students), including prescribing new regulatory requirements exclusively for these programs or courses, and to monitor effectively such programs or courses. Distance learning is an evolving means of delivering education, and until more is learned about this developing area of technology and its impact on the title IV programs, the Secretary needs to have as much flexibility as possible to ensure a good "fit" between the student aid programs and distance learning, and to ensure accountability in the field of distance learning.

In addition, the Secretary could exercise this authority, which would include the reallocation of program funds or the alteration of application deadlines or information requirements, as the Secretary determines necessary to address the unique circumstances of individuals who have suffered financial harm in an area declared by the President to be the site of a natural disaster, as well as to issue guidance regarding such adjustments in an expedited manner and without regard to the rulemaking requirements of section 437 of the General Education Provisions Act. This authority would eliminate the need to make adjustments in appropriations acts to accommodate the student aid needs of individuals harmed in these unfortunate and all-too-frequent occurrences.

Section 494. Section 494 of the bill would add a new section 490A to the Act. Proposed new section 490A of the Act would provide the Secretary with the authority to issue administrative subpoenas in pursuing termination actions against institutions. While the Secretary currently has the authority to compel institutions to produce requested records incident to the investigative process, the need for subpoena power increases with investigative actions that require review of third-party records. The Secretary often needs information from other sources such as ability-to-benefit testers, state boards, and accrediting agencies. The request for this information is often denied without a subpoena. The Secretary has had only partial success in obtaining the assistance of Office of the Inspector General (OIG) and the use of its subpoena authority to support the Department's actions. A grant of subpoena power directly to the Secretary would strengthen the Department's ability to act independently of the OIG in termination cases. In addition, in instances where the Secretary is seeking the cooperation of officials from third-party agencies, as well as former employees of institutions, the issuance of an administrative subpoena would enhance the Department's ability to defend its position.

Investigative administrative subpoena authority is available to a wide range of agencies, including both those traditionally considered to be independent regulatory agencies, and those traditionally considered to be part of the executive branch. Administrative investigative subpoena power is available, for example, to the financial regulatory agencies (e.g., RTC, FDIC, NCUA), to the SEC, to regulators of pension benefits (e.g. DOL), to labor and employment regulators, including the EEOC, to safety inspectors (e.g. OSHA), and agricultural inspectors (Department of Agriculture), among others. The Department of Education needs similar authority in order to obtain the information necessary to ensure program integrity and properly defend its position in termination cases.

12/2/97 draft

PART G--GENERAL PROVISIONS

DEFINITIONS

SEC. 481. Section 481 of the Act is amended--

(1) in subsection (a)--

(A) in paragraph (1)--

(i) in the matter preceding subparagraph (A), by striking out "section 1201(a)--" and inserting in lieu thereof "section 101(a)--";

(ii) in subparagraph (A), by adding "and" at the end thereof;

(iii) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) only for purposes of part B, an institution located outside the United States that--

"(i) is comparable to an institution of higher education as defined in section 101(a); and

"(ii) has been approved by the Secretary for the purpose of part B, except that the Secretary shall not approve any distance learning program or courses offered by the institution."; and

(iv) by striking out subparagraph (C);

(B) in paragraph (2)--

(i) in subparagraph (A), by striking out "paragraph (1)(C) of this section" and "section 1201(a)." and inserting in lieu thereof "paragraph (1)(B)" and "section

101(a).", respectively;

(ii) in subparagraph (B), by striking out "paragraph (1)(C)," and "section 1201(a)." and inserting in lieu thereof "paragraph (1)(B)" and "section 101(a).", respectively;

(iii) by striking out subparagraph (D); and

(iv) by redesignating subparagraph (E) as subparagraph (D);

(C) in paragraph (3)--

(i) by amending subparagraphs (A) and (B) to read as follows:

"(A) offers more than 50 percent of the institution's courses through distance learning, unless the institution provides at least a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree ;

"(B) enrolls 50 percent or more of its students in distance learning, unless the institution provides at least a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree;";

(D) in paragraph (5), by striking out "part H." and inserting in lieu thereof "part A of title I."; and

(E) in paragraph (6), by striking out "part H of this title." and inserting in lieu thereof "part A of title I.";

(2) by amending subsection (b) to read as follows:

"(b) PROPRIETARY INSTITUTION OF HIGHER EDUCATION.--(1) For the purpose of this section, the term 'proprietary institution of higher education' means a school that--

"(A) meets the requirements of section 101(a), other than paragraph(1)(D);

"(B) has been in existence for at least 2 years; and

"(C) has at least 15 percent of its revenues from sources that are not derived from funds provided under this title, as determined in accordance with regulations prescribed by the Secretary.

"(2) Such term also includes a postsecondary educational institution that changes from a proprietary institution to a nonprofit institution, for a period of not less than two complete fiscal years following such change.";

(3) by amending subsection (c) to read as follows:

"(c) DISTANCE LEARNING.--For the purpose of any program under this title, the term 'distance learning' means an educational process that is characterized by the separation, in time or place, between instructor and student, or among students. Distance learning may include courses offered principally through the use of--

"(1) television, audio, or computer transmission, such as open broadcast, closed circuit, cable, microwave, or satellite transmission;

"(2) audio or computer conferencing;

"(3) video cassettes or discs; or

"(4) correspondence.";

(4) by striking out subsection (e); and

(5) by redesignating subsection (f) as subsection (e).

MASTER CALENDAR

SEC. 482. Section 482 of the Act is amended--

(1) in subsection (a)--

(A) in the matter preceding paragraph (1), by inserting a comma and "in developing and distributing Federal forms," immediately after "shall"; and

(B) in paragraph (1)--

(i) in subparagraph (D), by striking out "and multiple data entry data elements" and inserting in lieu thereof a comma and "data elements,";

(ii) in subparagraph (F), by striking out "and multiple data entry"; and

(iii) in subparagraph (G), by striking out "and multiple data entry"; and

(2) by amending subsection (c) to read as follows:

"(c) DELAY OF EFFECTIVE DATE OF LATE PUBLICATIONS--(1) Except as provided in paragraph (2), any regulatory changes initiated by the Secretary that affect the calculation of awards and delivery of aid to students under this title and that have not been published in final form by November 1 prior to the start of the award year shall not become effective until the beginning of the second award year after such November 1 date.

"(2)(A) The Secretary may designate any regulatory provision that affects the calculation of awards and delivery of aid to students under this title and is published in final form after November 1 as one that an entity subject to the provision may, in its discretion, choose to implement prior to the effective date described in paragraph (1). The Secretary may specify in the designation when, and under what conditions, an entity may implement the provision prior to that effective date. The Secretary shall publish any designation under this subparagraph in the

Federal Register.

"(B) If an entity chooses to implement a regulatory provision prior to the effective date described in paragraph (1), as permitted by subparagraph (A), the provision shall be effective with respect to that entity in accordance with the terms of the Secretary's designation.".

FORMS, PROCESSING AND TECHNOLOGY;
MULTI-YEAR PROMISSORY NOTE

SEC. 483. (a) Section 483 of the Act is amended--

(1) by amending the heading thereof to read as follows: "FORMS, PROCESSING AND TECHNOLOGY.--";

(2) by amending subsection (a) to read as follows:

"(a) COMMON FORM AND PROCESSING.--(1) SINGLE FORM REQUIRED.--The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall produce, distribute, and process free of charge a common reporting form (which may include an electronic application process) to be used to determine the need (including the expected family contribution and, if appropriate, cost of attendance) and eligibility of a student for financial assistance under parts A, C, D, and E, and to determine the need (including the expected family contribution and cost of attendance) of a student for purposes of part B. The Secretary may require that the common reporting form be used for the purpose of collecting eligibility and other data for purposes of part B. The Secretary may also include on the form developed under this paragraph such data items, selected in consultation with the States to assist the States in awarding State student financial assistance, as the Secretary determines are appropriate for inclusion.

"(2) CHARGES TO STUDENTS AND PARENTS FOR USE OF FORM PROHIBITED.--The common financial reporting form prescribed by the Secretary under paragraph (1) shall be produced, distributed, and processed by the Secretary, and no parent or student shall be charged a fee for the collection, processing, or delivery of financial aid through the use of such form. The need and eligibility of a student for financial assistance under parts A, C, D, and E, and the need (and eligibility, if the Secretary so requires) of a student for purposes of part B, shall be determined only by using the form developed by the Secretary under paragraph (1). No student may receive assistance under parts A, C, D, or E, or have the student's need (and eligibility, if the Secretary so requires) established for purposes of part B, except by use of the form developed by the Secretary under paragraph (1). No data collected on a form for which a fee is charged shall be used to complete the form required under paragraph (1).

"(3) DISTRIBUTION OF DATA.--(A) The Secretary shall provide, without charge, the data collected using the form developed under this section to institutions of higher education and States for the purposes of determining need and eligibility for institutional and State financial aid awards. Entities designated by institutions of higher education or States to receive such data shall be subject to all requirements of this section, unless such requirements are waived by the Secretary.

"(B) Notwithstanding subparagraph (A), the Secretary shall provide the data collected using the form developed under this section to a State only if, in determining a student's need for financial assistance provided by the State, the State does not use any data collection form or process for which a student or the student's parent is charged a fee that is payable to an entity other than the State.

"(4) CONTRACTS FOR COLLECTION AND PROCESSING.--The Secretary may enter into one or more contracts with States, institutions of higher education, or private organizations for the purposes of the timely collection and processing of the form developed pursuant to paragraph (1) and the timely delivery of the data submitted on such form. The Secretary may use such contracts to assist States and institutions of higher education with the collection of additional data required to award State or institutional financial assistance, that are not on the common financial reporting form developed pursuant to this section.

"(5) DATA OWNERSHIP.--(A) All data collected pursuant to this section shall be the exclusive property of the Secretary and shall not be transferred to a third party without the Secretary's express written approval.

"(B) Any entity using or processing data that is the exclusive property of the Secretary--

"(i) shall not enter into any arrangements with guarantors, lenders, secondary markets, or institutions of higher education for the purpose of reselling or sharing of such data; and

"(ii) shall adhere to all editing, processing, and reporting requirements established by the Secretary to ensure consistency.

"(6) REIMBURSEMENT.--The Secretary may reimburse institutions, or third-party servicers for such institutions, for filing electronic applications, reapplications, or corrections thereof, at such rates as may be determined by the Secretary.";

(2) in subsection (b), by amending paragraph (1) to read as follows:

"(1) STREAMLINED REAPPLICATION PROCESS.--Institutions of higher education shall use the streamlined reapplication form and process, including the electronic reapplication process, developed by the Secretary consistent with the requirements of subsection (a), for those recipients who apply for financial assistance under this title for the academic year subsequent to the initial year in which such recipients apply.";

(3) in subsection (c), by striking out "Labor" and inserting in lieu thereof "the Workforce";

(4) by striking out subsections (e) and (f);

(5) by adding at the end thereof the following new subsections:

"(e) MULTI-YEAR PROMISSORY NOTE.--(1) Notwithstanding any other provision of this title, the Secretary shall require, for loans made under this title for periods of enrollment beginning on or after July 1, 2000, the use of a promissory note applicable to more than one academic year, more than one type of loan made under this title, or both, unless the Secretary determines that a later implementation date is required to ensure that the Department has the necessary technology and systems in place to use such promissory note and to avoid any disruption to the student aid delivery process. The Secretary is authorized to take such actions as the Secretary determines are necessary to develop and test such a promissory note, including requiring the use of the promissory note on a limited or pilot basis.

"(f) VERIFICATION OF REPORTED INFORMATION.--(1) Notwithstanding any other provision of law, the Secretary shall verify information reported by the student, the student's spouse (if any, in the case of an independent student), or the student's parents (in the case of a dependent student), as the case may be, on the common reporting form described in subsection (a) (or any other form used to apply or reapply for grant, loan, or work assistance under this title), by use of Federal income tax return information of the student, the student's spouse, or the student's parents, as the case may be, for the tax year (or years) that relates to the information reported on the common reporting form.

"(2) The Secretary is authorized to require the reporting of the names and social security numbers of a student's parents (in the case of a dependent student), and of a student's spouse (if any, in the case of an independent student) on the common reporting form, or any other form used to apply or reapply for grant, loan, or work assistance under this title.

"(3) The Secretary may also use the Federal tax return information described in this subsection directly in any application process for assistance under this title that the Secretary may establish. The Secretary shall consult with the Secretary of the Treasury to ensure that adequate safeguards for such information are provided under such process.

"(4) If the Federal tax return information of the student, the student's spouse (if any, in the case of an independent student), or the student's parents (in the case of a dependent student), as the case may be, is unavailable or does not reasonably reflect such individual's current income, or other current information reported on the common reporting form that would ordinarily be verified by the use of such Federal tax return information, the Secretary shall require such other documentation satisfactory to the Secretary, in order to verify the information reported on the common reporting form.

"(g) <u>MODIFICATION TO REFLECT CHANGING TECHNOLOGY AND BUSINESS PRACTICES</u>.--(1) Notwithstanding any other provision of law, the Secretary may, through regulation, waive or modify any statutory requirement under this title regarding the aid application and delivery processes, if the Secretary determines that such waiver or modification would better meet the needs of students and program participants, and allow the Department to employ up-to-date technology and business practices that would improve the Department's administration of the programs under this title. The Secretary shall ensure that any waiver or modification under this paragraph shall be implemented at a time and in a manner that minimizes any possible disruption to the student aid application and delivery processes.

"(2) Prior to exercising the authority in paragraph (1), the Secretary shall consult with representatives of students, institutions of higher education, and other entities involved in the aid application and delivery processes regarding their recommendations concerning what waivers or modifications may be necessary to eliminate impediments to the use of technological and other business process advancements in student aid application and delivery systems.

"(h) PAYMENT FOR DATA.--The Secretary may pay such charges as the Secretary determines are necessary to obtain data that the Secretary considers essential to the efficient administration of the programs under this title.".

(b)(1) Section 6103 of the Internal Revenue Code of 1986 (26 U.S.C. 6103, hereinafter in this subsection referred to as "the Code") is amended--

(A) in subsection (a)(3), by striking out "(l)(12)" and inserting in lieu thereof "(l)(10), (12), (13) or (15)".

(B) in subsection (l)--

(i) in paragraph (10)(B), by striking out "officers and employees of an agency receiving return information under subparagraph (A) shall use such information" and inserting in lieu thereof "return information disclosed under subparagraph (A) may be used by officers and employees of an agency, and by officers, employees, and agents of the Department of Education,";

(ii) in paragraph (13)--

(I) in subparagraph (B), by striking out "officers and employees" and inserting in lieu thereof "officers, employees, and agents"; and

(II) by striking out subparagraph (D); and

(iii) by adding a new paragraph at the end thereof to read as follows:

"(15) DISCLOSURE OF RETURN INFORMATION FOR VERIFICATION OF INFORMATION REPORTED ON APPLICATION FOR FEDERAL STUDENT ASSISTANCE.--

"(A) IN GENERAL.--The Secretary may, upon written request from the Secretary of Education, disclose to officers and employees and agents of the Department of Education the return information described in subparagraph (C) with respect to a taxpayer who --

"(i) has applied for grant, loan, or work assistance under title IV of the Higher Education Act of 1965; or

"(ii) is the parent (in the case of a dependent student, as that term is used for purposes of that title) or spouse (in the case of an independent student, as that term is used for purposes of that title) of an individual who has applied for assistance under that title.

"(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.--Return information disclosed under subparagraph (A) may be used by officers, employees, and agents of the Department of Education only for the purposes of, and to the extent necessary in,--

"(i) verifying information reported on an application for grant, loan, or work assistance under title IV of the Higher Education Act of 1965; or

"(ii) any application process for assistance under such title that the Secretary of Education may establish.

"(C) RETURN INFORMATION TO BE DISCLOSED.--For purposes of this paragraph, the return information that may be disclosed is--

"(i) taxpayer identity information;

"(ii) taxpayer filing status;

"(iii) adjusted gross income; and

"(iv) the amount of Federal taxes paid."; and

(C) in subsection (p)--

(i) in paragraph (3)(A), by striking out "(13), or (14), (m)" and inserting in lieu thereof "(13), (14), or (15), (m)";

(ii) in paragraph (4)--

(I) in the matter preceding subparagraph (A), by striking out "(13), or (14)," and inserting in lieu thereof "(13), (14), or (15),";

(II) in subparagraph (F)(ii), by striking out "(13), or (14)," and inserting in lieu thereof "(13), (14), or (15),"; and

(III) in the flush left material after subparagraph (F), by striking out "under subsection (l)(12)(B)" and inserting in lieu thereof "under paragraph (10), (12)(B), (13) or (15) of subsection (l)".

(2) Section 7213(a)(2) of the Code is amended by striking "or (12)," and inserting in lieu thereof "(12), (13), or (15),".

STUDENT ELIGIBILITY

SEC. 484. Section 484 of the Act is amended--

(1) in subsection (b)(2), in the matter preceding subparagraph (A)< by striking out "section 428A" and inserting in lieu thereof "section 428H";

(2) in subsection (d), in the matter preceding paragraph (1), by striking out "any assistance under subparts 1, 3, and 4 of part A and parts (B), (C), (D), and (E) of" and inserting in lieu thereof "any grant, loan, or work assistance under";

(3) by striking out subsection (e);

(4) in subsection (f)(1)--

(A) by striking out "No student" and inserting in lieu thereof "Except as provided in paragraph (2), no student"; and

(B) by striking out "fraudulently" each place it appears;

(5) by striking out subsections (k), (l), and (o); and

(6) by redesignating subsections (m), (n), and (p) as subsections (l), (m), and (n), respectively.

USE OF IMAGED DOCUMENTS;
REGISTRATION OF STATE COURT JUDGMENTS

SEC. 485. Section 484A of the Act is amended--

(1) in the heading thereof, by adding a semicolon and "IMAGED DOCUMENTS" after "LIMITATIONS";

(2) in paragraph (2)--

(A) in subparagraph (C)--

(i) by striking out "pursuant to section 453 or 463(a)"; and

(ii) by striking out "under part D or E of" and inserting in lieu thereof "by the institution under"; and

(B) in subparagraph (D), by striking out "that has been assigned to the Secretary under this title." and inserting in lieu thereof a period; and

(3) by adding at the end thereof the following new subsections:

"(c) STATE COURT JUDGMENTS.--A United States Attorney may register with the Federal courts for enforcement any State court judgment that is obtained to collect an obligation described in subsection (a) that is assigned or transferred to the Secretary under this title.

"(d)(1) IN GENERAL.--It is the purpose of this subsection to--

"(A) allow the Secretary to use imaging technology to store and retrieve documents and records, including promissory notes and repayment agreements, required for the administration of the programs authorized under this title, or for the administration of loans made under this title;

"(B) permit the Secretary to destroy originals of such documents and records, including promissory notes and repayment agreements, after they have been imaged, thereby achieving significant savings in storage and retrieval costs; and

"(C) ensure that the Secretary may introduce as evidence in any proceeding with respect to the programs or loans described in subparagraph (A) imaged documents and records, including promissory notes and repayment agreements.

"(2) Notwithstanding any other provision of Federal or State law, an imaged copy of any document or record, including a promissory note or repayment agreement, may be introduced as evidence in any proceeding with respect to the programs or loans described in paragraph (1)(A) in any Federal or State court, or other tribunal, and such imaged copy shall be admissible in any court or tribunal of the United States or any State as if it were the original document or record and have the same force and effect as the original.

"(3) Nothing in this subsection shall be interpreted to preclude the admissibility of a duplicate of a document or record that is required for the administration of the programs or loans described in paragraph (1)(A) made by a technology other than imaging consistent with the Federal Rules of Evidence and section 1732 of title 28 of the United States Code, or applicable State law.

"(4) Nothing in this subsection shall be interpreted to preclude the admissibility of an imaged copy of any document or record in a proceeding outside the scope of this subsection, consistent with the Federal Rules of Evidence and section 1732 of title 28 of the United States Code, or applicable State law.".

REFUNDS

SEC. 486. (a) Section 484B of the Act is amended to read as follows:

"RETURN OF TITLE IV FUNDS

WHEN A STUDENT CEASES ATTENDANCE AT AN INSTITUTION

"SEC. 484B. (a)(1) RETURN OF TITLE IV FUNDS BASED ON DISBURSEMENT SCHEDULE.--If a student (other than a first-time student, as described in subsection (b)) withdraws from, or otherwise fails to complete, a payment period in which he or she began attendance, any grant or loan assistance under this title, other than the amount of such assistance that is earned by the student (as calculated under paragraph (2)) as of his or her last date of attendance (as defined in subsection (e)), shall be returned in accordance with subsection (c).

"(2) CALCULATION OF AMOUNT OF ASSISTANCE EARNED.--(A) The amount of grant or loan assistance earned by a student for purposes of this section is calculated by—

"(i) determining the percentage of grant and loan assistance under this title that has been earned by the student, as described in subparagraph (B); and

"(ii) applying such percentage to the total amount of such grant and loan assistance that was disbursed (and that could have been disbursed) to the student for the payment period, as of his or her last date of attendance.

"(B) For purposes of subparagraph (A)(i), the percentage of grant or loan assistance under this title that has been earned by the student is--

"(i) equal to the percentage of the payment period completed (as determined in accordance with subsection (f) as of the student's last date of attendance, provided that such date occurs before the completion of more than 60 percent of the payment period; or

"(ii) 100 percent, if the student's last date of attendance occurs after the student has completed more than 60 percent of the payment period.

"(3) DIFFERENCES BETWEEN AMOUNTS EARNED AND AMOUNTS

RECEIVED.--(A) If the student has received less grant or loan assistance than the percentage earned, as calculated under paragraph (2)(B), the difference shall be disbursed to the student according to the procedures for late disbursement specified by the Secretary in regulations.

"(B) If the student has received more grant or loan assistance than the percentage earned, as calculated under paragraph (2)(B), the excess funds shall be returned by the institution or the student, or both, as may be required under subsections (c)(1) and (2), to the programs under this title in the order specified in subsection (c)(3).

"(b) FIRST-TIME STUDENTS.--(1) Notwithstanding subsection (a), and any refund policy of the institution, or applicable to the institution, in the case of a first-time student, as defined in paragraph (2), who withdraws or otherwise ceases to attend on or after his or her first day of class within the first two weeks of the payment period--

"(A) the institution shall cancel all institutional charges to the student, except that the institution may assess--

"(i) an administrative fee of not more than $100, and

"(ii) charges for meals consumed by the student prior to his or her last date of attendance; and

"(B) the institution and the student shall return all funds received for institutional charges or other educational expenses for the payment period to the sources of such funds, other than--

"(i) funds attributable to the charges described in paragraphs (1)(A) and (B); and

"(ii) the lesser of--

"(I) \$100; or

"(ii) the amount of assistance provided to the student under this title for that payment period that exceeds the institutional charges assessed the student for that payment period.

"(2) As used in this section, the term 'first-time student'--

"(A) means a student who--

"(i) has not previously attended at least one class at the institution; or

"(ii) received a refund of 100 percent of his or her institutional charges (minus any permitted administrative fee and charges for meals consumed) for previous attendance at the institution; and

"(B) continues to apply to such student until the student--

"(i) withdraws or otherwise ceases attendance at the institution after attending at least one class, or

"(ii) completes the payment period.

"(c) <u>RETURN OF PROGRAM FUNDS</u>.--(1) <u>RESPONSIBILITY OF THE INSTITUTION</u>.--(A) The institution shall return excess funds (described in subsection (a)(3)(B)) in the order specified in paragraph (3), up to the amount of institutional charges assessed the student.

"(B) If the institution's refund policy provides for the institution to return an amount greater than the amount calculated under subsection (a), the institution shall return such excess amount to the student.

"(2) RESPONSIBILITY OF THE STUDENT.--Any excess funds (described in subsection (a)(3)(B)) remaining after the institution has returned the amount required under paragraph (1)(A) shall be the responsibility of the student to return in the order specified in paragraph (3).

"(3) ORDER OF RETURN OF TITLE IV FUNDS.--Excess funds returned by the institution or the student, as the case may be, in accordance with paragraph (1) or (2), respectively, shall be credited in the following order:

"(A) to outstanding balances on loans made under section 428H for the payment period for which a return of funds is required;

"(B) to outstanding balances on loans made under section 428 for the payment period for which a return of funds is required;

"(C) to outstanding balances on loans made under section 428B for the payment period which a return of funds is required;

"(D) to outstanding balances on unsubsidized loans (other than parent loans) made under part D for the payment period for which a return of funds is required;

"(E) to outstanding balances on subsidized loans made under part D for the payment period for which a return of funds is required;

"(F) to outstanding balances on parent loans made under part D for the payment period for which a return of funds is required;

"(G) to outstanding balances on loans made under part E for the payment period for which a return of funds is required;

"(H) to awards under subpart 3 of part A for the payment period for which a return of funds is required;

"(I) to awards under subpart 1 of part A for the payment period for which a return of funds is required for the payment period for which a return of funds is required; and

"(J) to other assistance provided under this title for the payment period for which a return of funds is required.

. Any such funds shall be returned or repaid, as the case may be, by the student to--

"(A) a loan program under part B or part D, in accordance with the terms of the loan; and **[note: order of return by student is still being discussed]**

"(B) a grant program under this title, or the loan program under part E, as an overpayment of such grant or loan and and shall be subject to overpayment collection procedures prescribed by the Secretary.

"(d) LAST DATE OF ATTENDANCE.--(1) As used in this section, the term 'last date of attendance means the date that the student last attended the institution for academic purposes, or participated in an academically related activity, as defined by the Secretary.

"(2) In order to determine the percentage of the payment period completed, and to calculate the percentage of grant or loan assistance under this title that has been earned by the student, a student who withdraws, or otherwise ceases to attend, an institution shall be required to provide written notification of his or her withdrawal, including his or her last date of attendance, to the institution. If the student fails to provide such written notification to the institution, the student shall not earn any grant or loan assistance for purposes of the calculation under subsection (a), and all such assistance shall be returned by either the institution or the student, or both, as may be required under subsection (c).

"(3) Notwithstanding paragraph (2), a student who did not provide written notification of his or her withdrawal to an institution may earn grant and loan assistance for purposes of the calculation under subsection (a) if the institution documents a last date of attendance for the student, provided that the institution has in place, and adheres to, a written policy for documenting attendance.

"(4) For each payment period, an institution shall identify to the Secretary each student who has unofficially withdrawn from the institution without providing written notification of his or her withdrawal.

"(e) PERCENTAGE OF THE PAYMENT PERIOD COMPLETED.--For purposes of subsection (a)(2)(B), the percentage of the payment period completed is determined--

"(A) in the case of a program that is measured in credit hours, by dividing the total number of days comprising the payment period into the number of days completed in that period as of the student's last date of attendance;

"(B) in the case of a program that is measured in clock hours, by dividing the total number of clock hours comprising the payment period into the number of clock hours completed by the student in that payment period as of the student's last date of attendance; and

"(C) in the case of a program of distance learning, in accordance with regulations prescribed by the Secretary.".

(b) Section 485 of the Act is amended--

(1) by amending subsection (a)(1)(F) to read as follows:

"(F) a statement of--

"(i) the refund policy of the institution for the return of unearned tuition and fees or other refundable portion of cost, as described in subparagraph (E), and any other refund policy with which the institution is required to comply;

"(ii) the requirements for the return of assistance provided under this title when a student does not begin attendance at an institution; and

"(iii) the requirements under section 484B for the return of grant or loan assistance provided under this title when a student withdraws from, or otherwise fails to complete , a payment period in which he or she began attendance at an institution, including a specific statement informing the student of --

"(I) his or her rights, as a first-time student, under section 484B(b), including the cancellation of all institutional charges (other than an administrative fee and certain meal charges) if he or she withdraws or otherwise ceases attendance within the first two weeks of the payment period; and last date of attendance; and

"(II) his or her responsibility to provide a written notification of withdrawal and a last date of attendance to the institution, and the consequences to the student of failing to do so; and

(2) in subsection (f)(1)(I), by striking out "section 1213" and inserting in lieu thereof "section 139".

ELECTRONIC EXIT COUNSELING

SEC. 487. Section 485(b) of the Act is amended by adding at the end thereof the following new paragraph:

"(3) An eligible institution may provide the exit counseling required by this subsection electronically, in accordance with such conditions regarding the use of electronic exit counseling as may be specified by the Secretary.".

PROGRAM PARTICIPATION AGREEMENTS

SEC. 488. Section 487 of the Act is amended--

(1) in subsection (a)--

(A) in paragraph (3), by amending subparagraph (B) to read as follows:

"(B) the State in which the institution is located;"

(B) in paragraph (4), by striking out "subsection (b) of this section" and "fiscal eligibility." and inserting in lieu thereof "subsection (c)" and "financial responsibility.", respectively;

(C) in paragraph (15), by striking out "State review entities under subpart 1 of part H" and inserting in lieu thereof "the State in which the institution is located"; and

(D) in paragraph (21), by striking out "the Secretary, State postsecondary review entities, and accrediting agencies pursuant to part H of this title." and inserting in lieu thereof "the Secretary and accrediting agencies, under part A of title I, and the State in which the institution is located.";

(2) in subsection (c)--

(A) in paragraph (1)--

(i) in subparagraph (A)(i)--

(I) by striking out "in clause (ii)," and inserting in lieu thereof "in clauses (ii) and (iii)"; and

(II) by striking out "State agencies," through the end thereof and inserting in lieu thereof "and State agencies; or"; and

(ii) by adding at the end thereof the following new clause:

"(iii) the Secretary shall specify in regulation the requirements for the submission of financial and compliance audits by an institution outside of the United States that meets the requirements of section 481(a)(1)(B)(ii);";

(B) in paragraph (3)(B)(ii), by amending the second sentence therein to read as follows: "In determining the amount of such penalty, or the amount agreed upon in compromise, the Secretary shall consider the appropriateness of the penalty to the size and resources of the institution subject to the determination; the gravity of the violation, failure, or misrepresentation; the frequency and persistence of the violation, failure, or misrepresentation; and the amount of any losses resulting from the violation, failure, or misrepresentation.";

(C) in paragraph (4), by striking out the first comma and "after consultation with each State review entity designated under subpart 1 of part H,"; and

(D) in paragraph (5), by striking out "State review entities designated under subpart 1 of part H," and inserting in lieu thereof "State agencies,".

ALTERNATIVE PROGRAMS FOR MANAGEMENT IMPROVEMENT

SEC. 489. Section 487A of the Act is amended to read as follows:

"ALTERNATIVE PROGRAMS FOR MANAGEMENT IMPROVEMENT

"SEC. 487A. (a) QUALITY ASSURANCE PROGRAM.--(1) The Secretary is authorized to select institutions for voluntary participation in a Quality Assurance Program that provides participating institutions with an alternative management approach through which individual schools develop and implement their own comprehensive management systems to enhance program integrity in the delivery of student financial aid. These systems may include, but are not limited to, processing and disbursement of student financial aid, verification of student financial aid application data, and related student services. The Secretary shall select institutions for participation in the Quality Assurance Program on the basis of criteria that include demonstrated institutional performance and quality assurance goals, as determined by the Secretary.

"(2) The Secretary is authorized to exempt any institution participating in the Quality Assurance Program from any requirements in this title, or in any regulations prescribed under this title, that are addressed by the institution's comprehensive management system and to substitute such quality assurance requirements as the Secretary deems necessary to ensure accountability and compliance with the purposes of the programs under this title.

"(3)(A) The Secretary is authorized to determine when an institution--

"(i) that is unable to administer the Quality Assurance Program must be removed from the program; or

"(ii) desiring to cease participation in the Quality Assurance Program will be required to complete the current award year under the requirements of the program.

"(B) For purposes of subparagraph (A)(ii), "current award year" means the award year during which the participating institution indicates its intention to cease participation.

"(b) EXPERIMENTAL SITES.--(1) The Secretary is authorized to select institutions, lenders, or guaranty agencies for voluntary participation as experimental sites to provide recommendations to the Secretary on the impact and effectiveness of proposed regulations or new management initiatives.

"(2) The Secretary is authorized to exempt any institution, lender, or guaranty agency participating as an experimental site from any requirements in this title, or in any regulations prescribed under this title, that would bias experimental results.".

PERFORMANCE-BASED OVERSIGHT

SEC. 491. (a) Section 487B of the Act is redesignated as section 487C.

(b) Part G of title IV of the Act is further amended by inserting immediately after section 487A the following new section:

"PERFORMANCE-BASED OVERSIGHT

"SEC. 487B. (a) The Secretary is authorized to implement by regulation a system of oversight of the student financial aid programs authorized by this title that is based on the performance of institutions in administering those programs and the financial strength of those institutions.

"(b) As a part of the system of oversight described in subsection (a), the Secretary may waive or modify any requirement in this title, or in regulations prescribed under this title, that relates to an institution's administration of student financial aid programs. The Secretary may provide such a waiver or modification only if the Secretary determines, on the basis of the institution's performance in administering those programs and its financial strength, that the waiver or modification would pose no substantial threat to program integrity.".

WAGE GARNISHMENT;
NO ATTACHMENT OF STUDENT ASSISTANCE

SEC. 491. Section 488A of the Act is amended

(1) In the heading thereof, striking out the period at the end thereof and inserting in lieu thereof by adding at the end thereof a semicolon and "NO ATTACHMENT OF STUDENT ASSISTANCE.";

(2) in subsection (a)(5), by striking out "and, in the case of " through the end thereof and inserting in lieu thereof "whether the deduction of 10 percent of disposable pay would impose an undue hardship on the individual, and whether a lesser amount should be withheld;";

(3) in subsection (b)--

(A) by inserting the paragraph designation "(1)" immediately after the subsection heading; and

(B) by adding at the end thereof the following new paragraph:

"(2)(A) An individual is entitled to judicial review under this paragraph of--

"(i) a determination under subsection (a)(5) by the Secretary or the guaranty agency, as the case may be; or "(ii) a final decision issued by a hearing official under paragraph (1).

"(B) An individual that desires judicial review of such determination or decision shall file with the appropriate United States district court a petition for review of such determination or decision.

"(C) The court may modify or set aside such determination or decision only if the court finds that the determination or decision was arbitrary, capricious, an abuse of discretion, or contrary to law."; and

(4) by adding at the end thereof the following new subsection:

"(e) NO ATTACHMENT OF STUDENT ASSISTANCE.--Except as authorized in this section, notwithstanding any other provision of Federal or State law, grant, loan, or work assistance awarded under this title shall not be subject to garnishment or attachment in order to satisfy any debt.".

DATA MATCHING

SEC. 492. Part G of title IV of the Act is further amended by inserting immediately after section 488A the following new section:

"DATA MATCHING

"SEC. 488B. (a)(1) The Secretary is authorized to obtain information from the files and records maintained by any of the departments, agencies, or instrumentalities of the United States, or of any State, concerning the name, social security number, most recent address, and telephone number of an individual obligated on a loan held by the Secretary or a loan made in accordance with part B of this title held by a guaranty agency, or an individual owing a refund of an overpayment of a grant awarded under this title, and the name, address, and telephone number of such individual's employer and the individual's salary information, if the Secretary determines that such information is needed to enforce the loan or collect the overpayment.

"(2) The Secretary is authorized to provide the information described in paragraph (1) to a guaranty agency holding a loan made under part B of this title on which such individual is obligated.

"(b)(1) Notwithstanding any other provision of law, whenever the head of any department, agency, or instrumentality, of the United States or of a State, receives a request from the Secretary for information authorized under this section, such individual or his designee shall promptly determine whether the information requested is contained in the records of the agency.

"(2)(A) If such information is found in the records of the agency, the individual shall, in conformance with the provisions of the Privacy Act of 1974, as applicable, immediately transmit such information to the Secretary, except that if disclosure of this information would contravene national policy or security interests of the United States, or the confidentiality of census data, the individual shall immediately so notify the Secretary and shall not transmit the information; or

"(B) if no such information is found, the individual shall immediately so notify the Secretary.

"(3)(A) The reasonable costs incurred by any such agency of the United States or of a State in providing any such information to the Secretary shall be reimbursed by the

Secretary, and retained by the agency.

"(B) Whenever such information is furnished to a guaranty agency, that agency shall be charged a fee to be used to reimburse the Secretary for the expense of providing such information.

"(c) The Secretary of Labor shall enter into an agreement with the Secretary to provide prompt access for the Secretary, in accordance with this section, to the wage and unemployment compensation claims information and data maintained by or for the Department of Labor or State employment security agencies.

"(d) The Secretary of Health and Human Services shall enter into an agreement with the Secretary to provide prompt access for the Secretary, in accordance with this section, to the information contained in the National Directory of New Hires maintained by or for the Department of Health and Human Services.".

"DATA MATCHING[alternate version--State participation optional]

"SEC. 488B. (a)(1) The Secretary is authorized to obtain information from the files and records maintained by any of the departments, agencies, or instrumentalities of the United States concerning the name, social security number, most recent address, and telephone number of an individual obligated on a loan held by the Secretary or a loan made in accordance with part B of this title held by a guaranty agency, or an individual owing a refund of an overpayment of a grant awarded under this title, and the name, address, and telephone number of such individual's employer and the individual's salary information, if the Secretary determines that such information is needed to enforce the loan or collect the overpayment.

"(2) The Secretary is authorized to provide the information described in paragraph (1) to a guaranty agency holding a loan made under part B of this title on which such individual is obligated.

"(b)(1) Notwithstanding any other provision of law, whenever the head of any department, agency, or instrumentality of the United States receives a request from the Secretary for information authorized under this section, such individual or his designee shall promptly cause a search to be made of the records of the agency to determine whether the information requested is contained in those records.

"(2)(A) If such information is found, the individual shall, in conformance with the provisions of the Privacy Act of 1974, as amended, immediately transmit such information to the Secretary, except that if disclosure of this information would contravene national policy or security interests of the United States, or the confidentiality of census data, the individual shall immediately so notify the Secretary and shall not transmit the information; or

"(B) if no such information is found, the individual shall immediately so notify the Secretary.

"(3)(A) The reasonable costs incurred by any such agency of the United States in providing any such information to the Secretary shall be reimbursed by the Secretary, and retained by the agency.

"(B) Whenever such information is furnished to a guaranty agency, that agency shall be charged a fee to be used to reimburse the Secretary for the expense of providing such information.

"(c) The Secretary of Labor shall enter into an agreement with the Secretary to provide

prompt access for the Secretary, in accordance with this section, to the wage and unemployment compensation claims information and data maintained by or for the Department of Labor or State employment security agencies

"(d) The Secretary of Health and Human Services shall enter into an agreement with the Secretary to provide prompt access for the Secretary, in accordance with this section, to the information contained in the National Directory of New Hires maintained by or for the Department of Health and Human Services.

"(e) A State may enter into an agreement with the Secretary to provide the information required by this section and receive reasonable reimbursement for the provision of such information.".

DELEGATION OF FUNCTIONS; FLEXIBILITY

SEC. 493. Part G of title IV of the Act is further amended by inserting immediately after section 489 the following new sections:

"DELEGATION OF FUNCTIONS

"SEC. 489A. (a) An eligible institution, lender, or guaranty agency that contracts with another entity to perform any of its functions under this title, or otherwise delegates the performance of such functions to such other entity--

"(1) shall not be relieved of its duty to comply with the requirements of this title;

"(2) shall monitor the activities of such other entity for compliance with such requirements; and

"(3) shall not be indemnified by such other entity against losses due to noncompliance with such requirements on the part of the institution, lender, guaranty agency, or such other entity, as the case may be.

"(b) A lender that holds a loan made under part B in its capacity as a trustee assumes responsibility for complying with all statutory and regulatory requirements imposed on any other holder of a loan made under this part.

"SECRETARIAL FLEXIBILITY IN LIMITED CIRCUMSTANCES

"SEC. 489B. Notwithstanding any other provision of law, the Secretary may waive or modify the application of any statutory or regulatory provision under this title--

"(1) that the Secretary determines necessary to address the unique characteristics of a program or course of distance learning (or other nontraditional method for providing education or training to students), including prescribing new regulatory requirements exclusively for such programs or courses, and to monitor effectively such programs or courses; and

"(2) including the reallocation of program funds or the alteration of application deadlines or information requirements, as the Secretary determines necessary to address the unique circumstances of individuals who have suffered financial harm in an area declared by the President to be the site of a **[natural? major?]** disaster, as well as to issue guidance regarding such adjustments in an expedited manner and without regard to the requirements of section 437 of the General Education Provisions Act.".

ADMINISTRATIVE SUBPOENA AUTHORITY

SEC. 494. Part G of title IV of the Act is further amended by inserting immediately after section 490 the following new section:

"ADMINISTRATIVE SUBPOENAS

SEC. 490A. (a) To assist the Secretary in the conduct of investigations of possible violations of the provisions of this title, the Secretary is authorized to require by subpoena the production of information, documents, reports, answers, records, accounts, papaers, and other documentary evidence pertaining to participation in any program under this. The production of any such records may be required from any place in a State.

"(b) In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in order to enforce a subpoena issued by the Secretary under subsection (a). The court may issue an order requiring such person to comply with such a subpoena.".

Total Pages: ____

LRM ID: MNB87

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

Thursday, December 4, 1997

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

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

OMB CONTACT: Melissa N. Benton
PHONE: (202)395-7887 FAX: (202)395-6148

SUBJECT: **EDUCATION Draft Bill on Higher Education Act Reauthorization--Title IV Miscellaneous Provisions**

DEADLINE: **10 a.m. Tuesday, December 9, 1997**

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

COMMENTS: To follow are amendments the Department of Education would like to share informally with congressional staff next week. (This draft pulls together selected provisions from various parts of Title IV that have previously been circulated.) A section-by-section analysis will be transmitted separately.

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LRM ID: MNB87 **SUBJECT:** EDUCATION Draft Bill on Higher Education Act Reauthorization--Title IV Miscellaneous Provisions

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: Melissa N. Benton Phone: 395-7887 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

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

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

____ Concur

____ No Objection

____ No Comment

____ See proposed edits on pages ________

____ Other: ________________

____ FAX RETURN of ___ pages, attached to this response sheet draft 12/4/97 5:00 p.m.

TITLE IV--STUDENT FINANCIAL ASSISTANCE

PART A--GRANTS TO STUDENTS

SUBPART 1--PELL GRANTS

AMENDMENTS TO PELL GRANTS

SEC. __1. (a) Section 401 of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq., hereinafter referred to as "the Act") is amended--

(1) in subsection (a)(1), by striking out the second sentence therein; and

(2) in subsection (b)(3)--

(A) by amending subparagraph (A)(ii)(II) to read as follows:

"(II) the sum of the student's tuition, fees, and, if the student has dependent care expenses (as defined in section 472(_)) or disability-related expenses (as defined in section 472(_)), an allowance determined by the institution in accordance with each such definition.";

(B) by striking out subparagraph (B);

(C) by striking out the subparagraph designation "(A)";

(D) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively; and

(E) in subparagraph (B) (as redesignated by subparagraph (D)), by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively; and

(3) in subsection (c)--

(A) by amending paragraph (1) to read as follows:

"(1)(A) Except as provided in subparagraph (B), the period during which a student may receive Federal Pell Grants at an institution shall not exceed 150 percent of the period normally required by a full-time student (or the equivalent period, in the case of a part-time student) to complete the course of study in which the student is enrolled, as determined by the instititution.

"(B)(i) Except as provided in clause (ii), in no case may a student receive Federal Pell Grants for more than eight academic years of full-time study (or the equivalent period of part-time study) in the aggregate.

"(ii) A student may receive grants for more than eight academic years of full-time study (or the equivalent period of part-time study) in the aggregate to the extent the institution in which the student is enrolled determines necessary to accommodate the rights of students with disabilities under section 504 of the Rehabilitation Act of 1973."; and

(B) in paragraph (2)--

(i) by inserting immediately after the paragraph designation the subparagraph designation "(A)";

(ii) in the first sentence therein--

(I) by striking out "Nothing" and inserting in lieu thereof "Except as provided in subparagraph (B), nothing"; and

(II) by striking out "certificate" and all that follows through the end thereof and inserting in lieu thereof "certificate.";

(iii) by striking out the second sentence therein, and

(iv) by adding at the end thereof the following new subparagraph:

"(B)(i) A student may receive a Federal Pell Grant to attend English language instruction that is a separate course of study only if--

"(I) students enrolled in such a course are required to take an independently administered standardized test of English language proficiency upon completion of the course; and

"(II) not less than a minimum percentage of such students achieve a passing score on that test.

"(ii) The Secretary shall specify in regulation one or more standardized tests of English language proficiency, the minimum percentage of students who must achieve a passing score, and such other requirements as the Secretary determines are necessary to implement clause (i).".

SUBPART 2--FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAM

SELECTION OF RECIPIENTS AND USE OF FUNDS

SEC. __2. Section 413C of the Act is amended --

(1) by amending subsection (c)(2) to read as follows:

"(2) In carrying out paragraph (1), each institution of higher education shall award supplemental grants under this subpart based on each student's individual circumstances, except that the institution shall first consider the needs of students who receive Pell Grants."; and

(2) by amending subsection (d) to read as follows:

"(d) USE OF FUNDS FOR ALL STUDENTS.--Awards made under this subpart shall be made reasonably available (to the extent of available funds) to all eligible students in the institution in need thereof.".

ALLOCATION OF FUNDS

SEC. __3. Section 413D of the Act is amended--

(1) in subsection (d)(3), by inserting at the end thereof the following new subparagraph:

"(E) The Secretary may use the actual expected family contribution (computed in accordance with part F) for an institution's eligible undergraduate students in lieu of the calculation in paragraph (2)."; and

(2) by amending subsection (e) to read as follows:

"(e) REALLOCATION OF EXCESS ALLOCATIONS.--If an institution returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year, the Secretary shall reallocate such excess in accordance with section 442(e).".

FLEXIBLE USE OF FUNDS

SEC. __4. Subpart 3 of part A of title IV of the Act is amended by adding at the end thereof the following new section:

"FLEXIBLE USE OF FUNDS

"SEC. 413E. (a) CARRY-OVER AUTHORITY.--(1) Of the sums granted to an eligible institution under this subpart for any fiscal year, 10 percent may, at the discretion of the institution, remain available for expenditure during the succeeding fiscal year to carry out the program under this subpart.

"(2) Any of the sums so granted to an institution for a fiscal year that are not needed by the institution to award supplemental grants during that fiscal year, and that the institution does not wish to use during the next fiscal year as authorized in paragraph (1), shall remain available to the Secretary for reallocation under section 413D(e) until the close of the second fiscal year next succeeding the fiscal year for which such funds were appropriated.

"(b) CARRY-BACK AUTHORITY.--Up to 10 percent of the allocation that an institution may receive from funds appropriated for a fiscal year may be used by the institution for expenditure during the fiscal year preceding the fiscal year for which the sums were appropriated.".

PART B--FEDERAL FAMILY EDUCATION LOANS

REPEAL OF STATE SHARE OF DEFAULT COSTS

SEC. __5. Section 428 of the Act is amended by striking out subsection (n).

PLUS LOAN DATA VERIFICATION

SEC. __6. Section 428B of the Act is amended by adding after subsection (e) the following new subsection:

"(f) VERIFICATION OF IMMIGRATION STATUS AND SOCIAL SECURITY NUMBER.--Notwithstanding any other provision of law, a parent who borrows funds under this section shall be subject to verification of his or her--

"(1) immigration status in accordance with the requirements of section 484(g);

and

"(2) social security number in accordance with the requirements of section 484(n).".

PAYMENT OF INTEREST FOR COMMUNITY SERVICE

SEC. __7. Section 428H(e) of the Act is amended--

(1) in paragraph (3), by striking out "No" and inserting in lieu thereof "Except as provided in paragraph (8), no"; and

(2) by adding at the end thereof the following new paragraph:

"(8) PAYMENT OF INTEREST FOR COMMUNITY SERVICE.--(A) In order to promote community service that addresses an unmet human, educational, environmental, or public safety need and primarily benefits the community at large (and not the membership of a particular organization, such as a labor, fraternal, or religious organization), the interest on a loan made under this section that accrues while the borrower is receiving a deferment under section 428(b)(1)(m)(iii) for such loan while performing such community service, shall be paid by the Secretary.

"(B) To be eligible for the payment of interest under subparagraph (A), the borrower shall serve in a community service position for--

"(i) a State, or a subdivision thereof;

"(ii) a local government;

"(iii) an Indian tribe;

"(iv) a public or private nonprofit organization; or

"(v) a Federal agency.".

PART C--FEDERAL WORK STUDY PROGRAM

ALLOCATION OF FUNDS

SEC. __8. Section 442(d)(4) of the Act is amended by inserting at the end thereof the following new subparagraph:

"(E) The Secretary may use the actual expected family contribution (computed in accordance with part F) for an institution's eligible undergraduate, and graduate and professional students, in lieu of the calculation in paragraph (2) and (3), respectively.".

USE OF FUNDS

SEC. __9. Section 443 of the Act is amended--

(1) in subsection (b)(3) by striking out "assisted," through the end thereof and inserting in lieu thereof "assisted;"; and

(2) in subsection (c)(2) by striking out "25 percent" and inserting in lieu thereof "50 percent".

PART D -- DIRECT LOANS

NO ACCRUAL OF INTEREST FOR COMMUNITY SERVICE

SEC. _10. Section 455(f) of the Act is amended--

(1) in paragraph (1)(B), by striking out "Unsubsidized Stafford Loan," and inserting in lieu thereof the following: "Unsubsidized Stafford Loan (except as provided in paragraph (5)),"; and

(2) by adding at the end thereof the following new paragraph:

"(5) NO ACCRUAL OF INTEREST FOR COMMUNITY SERVICE.--(A) In order to promote community service that addresses an unmet human, educational, environmental, or public safety need and primarily benefits the community at large (and not the membership of a particular organization, such as a labor, fraternal, or religious organization), no interest shall accrue on a loan made under this section while the borrower is receiving a deferment under paragraph (2)(C) for such loan while performing such community service.

"(B) To be eligible for no accrual of interest under subparagraph (A), the borrower shall serve in a community service position for--

"(i) a State, or a subdivision thereof;

"(ii) a local government;

"(iii) an Indian tribe;

"(iv) a public or private nonprofit organization; or

"(v) a Federal agency.".

PART E--FEDERAL PERKINS LOAN PROGRAM

ALLOCATION OF FUNDS

SEC. _11. Section 462 of the Act is amended--

(1) in subsection (d)(4), by inserting at the end thereof the following new subparagraph:

"(E) The Secretary may use the actual expected family contribution (computed in accordance with part F) for an institution's eligible undergraduate students, and eligible graduate and professional students, in lieu of the calculations in paragraphs (2) and (3), respectively."; and

(2) by amending subsection (j) to read as follows:

"(j) REALLOCATION OF EXCESS ALLOCATIONS.--If an institution returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year, the Secretary shall reallocate such excess in accordance with section 442(e).".

AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION

SEC. _12. Section 463(a)(2)(B) of the Act is amended to read as follows:

"(B) a capital contribution by an institution, in an amount not less than three-seventeenths of such Federal capital contribution in fiscal year 1993, and one-third of such Federal capital contribution in each of the succeeding fiscal years, of the amount of the Federal capital contributions described in subparagraph (A);";

TERMS OF LOANS

SEC. _13. Section 464(a)(2) of the Act is amended to read as follows:

"(2)(A) Except as provided in paragraph (4), the total of loans made to a student in any academic year or its equivalent by an institution of higher education from a loan fund established pursuant to an agreement under this part shall not exceed--

"(i) $4,000, in the case of a student who has not successfully completed a program of undergraduate education; or

"(ii) $6,000, in the case of a graduate or professional student (as defined in regulations issued by the Secretary).

"(B) Except as provided in paragraph (4), the aggregate of the loans for all years made to a student by institutions of higher education from loan funds established pursuant to agreements under this part may not exceed--

"(i) $15,000, in the case of any student who has not successfully completed a program of undergraduate education prior to the effective date of the **[insert name of Act]**; or

"(ii) $30,000, in the case of any graduate or professional student (as defined by regulations issued by the Secretary) and including any loans from such funds made to such student before the student became a graduate or professional student.";

DISTRIBUTION OF ASSETS

SEC. _14. Section 466 of the Act is amended--

(1) in subsection (a)--

(A) in the matter preceding paragraph (1), by striking out "After September 30, 1996," through "March 31, 1997," and inserting in lieu thereof "Upon the expiration of the authorization for the program under this part,"; and

(B) in paragraph (1), by striking out "at the close of September 30, 1996," and inserting in lieu thereof "upon the expiration of the authorization for the program under this part,";

(2) in subsection (b)--

(A) by striking out "After March 31, 2005," and inserting in lieu thereof "Upon the expiration of the authorization for the program under this part,"; and

(B) by striking out "September 30, 1996," and inserting in lieu thereof "the expiration of such program authorization,"; and

(3) in subsection (c), by striking out "prior to October 1, 1997,".

PART F--NEED ANALYSIS

FINANCIAL AID ADMINISTRATOR DISCRETION

SEC. _15. (a) Section 479A(a) of the Act is amended to read as follows:

"(a) IN GENERAL.--Except as otherwise provided in this section, nothing in this part shall be interpreted as limiting the authority of the financial aid administrator, on the basis of adequate documentation, to make adjustments on a case-by-case basis to the cost of attendance or the values of the data items required to calculate the expected student or parent contribution (or both), or, in extraordinary circumstances, the amount of the expected family contribution, to allow for treatment of an individual eligible applicant with special circumstances.

"(2) Notwithstanding paragraph (1), a financial aid administrator may not make the adjustments described in such paragraph in the absence of special or extraordinary circumstances.

"(3) For purposes of this section--

"(A) 'special circumstances' shall be defined as conditions that differentiate an individual student from a class of students rather than conditions that exist across a class of students; and

"(B) 'extraordinary circumstances' shall, notwithstanding section 478(a), be defined by the Secretary in regulation.

"(4) Notwithstanding section 478(a), the Secretary may prescribe such regulations as the Secretary determines necessary to reduce the potential for abuse of this section.

"(5) Nothing in this title shall be interpreted as limiting the authority of the financial aid administrator, in documenting the need for adjustments under this section, to request and use supplementary information about the financial status or personal circumstances of eligible applicants in selecting recipients and determining the amount of awards under this title. No student or parent shall be charged a fee for collecting, processing, or delivering such supplementary information.".

(b) Section 480(d)(7) of the Act is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and "subject to such measures as the Secretary may take, including the issuance of regulations (notwithstanding section 478(a)), as the Secretary determines necessary to protect against the misuse of this paragraph.".

PART G--GENERAL PROVISIONS

DEFINITION

SEC. _16. Section 481(3) of the Act is amended by adding at the end thereof the following new paragraph:

"(3)(A) In order for a program of one academic year or less that is offered by a proprietary institution of higher education (as defined in subsection (b)) and provides training to prepare students for gainful employment in a recognized occupation to be an eligible program for purposes of this title, that program shall also--

"(i)(I) have a verified completion rate of at least 70 percent, as determined in accordance with the regulations of the Secretary;

"(II) have a verified placement rate of at least 70 percent, as determined in accordance with the regulations of the Secretary; and

"(III) satisfy such further criteria as the Secretary may prescribe by regulation;

"(ii) have, for students that enrolled in the program, a verified placement rate of at least 70 percent in the recognized occupation for which its students are trained, or in a related, comparable, recognized occupation, as determined in accordance with the regulations of the Secretary; or

"(iii) if the Workforce Investment Partnership Act of 1997 is enacted, meet or exceed the expected levels of performance on the performance measures in the

State plan under that Act of the State in which the institution is located, to the extent that the Secretary determines such measures are relevant to the purposes of this title;

"(B) The requirements of subparagraph (A) shall be phased in as follows:

"(i) in the case of a program that meets the definition of an eligible program as in effect on the day before the date of enactment of this provision--

"(I) the program shall be deemed to satisfy the requirements of subparagraph (A) through the first complete award year after the date of enactment of this provision;

"(II) after the first complete award year, the program shall be required to satisfy the requirements of subparagraph (A)(i)(I) or (iii) in order to be deemed to satisfy the requirements of subparagraph (A) for the succeeding award year; and

"(III) after the second complete award year, the program shall be required, for each succeeding award year, to satisfy the requirements of subparagraph (A) in order to be considered an eligible program;

and

"(ii) in the case of a program that does not meet the definition of an eligible program as in effect on the day before the date of enactment of this provision--

"(I) the program shall be deemed to satisfy the requirements of subparagraph (A) for the award year in which the program is awarded initial eligibility and the succeeding award year;

"(II) after the period described in subclause (I), the program shall be required to satisfy the requirements of subparagraph (A)(i)(I) or (iii) in order to be deemed to satisfy the requirements of subparagraph (A) for the next succeeding award year; and

"(III) after the period described in subclause (II), the program shall be required, for each succeeding award year, to satisfy the requirements of subparagraph (A) in order to be considered an eligible program.".

MASTER CALENDAR

SEC. _16. Section 482 of the Act is amended--

(1) in subsection (a)--

(A) in the matter preceding paragraph (1), by inserting a comma and "in developing and distributing Federal forms," immediately after "shall"; and

(B) in paragraph (1)--

(i) in subparagraph (D), by striking out "and multiple data entry data elements" and inserting in lieu thereof a comma and "data elements,";

(ii) in subparagraph (F), by striking out "and multiple data entry"; and

(iii) in subparagraph (G), by striking out "and multiple data entry"; and

(2) by amending subsection (c) to read as follows:

"(c) DELAY OF EFFECTIVE DATE OF LATE PUBLICATIONS--(1) Except as provided in paragraph (2), any regulatory changes initiated by the Secretary that affect the calculation of awards and delivery of aid to students under this title and that have not been published in final form by November 1 prior to the start of the award year shall not become effective until the beginning of the second award year after such November 1 date.

"(2)(A) The Secretary may designate any regulatory provision that affects the calculation of awards and delivery of aid to students under this title and is published in final form after November 1 as one that an entity subject to the provision may, in its discretion, choose to implement prior to the effective date described in paragraph (1). The Secretary may specify in the designation when, and under what conditions, an entity may implement the provision prior to that effective date. The Secretary shall publish any designation under this subparagraph in the Federal Register.

"(B) If an entity chooses to implement a regulatory provision prior to the effective date described in paragraph (1), as permitted by subparagraph (A), the provision shall be effective with respect to that entity in accordance with the terms of the Secretary's designation.".

FORMS, PROCESSING AND TECHNOLOGY;
MULTI-YEAR PROMISSORY NOTE

SEC. _17. Section 483 of the Act is amended--

(1) by amending the heading thereof to read as follows: "FORMS, PROCESSING, AND TECHNOLOGY.--";

(2) by amending subsection (a) to read as follows:

"(a) COMMON FORM AND PROCESSING.--(1) SINGLE FORM REQUIRED.--The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall produce, distribute, and process free of charge a common reporting form (which may include an electronic application process) to be used to determine the need (including the expected family contribution and, if appropriate, cost of attendance) and eligibility of a student for financial assistance under parts A, C, D, and E, and to determine the need (including the expected family contribution and cost of attendance) of a student for purposes of part B. The Secretary may require that the common reporting form be used for the purpose of collecting eligibility and other data for purposes of part B. The Secretary may also include on the form developed under this paragraph such data items, selected in consultation with the States to assist the States in awarding State student financial assistance, as the Secretary determines are appropriate for inclusion.

"(2) CHARGES TO STUDENTS AND PARENTS FOR USE OF FORM PROHIBITED.--The common financial reporting form prescribed by the Secretary under paragraph (1) shall be produced, distributed, and processed by the Secretary, and no parent or student shall be charged a fee for the collection, processing, or delivery of financial aid through the use of such form. The need and eligibility of a student for financial assistance under parts A, C, D, and E, and the need (and eligibility, if the Secretary so requires) of a student for purposes of part B, shall be determined only by using the form developed by the Secretary under paragraph (1). No student may receive assistance under parts A, C, D, or E, or have the student's need (and eligibility, if the Secretary so requires) established for purposes of part B, except by use of the form developed by the Secretary under paragraph (1). No data collected on a form for which a fee is charged shall be used to complete the form required under paragraph (1).";

(3) in subsection (c), by striking out "Labor" and inserting in lieu thereof "the

Workforce"; and

(4) by adding at the end thereof the following new subsections:

"( ) MULTI-YEAR PROMISSORY NOTE.--(1) Notwithstanding any other provision of this title, the Secretary shall require, for loans made under this title for periods of enrollment beginning on or after July 1, 2000, the use of a promissory note applicable to more than one academic year, more than one type of loan made under this title, or both, unless the Secretary determines that a later implementation date is required to ensure that the Department has the necessary technology and systems in place to use such promissory note and to avoid any disruption to the student aid delivery process. The Secretary is authorized to take such actions as the Secretary determines are necessary to develop and test such a promissory note, including requiring the use of the promissory note on a limited or pilot basis.

"( ) MODIFICATION TO REFLECT CHANGING TECHNOLOGY AND BUSINESS PRACTICES.--(1) Notwithstanding any other provision of law, the Secretary may, through regulation, waive or modify any statutory requirement under this title regarding the aid application and delivery processes, if the Secretary determines that such waiver or modification would better meet the needs of students and program participants, and allow the Department to employ up-to-date technology and business practices that would improve the Department's administration of the programs under this title. The Secretary shall ensure that any waiver or modification under this paragraph shall be implemented at a time and in a manner that minimizes any possible disruption to the student aid application and delivery processes.

"(2) Prior to exercising the authority in paragraph (1), the Secretary shall consult with representatives of students, institutions of higher education, and other entities involved in the aid application and delivery processes regarding their recommendations concerning what waivers or modifications may be necessary to eliminate impediments to the use of technological and other business process advancements in student aid application and delivery systems.

"( ) PAYMENT FOR DATA.--The Secretary may pay such charges as the Secretary determines are necessary to obtain data that the Secretary considers essential to the efficient administration of the programs under this title.".

REFUNDS

SEC. _18. (a) Section 484B of the Act is amended to read as follows:

"RETURN OF TITLE IV FUNDS

WHEN A STUDENT CEASES ATTENDANCE AT AN INSTITUTION

"SEC. 484B. (a)(1) RETURN OF TITLE IV FUNDS BASED ON DISBURSEMENT SCHEDULE.--If a student (other than a first-time student who withdraws within the first two weeks of the payment period, in accordance with subsection (b)) withdraws from, or otherwise fails to complete, a payment period in which he or she began attendance, any grant or loan assistance under this title, other than the amount of such assistance that is earned by the student (as calculated under paragraph (2)) as of his or her last date of attendance (as defined in subsection (e)), shall be returned in accordance with subsection (c).

"(2) CALCULATION OF AMOUNT OF ASSISTANCE EARNED.--(A) The amount of grant or loan assistance earned by a student for purposes of this section is calculated by--

"(i) determining the percentage of grant and loan assistance under this title that has been earned by the student, as described in subparagraph (B); and

"(ii) applying such percentage to the total amount of such grant and loan assistance that was disbursed (and that could have been disbursed) to the student for the payment period, as of his or her last date of attendance.

"(B) For purposes of subparagraph (A)(i), the percentage of grant or loan assistance under this title that has been earned by the student is--

"(i) equal to the percentage of the payment period completed (as determined in accordance with subsection (f) as of the student's last date of attendance, provided that such date occurs on or before the completion of 60 percent of the payment period; or

"(ii) 100 percent, if the student's last date of attendance occurs after the student has completed more than 60 percent of the payment period.

"(3) DIFFERENCES BETWEEN AMOUNTS EARNED AND AMOUNTS RECEIVED.--(A) If the student has received less grant or loan assistance than the percentage earned, as calculated under paragraph (2)(B), the difference shall be disbursed to the student according to the procedures for late disbursement specified by the Secretary in regulations.

"(B) If the student has received more grant or loan assistance than the percentage earned, as calculated under paragraph (2)(B), the excess funds shall be returned by the institution or the student, or both, as may be required under subsections (c)(1) and (2), to the programs under this title in the order specified in subsection (c)(3).

"(b) FIRST-TIME STUDENTS.--(1) Notwithstanding subsection (a), and any refund policy of the institution, or applicable to the institution, in the case of a first-time student as defined in paragraph (2), who withdraws or otherwise ceases to attend on or after his or her first day of class within the first two weeks of the payment period--

"(A) the institution shall cancel all institutional charges to the student, except that the institution may assess--

"(i) an administrative fee of not more than $100, and

"(ii) charges for meals consumed by the student prior to his or her last date of attendance; and

"(B) the institution and the student shall return all funds received for institutional charges or other educational expenses for the payment period to the sources of such funds, other than--

"(i) funds attributable to the charges described in paragraph (1)(A); and

"(ii) an amount that the student shall retain that is equal to the lesser of--

"(I) $100; or

"(ii) the amount of assistance provided to the student under this title for that payment period that exceeds the institutional charges assessed the student for that payment period.

"(2) As used in this section, the term 'first-time student'--

"(A) means a student who--

"(i) has not previously attended at least one class at the institution; or "(ii) received a refund of 100 percent of his or her institutional charges (minus any permitted administrative fee and charges for meals consumed) for previous attendance at the institution; and

"(B) continues to apply to such student until the student--

"(i) withdraws or otherwise ceases attendance at the institution after attending at least one class; or

"(ii) completes the payment period.

"(c) RETURN OF PROGRAM FUNDS.--(1) RESPONSIBILITY OF THE INSTITUTION.--(A) The institution shall return excess funds (described in subsection (a)(3)(B)) in the order specified in paragraph (3), up to the amount of institutional charges assessed the student.

"(B) If the institution's refund policy provides for the institution to return an amount greater than the amount calculated under subsection (a), the institution shall return such excess amount to the student.

"(2) RESPONSIBILITY OF THE STUDENT.--Any excess funds (described in subsection (a)(3)(B)) remaining after the institution has returned the amount required under paragraph (1)(A) shall be the responsibility of the student to return in the order specified in paragraph (3), except that any such funds shall be returned or repaid, as the case may be, by the student to--

"(A) a loan program under part B, D, or E, in accordance with the terms of the loan; and

"(B) a grant program under this title, as an overpayment of such grant and shall be subject to overpayment collection procedures prescribed by the Secretary.

"(3) ORDER OF RETURN OF TITLE IV FUNDS.--Excess funds returned by the institution or the student, as the case may be, in accordance with paragraph (1) or (2), respectively, shall be credited in the following order:

"(A) to outstanding balances on loans made under section 428H for the payment period for which a return of funds is required;

"(B) to outstanding balances on loans made under section 428 for the payment period for which a return of funds is required;

"(C) to outstanding balances on loans made under section 428B for the payment period which a return of funds is required;

"(D) to outstanding balances on unsubsidized loans (other than parent loans) made under part D for the payment period for which a return of funds is required;

"(E) to outstanding balances on subsidized loans made under part D for the payment period for which a return of funds is required;

"(F) to outstanding balances on parent loans made under part D for the payment period for which a return of funds is required;

"(G) to outstanding balances on loans made under part E for the payment period for which a return of funds is required;

"(H) to awards under subpart 3 of part A for the payment period for which a return of funds is required;

"(I) to awards under subpart 1 of part A for the payment period for which a return of funds is required for the payment period for which a return of funds is required; and

"(J) to other assistance provided under this title for the payment period for which a return of funds is required.

"(d) LAST DATE OF ATTENDANCE.--(1) As used in this section, the term 'last date of attendance means the date that the student last attended the institution for academic purposes, or participated in an academically related activity, as defined by the Secretary.

"(2) In order to determine the percentage of the payment period completed, and to calculate the percentage of grant or loan assistance under this title that has been earned by the student, a student who withdraws, or otherwise ceases to attend, an institution shall be required to provide written notification of his or her withdrawal, including his or her last date of attendance, to the institution. If the student fails to provide such written notification to the institution, the student shall not earn any grant or loan assistance for purposes of the calculation under subsection (a), and all such assistance shall be returned by either the institution or the student, or both, as may be required under subsection (c).

"(3) Notwithstanding paragraph (2), a student who did not provide written notification of his or her withdrawal to an institution may earn grant and loan assistance for purposes of the calculation under subsection (a) if the institution documents a last date of attendance for the student, provided that the institution has in place, and adheres to, a written policy for documenting attendance.

"(4) For each payment period, an institution shall identify each student who has withdrawn from the institution without providing written notification of his or her withdrawal, in order to determine if any title IV funds are required to be returned under this section.

"(e) PERCENTAGE OF THE PAYMENT PERIOD COMPLETED.--For purposes of subsection (a)(2)(B), the percentage of the payment period completed is determined--

"(A) in the case of a program that is measured in credit hours, by dividing the total number of days comprising the payment period into the number of days completed in that period as of the student's last date of attendance;

"(B) in the case of a program that is measured in clock hours, by dividing the total number of clock hours comprising the payment period into the number of clock hours completed by the student in that payment period as of the student's last date of attendance; and

"(C) in the case of a program of distance learning, in accordance with regulations prescribed by the Secretary.".

(b) Section 485 of the Act is amended--

(1) by amending subsection (a)(1)(F) to read as follows:

"(F) a statement of--

"(i) the refund policy of the institution for the return of unearned tuition and fees or other refundable portion of cost, as described in subparagraph (E), and any other refund policy with which the institution is required to comply;

"(ii) the requirements for the return of assistance provided under this title when a student does not begin attendance at an institution; and

"(iii) the requirements under section 484B for the return of grant or loan assistance provided under this title when a student withdraws from, or otherwise fails to complete , a payment period in which he or she began attendance at an institution, including a specific statement informing the student of --

"(I) his or her rights, as a first-time student, under section

484B(b), including the cancellation of all institutional charges (other than an administrative fee and certain meal charges) if he or she withdraws or otherwise ceases attendance within the first two weeks of the payment period; and last date of attendance; and

"(II) his or her responsibility to provide a written notification of withdrawal and a last date of attendance to the institution, and the consequences to the student of failing to do so;".

REPEAL OF STATE POSTSECONDARY REVIEW ENTITIES;
CONFORMING CHANGES TO PROGRAM PARTICIPATION AGREEMENTS

SEC. _19. (a) Subpart 1 of part H of title IV of the Act is repealed.

(b) Section 487 of the Act is amended--

(1) in subsection (a)--

(A) in paragraph (3), by amending subparagraph (B) to read as follows:

"(B) the State in which the institution is located;"

(B) in paragraph (15), by striking out "State review entities under subpart 1 of part H" and inserting in lieu thereof "the State in which the institution is located"; and

(C) in paragraph (21), by striking out "the Secretary, State postsecondary review entities, and accrediting agencies pursuant to part H of this title." and inserting in lieu thereof "the Secretary and accrediting agencies, under part A of title I, and the State in which the institution is located."; and

(2) in subsection (c)--

(A) in paragraph (4), by striking out the first comma and "after consultation with each State review entity designated under subpart 1 of part H,"; and

(B) in paragraph (5), by striking out "State review entities designated under subpart 1 of part H," and inserting in lieu thereof "State agencies,".

ALTERNATIVE PROGRAMS FOR MANAGEMENT IMPROVEMENT

SEC. _20. Section 487A of the Act is amended to read as follows:

"ALTERNATIVE PROGRAMS FOR MANAGEMENT IMPROVEMENT

"SEC. 487A. (a) QUALITY ASSURANCE PROGRAM.--(1) The Secretary is authorized to select institutions for voluntary participation in a Quality Assurance Program that provides participating institutions with an alternative management approach through which individual schools develop and implement their own comprehensive management systems to enhance program integrity in the delivery of student financial aid. These systems may include, but are not limited to, processing and disbursement of student financial aid, verification of student financial aid application data, and related student services. The Secretary shall select institutions for participation in the Quality Assurance Program on the basis of criteria that include demonstrated institutional performance and quality assurance goals, as determined by the Secretary.

"(2) The Secretary is authorized to exempt any institution participating in the Quality Assurance Program from any requirements in this title, or in any regulations prescribed under this title, that are addressed by the institution's comprehensive management system and to substitute such quality assurance requirements as the Secretary deems necessary to ensure accountability and compliance with the purposes of the programs under this title.

"(3)(A) The Secretary is authorized to determine when an institution--

"(i) that is unable to administer the Quality Assurance Program must be removed from the program; or

"(ii) desiring to cease participation in the Quality Assurance Program will be required to complete the current award year under the requirements of the program.

"(B) For purposes of subparagraph (A)(ii), "current award year" means the award year during which the participating institution indicates its intention to cease participation.

"(b) EXPERIMENTAL SITES.--(1) The Secretary is authorized to select institutions, lenders, or guaranty agencies for voluntary participation as experimental sites to evaluate results and to provide recommendations to the Secretary on the impact and effectiveness of proposed regulations or new management initiatives.

"(2) The Secretary is authorized to exempt any institution, lender, or guaranty agency participating as an experimental site from any requirements in this title, or in any regulations prescribed under this title, that would bias results.".

PERFORMANCE-BASED OVERSIGHT

SEC. _21. (a) Section 487B of the Act is redesignated as section 487C.

(b) Part G of title IV of the Act is further amended by inserting immediately after section 487A the following new section:

"PERFORMANCE-BASED OVERSIGHT

"SEC. 487B. (a) The Secretary is authorized to implement by regulation a system of oversight of the student financial aid programs authorized by this title that is based on the performance of institutions in administering those programs and the financial strength of those institutions.

"(b) As a part of the system of oversight described in subsection (a), the Secretary may waive or modify any requirement in this title, or in regulations prescribed under this title, that relates to an institution's administration of student financial aid programs. The Secretary may provide such a waiver or modification only if the Secretary determines, on the basis of the institution's performance in administering those programs and its financial strength, that the waiver or modification would pose no substantial threat to program integrity.".