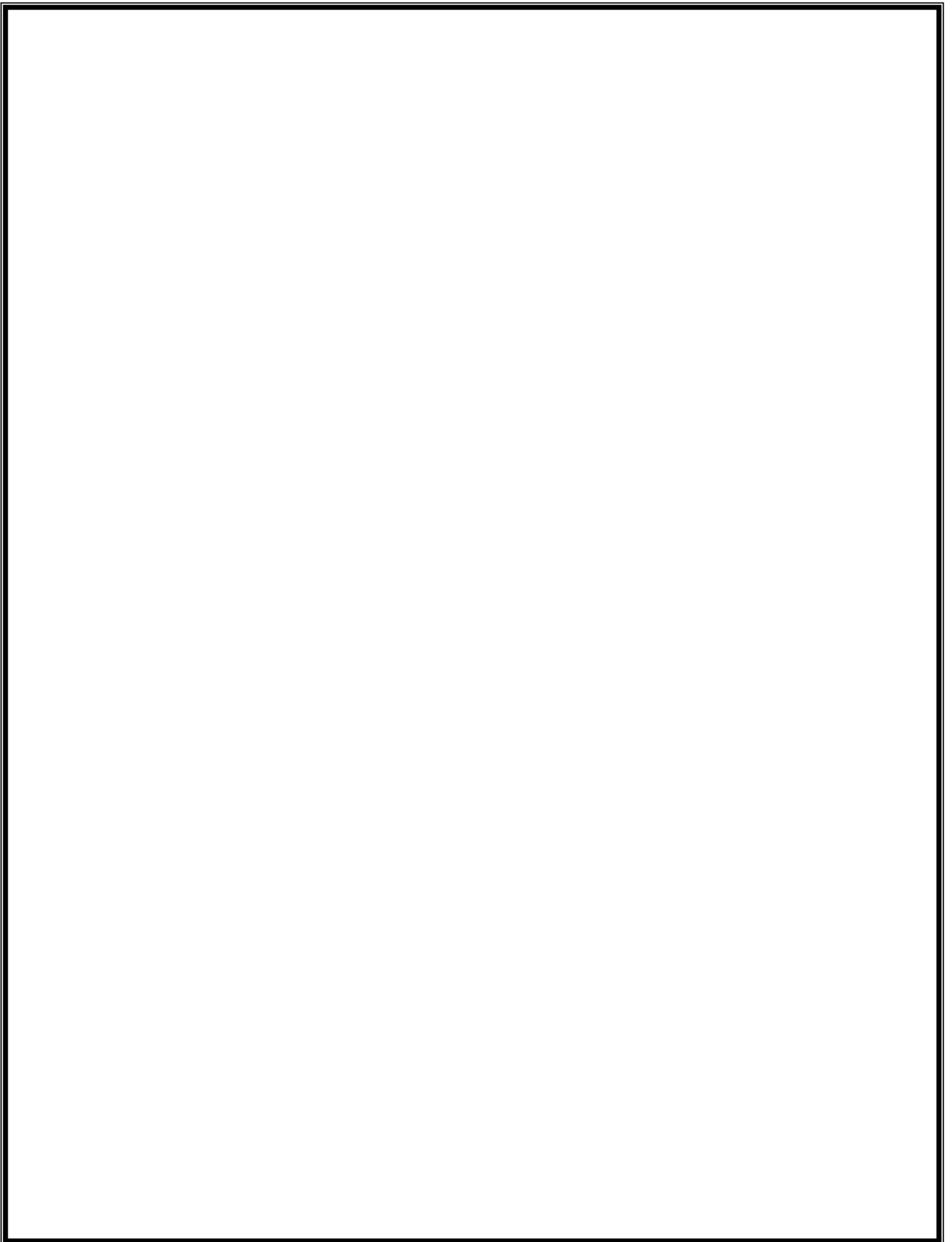


FEDERAL POTPOURRI

PRESENTED AT

NASASPS 34th ANNUAL CONFERENCE

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Sharon H. Bob, Ph.D., Higher Education Specialist on Policy and Regulation, is a member of the Education Group at the Washington, D.C. law firm of Powers Pyles Sutter & Verville, P.C. Dr. Bob advises all sectors of higher education regarding strategic issues pertaining to their participation in the federal student financial assistance programs, accreditation, licensure, education tax benefits and related regulatory matters.

Dr. Bob advises public and private colleges and universities, as well as private and publicly-traded companies. In this role, she provides clients with detailed technical guidance related to compliance with applicable statute and regulations. She regularly assists postsecondary educational institutions on issues relating to institutional eligibility, program eligibility, student eligibility, financial responsibility and administrative capability standards, changes of ownership, adding locations and programs, program reviews and compliance audits, and institutional responsibilities for the education tax benefits. Through training seminars and on-site review, she assists clients in complying with the federal requirements for administering federal student financial assistance. Dr. Bob has authored numerous articles on federal financial aid issues of the The Greentree Gazette, NASFAA's Journal of Student Financial Aid, NASFAA's Student Aid Transcript, the Career College Link, and other higher education publications and frequently speaks at meetings of college officials and student aid administrators.

Dr. Bob received her undergraduate degree summa cum laude from the State University of New York at Buffalo and was elected to Phi Beta Kappa. She received her doctorate from the University of Maryland.

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WHERE ARE WE WITH THE REAUTHORIZATION OF THE HEA?

President Signs into Law Another HEA Extension

On April 1, 2006, President Bush signed into law H.R. 4911, the *Higher Education Extension Act of 2006*. H.R. 4911 extends the *Higher Education Act (HEA)*, from the March 31, 2006 date set by P.L. 109-81 to June 30, 2006, and would not limit or otherwise alter the authorizations of appropriations for, or the durations of, programs contained in the Higher Education Reconciliation of 2005 (P.L. 109-171). The Senate passed the bill on March 28, 2006, and the House passed the bill on March 14, 2006.

President Bush Signs the *Higher Education Reconciliation Act of 2005* into Law

On February 8, 2006, President Bush signed S. 1932, the *Higher Education Reconciliation Act of 2005*, into law (P.L. 109-171). Prior to signing the bill, President Bush said, "The *Deficit Reduction Act* makes important improvements to federal student loan programs. The bill cuts excess government subsidies to lenders and makes other reforms that will help us reduce overall student loan costs by about a \$22 billion. With that money, we will save taxpayers \$12 billion-because we intend to increase student aid by 10 additional billion dollars. What I'm telling you is, the students are getting the money, and we're making the program a lot more efficient for the taxpayers."

To view the full statement of the President, go to: <http://www.whitehouse.gov/news/releases/2006-02/20060208-8.html>

ED Plans to Publish Interim Final Regulations Implementing the *Higher Education Reconciliation Act of 2005*

The Department of Education is planning to issue interim final regulations implementing the *Higher Education Reconciliation Act of 2005*. Because of the July 1, 2006 implementation date for many of the provisions, the Department's Office of General Council believes that it would not be in the public interest to hold negotiated rulemaking or issue notices of proposed rulemaking. Following the reauthorization of the *Higher Education Act*, there will likely be negotiated rulemaking.

The Department of Education issued a Dear Colleague letter of March 2006 (GEN-06-02), which describes the changes and the effective dates made to the loan programs as a result of the *Higher Education Reconciliation Act of 2005 (HERA)*. The Department plans to issue another Dear Colleague letter shortly that summarizes the changes made as a result of the HERA which would not be limited to the loan programs.

Mixed Reactions to Passage of the *Higher Education Reconciliation Act of 2005*

The House of Representatives approved by the narrowest of margins (216-214), S. 1932, the *Deficit Reduction Act of 2005*. With cost estimates recently adjusted by the Congressional Budget Office (CBO), the five-year, \$39.6 billion budget reconciliation package includes \$11.9 billion in student loan cuts.

Republicans were reported to say that S. 1932 is a necessary step to rein in the burgeoning growth of the so-called mandatory spending programs, like Medicare and Medicaid. In response to the

bill's approval, House Education and the Workforce Committee Chairman John Boehner (R-OH) issued the following statement:

"The *Deficit Reduction Act* represents an important first step in addressing the federal government's fiscal troubles. Our ability to generate new job opportunities, provide for a strong defense, and meet unforeseen fiscal challenges will be severely compromised if we don't address the fundamental problem of runaway entitlement spending."

Senator Mike Enzi (R-WY), Chairman of the Senate Committee on Health, Education, Labor and Pensions (HELP), issued a statement applauding the final approval of S. 1932, a "bill that will give low-income college students eligibility for billions of dollars in new federal grants."

A total of 13 Republicans voted against the party-line in opposition to the bill. No Democrats voted in favor of the bill.

In a Democratic response, House Education and the Workforce Ranking Member George Miller (D-CA) said that "Congress has just enacted the largest raid on student aid in history in order to give more money to the wealthy, even while millions of American families are struggling to afford the rising cost of college."

Congressional Democrats are now questioning the legality of the *Deficit Reduction Act of 2005*, following the release of data by the Congressional Budget Office (CBO) indicating a \$2 billion discrepancy between the version passed on February 1, 2006 and the bill signed by the President on February 8, 2006. The provision in question changed the number of months that Medicare would cover costs of "durable medical equipment" rentals, according to *Congress Daily* on February 15, 2006. The first lawsuit was filed on February 13, 2006 in federal court in Mobile, AL by a Republican activist and attorney for Bush's 2004 campaign Florida legal team. On March 15, 2006, another suit was filed in federal court in the District of Columbia by Public Citizen, an advocacy group headed by Ralph Nader, challenging the enactment of the *Deficit Reduction Act*.

The Senate has since passed a resolution to amend the problem that would require unanimous consent by the House to be enacted. Many House Democrats would like to see a re-vote on S. 1932.

HIGHER EDUCATION PROVISIONS INCLUDED IN *THE HIGHER EDUCATION RECONCILIATION ACT OF 2005* (P.L. 109-171)

The following is a summary of the Title VIII - Education and Pension Benefit Provisions from the *Higher Education Reconciliation Act of 2005*. The provisions go into effect July 1, 2006, unless otherwise stated.

Title VIII - Education and Pension Benefit Provisions

Section 102(a)(3) Modifies the 50 Percent Rule as follows:

- Cannot offer more than 50 percent of courses by correspondence (excludes the current limitation on courses offered by telecommunications as defined in section 484(l)(4)); and

- Cannot offer correspondence courses to 50 percent or more of students (excludes the current limitation on courses offered by telecommunications).

Section 401A Academic Competitiveness Grants:

- Authorizes "Academic Competitiveness Grants" of \$750 and \$1,300 to first- and second-year undergraduate students, respectively, and "National Science and Mathematics Access to Retain Talent (SMART) Grants" of \$4,000 for third- and fourth-year undergraduate students.
- Creates an Academic Competitiveness Council.
- To be eligible, a student must be a citizen of the U.S., be eligible for a Pell Grant, and meet academic requirements. First- and second-year students must have completed a rigorous secondary school program of study recognized by the Secretary; second-year students must have earned a 3.0 GPA in their first year. Third- and fourth-year students must be pursuing a major in one of several areas related to computer science, mathematics, technology, engineering, or a critical foreign language and have earned a 3.0 GPA in the coursework required for their major.

Section 425 Loan Limits:

- First-year Stafford loan limit increases from \$2,625 to \$3,500.
- Second-year Stafford loan limit increases from \$3,500 to \$4,500.
- Unsubsidized Stafford loan limit for graduate and professional students increases from \$10,000 to \$12,000.
- Increases annual loan limit for coursework necessary to enroll in a graduate program or too obtain a professional credential as an elementary or secondary school teacher from \$5,000 to \$7,000.
- Undergraduate and graduate aggregate loan limits are unchanged.

Effective for loans certified or originated on or after July 1, 2007.

Section 428B PLUS Loans:

- Authorizes PLUS loans to graduate and professional students.

Effective for loans certified or originated on or after 7/1/2006.

Sections 427A (PLUS Loans), Section 427A(k) (Stafford Loans), Section 428C(c) (Consolidation Loans) Interest Rates:

- Increases the PLUS loan fixed interest rate from 7.9 percent to 8.5 percent.
- Maintains the scheduled July 1, 2006 change to a fixed interest rate of 6.8 percent for Stafford loans.
- Maintains current fixed interest rate for Consolidation loans (weighted average of the interest rates of the loans being consolidated).

Effective for loans first disbursed on or after 7/1/2006.

Section 428(b)(1)(M) Military Deferment:

- Provides for up to three years for a military deferment for FFELP, Direct Loan, and Perkins.

Effective 7/1/2006 for loans first disbursed on or after July 1, 2001.

Section 428(b)(1)(N) Disbursement:

- Specifies that for a student studying in a program of study abroad that is approved for credit by the home institution, and only after verification of enrollment by the lender/guaranty agency, at the request of the student, the funds can be disbursed directly to the student, unless the student requests that the check be endorsed or a funds transfer be authorized to an authorized power-of-attorney; or
- For a student studying outside the U.S. at an eligible foreign institution, at the request of the foreign institution, funds can be disbursed directly to the student, only after verification of the student's enrollment by the lender/guaranty agency.

Effective for loans first disbursed on or after 7/1/2006.

Section 455(d)(1) Repayment Plans – Direct Loans:

- Aligns standard, graduated, and extended payment plans of Direct Loans to that in FFELP as provided for in the initial House bill.

Effective for consolidation loan applications received on or after 7/1/2006.

Section 438(c) and Section 455(c) Origination Fees:

<u>FFELP Fee</u>	<u>Loans disbursed on or after and before</u>
2.0 percent	7/1/2006 to 7/1/2007
1.5 percent	7/1/2007 to 7/1/2008
1.0 percent	7/1/2008 to 7/1/2009
.5 percent	7/1/2009 to 7/1/2010
0 percent	on or after 7/1/2010

1.0 percent insurance fee on or after 7/1/2010

<u>Direct Loan Fee</u>	<u>Loans disbursed on or after and before</u>
3 percent	before 7/1/2007
2.5 percent	7/1/2007 to 7/1/2008
2.0 percent	7/1/2008 to 7/1/2009
1.5 percent	7/1/2009 to 7/1/2010
1.0 percent	on or after 7/1/2010

Section 428C Consolidation Loan Changes:

- A FFELP borrower may receive a Consolidation Loan under the Direct Loan Program only if the FFELP lender denies the borrower's application for a Consolidation Loan or denies the borrower's application for a Consolidation Loan with income sensitive repayment terms. Additionally, the Secretary is directed to consolidate loans of defaulted borrowers.
- Eliminates reconsolidation in both the FFELP and Direct Loan Program except that a FFELP borrower whose delinquent loan has been submitted to a guaranty agency for default aversion is eligible for a Direct Loan Consolidation Loan for the purpose of obtaining an income contingent repayment plan.
- Provides that, unless otherwise specifically provided, the terms of the Direct Loan Consolidation Loans must be the same as FFELP Consolidation Loans.
- Eliminates in-school consolidation.
- Eliminates spousal consolidation.
- Retains the single holder rule.

Effective for consolidation loan applications received on or after 7/1/2006.

Section 428G Requirements for Disbursements of Student Loans:

- Two institutional extenders, i.e., allowing for a single disbursement for a one semester loan, one quarter loan, one trimester loan or 4 month loan and waiving the 30-day delay in disbursement for first-year students, are reinstated if the institution's cohort default rate is less than 10 percent in the most recent fiscal year.

Effective for any disbursement made on or after 2/8/2006.

Section 435(d)(2) School as Lender:

- Lending permitted only to graduate/or professional students.
- Lends only Subsidized and Unsubsidized FFELP (Sections 428 and 428H).
- Student must be enrolled at the institution.
- School must award any financing, servicing or administration of Title IV, HEA loans on a competitive basis.
- School must offer loans with an origination fee or interest rate below Title IV levels.
- School must not have a cohort default rate of more than 10 percent.
- School must provide for a compliance audit for any year it serves as lender and has met the current school-as-lender requirements.
- Provides that all proceeds above administrative expenses, including the proceeds from sales of loans, must be directed to need-based aid and shall supplement and not supplant non-Federal funds that would otherwise be used for need-based grants.

Effective for schools meeting school lender eligibility as of 2/7/2006 and if the school made FFEL loans as a lender on or before 4/1/2006.

Section 437 Repayment by the Secretary of Loans:

- Loans falsely certified via identity theft are included in the loan discharge section of the HEA.

Effective on 7/1/2006.

Section 438(b) Extension of Limitations on Special Allowance for Loans from the Proceeds of Tax Exempt Issues:

- Provides for capture by the government of interest in excess of the special allowance rate for loans disbursed beginning April 1, 2006.
- Makes permanent the Taxpayer-Teacher Protection Act provisions that pertain to elimination of the 9.5 percent floor.
- Delays until December 31, 2010, the effective date of the recycling prohibition for governmental or nonprofit entities not owned or controlled by a for-profit entity that receive the 9.5 percent special allowance on less than \$100 million of loans in the most recent quarterly payment prior to September 30, 2005.
- SAP gap is corrected for PLUS Loans.

Effective on 2/8/2006.

Section 428(b) Lender Insurance:

- Lender insurance will be reduced from 98 percent to 97 percent for loans made on or after July 1, 2006.
- 100 percent insurance is retained on exempt claims.

Effective for any disbursement of principal made on or after 7/1/2006.

Section 428(b) Federal Default Fees:

- For loans with first disbursement on or after July 1, 2006, insurance premium (default fee) to be collected and deposited into the Federal Student Loan Reserve Fund by deduction proportionately from each installment of the proceeds or paid for by other non-federal resources.
- For unsubsidized loans, effective for loans with the first disbursement on or after July 1, 2006, in lieu of the insurance premium, each state or nonprofit private institution or organization with an agreement with the Secretary shall collect and deposit into the Federal Student Loan Reserve Fund a federal default fee in the amount of 1 percent by deduction from the proceeds or by other non-federal resources.
- Eliminates the authority to waive the federal default fee in Voluntary Flexible Agreements.

Effective for loans with first disbursement on or after 7/1/2006.

Section 428(c) Forbearance:

- Deletes the "in-writing" requirement for forbearance requests. The provision does require borrowers to be provided with a confirmation of the request and the agreed upon terms retained in the borrower record.

Effective for agreements entered into or renegotiated with a borrower on or after 7/1/2006.

Section 428(c) Guaranty Agency Retention:

- Contains the House and Senate provisions regarding consolidation of defaulted loans that allows the guaranty agencies to retain 18.5 percent on rehabilitated loans but requires remittance to the Secretary of 8.5 percent for defaulted consolidation loans made on or after October 1, 2006.
- Guaranty agencies must remit the entire 18.5 percent for loans made on or after October 1, 2009, for "excess consolidation proceeds" (those exceeding 45 percent of total collections).
- Guaranty agency must bill the Secretary for reimbursement within 30 days of discharging its insurance obligation on the loan.

Section 428F Default Prevention Program:

- Reduces the number of payments needed to rehabilitate a loan from "consecutive payments for 12 months" to "9 payments made within 20 days of the due date during 10 consecutive months."

Effective for all loan rehabilitation agreements beginning on or after 7/1/2006.

Section 428I Exceptional Performance Insurance Rate:

- Provides that lenders and servicers designated as exceptional performers receive 99 percent insurance rather than 100 percent.

Effective on any default claim submitted by exceptional performer on or after 7/1/2006.

Section 458 Funds for Administrative Expenses:

- For FY 2006, preserves mandatory appropriations for administering the loan programs and for paying guaranty agencies account maintenance fees (AMF).
- Beginning FY 2007, provides that administrative funds other than the AMF are subject to the annual appropriations process.
- AMF payments for FY 2007-FY 2011 continue to be mandatory.
- Eliminates the cap on AMF funds and sets the AMF payment at an amount "not to exceed the basis of 0.10 percent of the original principal amount of outstanding loans."

Section 472 Cost of Attendance:

- Modifies room and board costs provision by stating that a student may receive an allowance for such costs for not more than 3 semesters or equivalent, of which not more than 2 semesters or equivalent may be consecutive.
- At the option of the institution, the institution may add the one time cost of obtaining the first professional credential for a student in a program requiring professional licensure or certification.

Sections 475, 476, 478 Expected Family Contribution:

- Dependent student income protection allowance increased from \$2,200 to \$3,000 for determinations of need for periods of enrollment on or after July 1, 2007.
- Independent student income protection allowance increased for various categories of student for periods of enrollment on or after July 1, 2007.
- The dependent student contribution from assets is decreased from 35 percent to 20 percent.
- For the 2007-2008 academic year, the Secretary is to revise the Income Protection Tables except that the amounts shall be increased by a percentage equal to the greater of the estimated percentage increase in the CPI or 5 percent.

Section 479 Simplified Need Test and Automatic Zero Improvements:

- Amends eligibility to allow more families to be eligible for the simplified need test and be eligible for "automatic zero." "Automatic zero" will be given to families or students who receive benefits under certain means-tested Federal benefits programs and to those with adjusted gross income of not more than \$20,000.

Section 480(d) Treating Active Duty Members of the Armed Forces as Independent Students:

- Amends the definition of independent student to include active duty members of the armed forces.

Section 480(f) Treatment of 529 Plans:

- Qualified higher education benefits include prepaid tuition plans under section 529(b)(1)(A) of the IRC of 1986 and Coverdell education savings accounts under 530(b)(1) of the IRC of 1986.
- Qualified higher education benefits are not considered an asset of a student, but will be treated as assets of the parent(s).

Section 481(a) Academic Year:

- The definition is revised for program measured in clock hours with a reduction to 26 weeks of instruction (30 weeks of instruction required of programs measured in credits) and a minimum of 900 clock hours.

Section 481(b) Distance Education: Eligible Programs:

- An otherwise eligible program that is offered in whole or part through telecommunications is eligible for Title IV if the program is offered by an institution (not foreign) that has been evaluated and determined (before or after the date of enactment of the Higher Education Reconciliation Act of 2005) to have the capability to effectively deliver distance education programs by an accrediting agency or association that is recognized by the Secretary.
- Eligible program includes an instructional program that, in lieu of credit hours or clock hours as the measure of student learning, utilizes direct assessment of learning if the assessment is consistent with the accreditation of the institution.
- Correspondence study is limited for Title IV purposes to programs leading to a recognized associate, baccalaureate, or graduate degree (Section 484(l) Correspondence Study).

Section 484 Student Eligibility:

- If a student is convicted of fraud in obtaining Title IV funds, to be eligible again for Title IV, the student would have to repay such funds to the Secretary or holder of the loan.
- The Secretary is authorized to confirm with the IRS specific information reported by applicants (including parents) for the purpose of verification of the information reported.
- The drug provision is amended to affect only students who are convicted of the sale or possession of drugs while enrolled and receiving Title IV funds.

Section 484B Institutional Refunds:

- Clarifies that a student may be granted more than one leave of absence, rather than "a leave."
- Clarifies that LEAP funds are not included as grant and loan assistance in the Return of Title IV calculation.
- In offering a borrower a late disbursement or postwithdrawal disbursement, the institution shall explain to the borrower the borrower's obligations to repay funds. The institution shall document the result of the contact.
- Clarifies that returns are to be made not later than 45 days from the determination of the withdrawal.
- Clarifies that for a grant overpayment, the student is responsible for returning the amount that exceeds 50 percent of the total grant assistance received by the student for Title IV for the payment period or period of enrollment.
- Clarifies that in calculating the percent of clock hours, the school should use clock hours scheduled to be completed by the student in that period as of the day the student withdrew (rather than comparing scheduled to actual).

Section 485D College Access Initiative:

- Requires guaranty agencies to provide the Secretary with information necessary for the development of web links and access for students and families to a comprehensive listing of postsecondary education opportunities programs, publications, web sites, and other services in the states they serve. The Secretary must ensure the availability of the information provided.
- Requires guaranty agencies to undertake activities to promote access to postsecondary education for students, ensure that required information is available without charge to students and parents, and publicize the availability of the information. Guaranty agencies may fund these activities from their operating accounts and restricted earnings.
- Guaranty agencies not required to duplicate efforts in which they are already engaged that meet the requirements of the College Access Initiative.

Effective on 7/1/2006.

Section 488A Wage Garnishment Requirement:

- Increases the amount that guaranty agencies may garnish without the borrower's consent to 15 percent of disposable pay from 10 percent.

Effective on 7/1/2006.

HOUSE PASSES H.R. 609, THE COLLEGE ACCESS AND OPPORTUNITY ACT

On March 30, 2006, the House of Representatives approved, by a vote of 221 to 199, H.R. 609, the *College Access and Opportunity Act*, which would reauthorize the *Higher Education Act*. The vote was generally along party lines with 18 Republicans opposed to the final bill and 14 Democrats supporting its final passage.

Speaking on the floor of the House on the day of the vote, House Education and the Workforce Chairman Howard "Buck" McKeon (R-CA) acknowledged that he had had to compromise on some of the bill's most controversial provisions to ensure its passage. Legislators had sought to get permission to offer a total of nearly 120 amendments to the bill, but the House Rules Committee only allowed 15 amendments to be debated on March 29, 2006 and five were adopted in addition to Mr. McKeon's Manager's Amendment, which made a number of technical changes to ensure that the language conforms to HEA. Seven amendments were debated on March 30, 2006 and five were adopted.

Under an amendment sponsored by Congressmen Mark Souder (R-IN) and Timothy H. Bishop (D-NY), the provision that would have required institutions to not deny the transfer of credit based on the sending institution's accrediting agency was significantly modified. Many higher education representatives opposed the amendment asserting that the federal government should not dictate what kind of transfer of credit policy an institution must have. The Souder-Bishop amendment would require colleges to publicly disclose their transfer policies and inform their accreditors, during their periodic reviews, whether they routinely deny credits from transfer students based solely on the accreditation of the institution at which the credits were earned.

In addition, the House agreed to strike from the bill a proposal that would have allowed states to accredit institutions of higher education. The House also voted to weaken the provisions designed to encourage colleges and schools to limit their tuition and fee increases. The McKeon Manager's Amendment removed a provision that would have the Department of Education's Office of Inspector General investigate schools that are rapidly raising tuition and fees in consecutive years. Many higher education associations objected to the original provisions because they were perceived as establishing inappropriate federal control over colleges' responsibility to set tuition and fees.

Before H.R. 609 reached the House floor, Mr. McKeon agreed to remove a provision in the original bill that would have altered the formula for distributing the campus-based programs.

Mr. McKeon provided the following remarks in a press release following the bill's passage:

"The new realities of an increasingly competitive global economy have made a college education more necessary than ever before. Unfortunately, even with historic levels of federal funding for higher education, the dream of getting a college education continues to elude many low- and middle-income Americans. This bill takes a huge step toward making that dream a reality."

House Majority Leader John Boehner (R-OH) praised the House passage of H.R. 609, stating: "This important bill opens the door of economic opportunity to even more Americans looking to attend college and achieve the American dream. Expanding college access to low- and middle-income students is a top Republican priority and this measure goes a long way toward accomplishing that goal." He also said that it was "unfortunate that Democratic leaders would use strong-arm tactics to badger their members into opposing these common-sense reforms because election year politics is more important."

Mr. Boehner's press release cited some of the many reforms in H.R. 609:

- Strengthening Pell Grants, student aid, student access, and minority serving institutions;
- Reducing red tape for students and graduates;
- Removing barriers for non-traditional students;
- Empowering consumers with more transparency in college costs and accreditation;
- Repealing duplicative, expired, and/or unnecessary programs;
- Establishing an Academic Bill of Rights;
- Safeguarding the privacy of students;
- Promoting merit-based pay for teachers; and
- Demanding accountability in federal college access programs.

Secretary of Education Margaret Spellings praised the Committees efforts and adoption of an American Competitiveness amendment offered by Rep. Cathy McMorris (R-WA). "To be a global economic leader, America must remain an educational leader, stated Spellings. "And so the U.S. House of Representatives deserves praise today for its passage of H.R. 609, the *College Access and Opportunity Act of 2006*, and the McMorris American Competitiveness Amendment."

Secretary Spellings went on to say that "[t]he amendment would enhance America's leadership in science and technology by allocating funds to: increase the number of teachers qualified to teach

advanced placement classes, provide scholarships to students pursuing degrees in science, mathematics and engineering and recruit qualified adjunct teachers at the secondary level to teach critical need areas, among others.”

On March 30, 2006, Congressman George Miller (D-CA) issued the following response to the approval of H.R. 609:

“Just last month, Republicans cut \$12 billion from the federal student aid programs in the largest raid on aid in history,” said Miller. “And today, they missed an important opportunity to make college more affordable. Americans need help paying for College, but they’re not getting any from this Congress. The Democratic legislation would have made a down payment on real college affordability.

Here is a summary of the major provisions included in H.R. 609 bill that impact educational institutions:

Title I General Provisions:

Section 101 Definition of Institution of Higher Education

- Establishes single definition of institution of higher education (replaces separate definition of for-profit institutions) as an institution that:
 - Admits regular students with high school diploma, or equivalent, or beyond the age of compulsory school attendance;
 - Is legally authorized within a State to provide a program of education beyond secondary school;
 - Is accredited by a nationally recognized agency or, if not, is a public or non-profit institution granted preaccreditation status by a nationally recognized agency; AND
 - Provides a program that provides a bachelor’s degree program; provides not less than a 2-year program acceptable towards such a degree; *or* provides not less than a 1-year program that prepares students for gainful employment in a recognized occupation; OR
 - Provides an eligible program (defined in Section 481 of the HEA) for which the institution awards a certificate and that prepares students for gainful employment in a recognized occupation.

- Limitations on For-Profit institutions:
 - A for-profit institution must be accredited by a nationally recognized accrediting agency and have been in existence for two years; and
 - A for-profit institution would not be eligible for grants if grants awarded on any basis other than competition on the merits of the grant proposal or application. Proprietary schools would be prohibited from competing for institutional grants under Title III (HBCUs) and Title V (Hispanic-Serving

Institutions) (Congressman Luis Fortuno (R-PR)).* Eligibility for non-HEA programs, such as agriculture grants, would exclude for-profit institutions unless the relevant committees of jurisdiction expressly provided for the eligibility of for-profit institutions (Congressman Mike Castle (R-DE)).

(i) **NOTE: The 90/10 rule that requires that an institution receive more than 10% of its revenue from resources other than Title IV would be moved out of the definition of a proprietary institution of higher education and instead become a Program Participation Agreement requirement that applies to both for-profit and nonprofit institutions. An institution would lose its eligibility to participate in Title IV programs if it failed to meet that threshold 3 years in a row; however, the Secretary could impose lesser penalties on those institutions that violate this requirement in any given year, such as placing the institution on provisional certification and requiring increased monitoring and reporting requirements (Congressman Mike Castle (R-DE)). See section 487.**

- Limitations on Postsecondary Vocational Institutions:

A non-profit or public institution that is a postsecondary vocational school offering a program as defined in Section 481 of the HEA and prepares students for gainful employment in a recognized occupation must have been in existence for 2 years.

- Limitations Based on Management for All Sectors:
 - The institution, or an affiliate that has the power to direct or cause the direction of the management or policies of the institution, cannot have filed for bankruptcy.
 - The institution or the CEO has not been convicted of, or pled nolo contendere or guilty to a crime involving federal funds.
- Limitations on Course of Study or Enrollment:
 - Cannot offer more than 50 percent of courses by correspondence (excluding courses offered by telecommunications as defined in Section 484(l)(4));
 - Cannot enroll 50 percent or more of students in correspondence courses (excluding courses offered by telecommunications as defined in Section 484(l)(4)), except the Secretary may waive the requirement in the case of an institution of higher education that provides a 2- or 4-year program for which the institution awards an associate or baccalaureate degree;
 - Cannot have more than 25 percent of students incarcerated; or
 - Cannot have more than 50 percent of students as ATB students.

* NOTE: The Congressmen identified in parentheses are those individuals who introduced the amendment at mark-up, unless introduced on House floor as noted.

Section 102 Institutions Outside of the United States

This provision addresses foreign institutions and eligibility for Part B of Title IV. Except for foreign medical or veterinary schools, foreign institutions must be nonprofit or public institutions.

Section 103 Student Speech and Association Rights

This provision protects the rights of students in terms of speech and association.

Section 123 Restrictions on Funds for For-Profit Schools

None of the HEA funds, other than Title IV funds, received can be used for:

- Construction, maintenance, renovation, repair, or improvement of classrooms, libraries, laboratories, or other facilities;
- Establishing, improving or increasing an endowment fund; or
- Establishing or improving an institutional development office to strengthen or improve alumni contributions and the private sector.

These exceptions do not apply to funds received from grant, loan, or work awarded under Title IV to students attending the school.

Section 103 New Borrower Definition

No outstanding balance of principal or interest on Part B (Federal Family Education Loan Program), Part D (Direct Loan Program), or Part E (Federal Perkins Loan Program).

Section 114(q) Extension of National Advisory Committee on Institutional Quality and Integrity

NACIQI extended through 2012.

Section 120(e) Alcohol and Drug Abuse Prevention

The program of grants to institutions to reduce and eliminate the illegal use of drugs and alcohol would be extended through 2006 plus each of the 5 succeeding fiscal years.

Section 124 Limitation on Use of Funds

Secretary shall not use funds for publicity or propaganda purposes, unless authorized by law.

Section 131 Consumer Information and Public Accountability in Higher Education

- Secretary shall redesign College Opportunity On-Line (COOL) website to make it more user-friendly. As part of this effort, the Department would use information

being reported to create "College Consumer Profiles." (An amendment to prohibit ED from creating a "unit record" system or a national database of personal information on college students was agreed to (Congresswoman Virginia Foxx (R-NC).);

- Secretary shall collect information on the following:
 - tuition and fees;
 - room and board charges;
 - cost of attendance under Section 472;
 - average financial aid for full-time undergraduates;
 - number of full-time undergraduates receiving financial aid;
 - the average net price for students receiving financial aid;
 - the institutional instructional expenditure per full-time equivalent student;
 - student enrollment information;
 - faculty/student ratios;
 - completion/graduation rates of undergraduate students identifying whether the completion/graduation rates are from a 2-year or 4-year program, and in the case of a 2-year program, the percentage of students who transfer to 4-year institutions prior to or subsequent to completion/graduation; and
 - link to the institution with information of interest to students including mission, accreditation, student services (including services for students with disabilities), transfer of credit policies and, if appropriate, placement rates and other measures of success in preparing students for entry into or advancement in the workforce.
- Secretary shall make the information available, including College Affordability Index;
- College Affordability Index (CAI) to be calculated per institution equal to the actual dollars increase (Congresswoman Carolyn McCarthy (D-NY)) as well as the percentage increase in the tuition and fees charged for a first-time, full-time, full-year undergraduate between the first of 3 years and the last three years divided by the CPI;
- Effective June 30, 2010, an institution that has a CAI that exceeds 2.0 for any 3-year interval shall report to the Secretary a description of the factors contributing to the increase in the institution's costs and in the tuition and fees charged to students; and if determinations of tuition and fee increases are not within the exclusive control of the institution, a description of the agency or instrumentality of State government or other entity that participates in such determinations;
- Upon receipt of an institution's report required above, the report shall be available on the COOL website;
- Each institution that has a CAI that is in the highest 5% of such indexes for all institutions shall establish a quality-efficiency task force to review the operations of the institution;
- If an institution fails to reduce the CAI below 2.0 for 2 academic years, the Secretary shall place the institution on an affordability alert status.
- Exemptions: If tuition and fees are less than \$500 or charge less than the maximum tuition and fees in the least costly quartile of institutions;
- Secretary could impose up to a \$25,000 fine for failing to provide information to Secretary; and

- GAO shall conduct study of policies and procedures implemented by institutions to reduce CAI.

NOTE: Mr. McKeon's Manager's Amendment eased the college cost accountability provisions and removed the provision that would have the Department of Education's Office of Inspector General investigate schools that are rapidly raising tuition and fees in consecutive years.

Section 132 Databases of Student Information

A nationwide database of personally identifiable information on individuals receiving Title IV aid is prohibited.

Section 141 Performance-Based Organization

The PBO is extended.

Title II - Teacher Preparation

H.R. 2211 passed House on July 9, 2003.

Title III – Institutional Aid

The bill makes it easier for minority serving institutions to use technology to improve education. It simplifies the grant application process for Tribally Controlled Colleges and Universities.

Title IV Student Assistance

Part A – Grants to Students

- Pell Grants
 - Program reauthorized through 2012-2013;
 - Annual maximum award amount increased to \$6,000 (Congressman Ric Keller (R-FL)) (currently \$5,800);
 - Removes incentive for colleges to raise tuition by repealing Pell Grant "tuition sensitivity." (Currently a federal rule limits the amount of Pell Grant aid a student attending a low-cost institution can receive.);
 - Provides year-round Pell Grant for students enrolled full-time in a bachelor's program (must have a graduation rate of at least 30 percent for the four (4) previous academic years per IPEDS) or for students enrolled in a 2-year institution (with a graduation rate over the median for similar institutions in at least one of the last three (3) years per IPEDS) to permit students to accelerate progress by enrolling for 12 months rather than 9 months;
 - Establishes Pell Grants Plus Program for State Scholars for students in year one and two by providing additional \$1,000 Pell Grant to high

achieving needy students (introduced by Congressman Ric Keller (R-FL) as H.R. 511);

- Caps Pell Grant eligibility to 18 semester hours or 27 quarter equivalents.
- Provides one year limit for Pell Grants for non-credit or remedial (including ESL) courses;
- Prevents Pell Grants from going to persons who are subject to involuntary civil commitment for sexual offenses; and
- Prohibits the Secretary from requiring repayments of Pell Grants from students living in areas declared natural disasters.

The amendment from Congressmen Rush Holt (D-NJ) and Tim Bishop (D-NY) that was intended to ease the burden on students who lost Pell Grant funds as a result of the use of the updated State and Other Tax Tables in the 2005-2006 need analysis was defeated.

- Trio Program and GEAR UP

Programs reauthorized and strengthened by increasing accountability. The Secretary would be required to establish expected program outcomes.

10 percent set-aside for new applicants for TRIO.

- FSEOG

FSEOG Program reauthorized with priority for Pell Grant recipients and not more than 10 percent of allocation to be awarded to non-Pell Grant recipients.

NOTE: Mr. McKeon's Manager's Amendment eliminated the update to the campus-based aid distribution formula. The Chairman's amendment proposes, instead, a Government Accountability Office (GAO) study of the current campus-based aid distribution formula to make recommendations on how to improve aid allocation.

Allows excess funds in FWS and FSEOG Programs to be awarded to institutions with significant numbers of Pell Grant recipients that have good graduate-on-time rates.

- LEAP Program reauthorized.

Part B - Federal Family Education Loan Program

See Higher Education Reconciliation Act of 2005 - P.L. 109-171. Some of the provisions included in H.R. 609 as part of Mr. McKeon's Manager's Amendment are:

Section 428C Counting Consolidation Loans Against Limits

Provides that consolidation loans count against aggregate limits on borrowing effective for loans first disbursed or on or after the date of enactment.

Section 428C(b)(1)(A) Single Holder Rule

Repeals single holder rule.

Section 428C(b)(1) Borrower Information on Consolidation Loans

Requires that lenders of FFEL Consolidation Loans provide applicants with notice of the following information:

- *The effects of consolidation on total interest and fees to be paid and length of repayment;*
- *The effects of consolidation on loan benefits;*
- *The borrower's ability to prepay the loan, pay on a shorter schedule, and change repayment plans;*
- *How benefits may vary among loan holders;*
- *The tax benefits for which borrowers may be eligible;*
- *The consequences of default; and*
- *That the applicant is not obligated to take out a consolidation loan.*

Section 435(m) Student Loan Information in Default Prevention

Lenders, secondary markets, holders, and guaranty agencies must provide student loan information on a timely basis and free of charge when it is requested by schools and third-party servicers working on behalf of schools to prevent defaults. Also requires that the recipients safeguard the information against abuse and that a third-party servicer use the information only in a manner directly related to its default prevention work for the school.

Section 437(c) Falsely Certified Borrowers

Expands eligibility for false certification discharges to include parent borrowers.

Part C – Federal Work-Study Programs

- The “open and accessible to the public” requirement in the community service provision is removed.

See FSEOG Note above.

Part D – Federal Direct Loan Program – See Part B above.

Part E –Federal Perkins Loan Program

- The loan limits are increased. The \$4,000 limit (undergraduate) is increased to \$5,500 and the \$6,000 limit (graduate) is increased to \$8,000. The aggregate loan limits are increased from \$40,000 to \$60,000 (graduate), from \$20,000 to \$27,500

(completed 2 years of an undergraduate program), and from \$8,000 to \$11,000 (undergraduate).

See FSEOG Note above.

Part F - Need Analysis

- ED and representatives shall produce, distribute, and process free of charge common financial reporting forms to be used for application and reapplication. Applicants shall be able to complete form in the 4 years prior to enrollment to obtain a non-binding estimate of the family contribute as defined in section 473. Paper and electronic forms should be streamlined and reduction of data elements is encouraged.
- Simplifies the need analysis process by expanding the use of the “automatic zero” and the “simplified needs test.” Applicants determined to have a zero EFC would not be required to provide any financial data for a reapplication form. In addition, the bill would require that a special effort be made to notify students and parents who qualify for free lunch, food stamps, or other means-tested programs of their potential eligibility for a maximum Pell Grant.
- Requires outside firms that charge for any “value-added services” for completion, submission, or tracking of FAFSA information to provide students and parents with a notice that the FAFSA is a free aid application that can be completed without professional help and the FAFSA Web site address.

Section 472 – Discretion of Student Financial Aid Administrators

- *Clarifies that for determining independent status, the definition of a special circumstance is a student's status as a ward of the court based on his or her being a ward of the court at any time prior to attaining 18, a student's status as an individual who was adopted at or after age 13, a student's status as a homeless or unaccompanied youth, which would be based on verification of living situation by a financial aid director, a McKinney-Vento Act school district liaison or a shelter director (Congresswoman Judy Biggert (R-IL)) adopted on House floor.*

Part G – General Provisions Relating to Student Financial Assistance

See Higher Education Reconciliation Act of 2005 – P.L. 109-171.

Section 485(a) Information and Financial Assistance Information for Students

- The bill clarifies that information required to be disseminated to students and prospective students shall be produced and be made publicly available in a uniform and comprehensive manner, through appropriate publications, mailings, electronic media, and the reports required by the institution's accrediting agency.

- Expands the information to be disclosed on academic programs to include the program's learning objectives.
- Expands the student outcomes to be disclosed. In addition to completion or graduation rates of certificate- or degree-granting undergraduate students, *any other student outcome data, qualitative or quantitative, including data regarding distance education, deemed by the institution to be appropriate to its stated educational mission and goals, and, when applicable, licensing and placement rates for professional and vocational programs.*
- When disclosing the names of accrediting agencies or licensing bodies, the school will have to include the process for students to register complaints with the accrediting agencies.
- Schools must disclose the penalties regarding the suspension of eligibility for drug-related offenses.
- *Schools must describe their policies regarding the acceptance or denial of academic credit earned at another institution of higher education, which shall include a statement that such decisions will not be based solely on the source of accreditation of a sending institution, provided that the sending institution is accredited by an agency or association that is recognized by the Secretary and nothing in this subparagraph shall be construed to authorize an employee of the Department to exercise any direction, supervision, or control over curriculum, program of instruction, administration, or personnel of any institution of higher education; limit the application of the General Education Provisions Act (GEPA); or create any legally enforceable right.*

NOTE: Congressmen Mark Souder (R-IN) and Timothy Bishop (D-NY) introduced this amendment on the House floor to remove that language that would have prohibited schools from denying transfers of credit based solely on the accreditation of the sending institution.

- Each institution may provide supplemental information showing the completion and graduation rate for students excluded from the calculation (i.e., serving in armed services).
- Institutions may publicly report the voluntary information collected by the National Survey of Student Engagement, the Community College Survey of Student Engagement, or other instruments.
- Each institution must prepare and publish an Annual Fire Safety Report (Congressman Robert Andrews (D-NJ)).

Section 485(b) Exit Counseling: Additional information will have to be disclosed regarding the effects of using consolidation loans.

Section 485D College Access Initiatives: Guaranty agencies will provide the Secretary with information for the development of web links and access for students and families to a comprehensive list of postsecondary education opportunities programs, publications, Internet Web sites, and

other services. The funding for the activities may be funded from the guaranty agency's operating fund.

Section 486(b)(3) Distance Education Demonstration Program: The bill expands the Distance Education Program from 35 institutions to 100 institutions and adds a provision that up to five institutions, systems, or consortia may be accredited, degree-granting correspondence schools.

Section 486A College Affordability Demonstration Program: This bill authorizes a demonstration program to determine the most effective way to deliver student financial aid and manage institutional resources.

Section 487 Program Participation Agreements: This bill clarifies the following:

- Schools must comply with the return of Title IV funds policy;
- Schools may transmit electronically a message containing a voter registration form acceptable to the State in which the institution is located; and
- Schools must disclose to the alleged victim of any crime of violence or a nonforcible sex offense, the results of any disciplinary proceeding conducted by such institution.
- 90/10 requirement for for-profit and nonprofit institutions moved to this section as a Program Participation Agreement requirement.

Section 487(a)(24)(f) Implementation of Non-Title IV Revenue Requirement:

The amendment would clarify the definition of 90/10. In determining the non-Title IV revenue requirement, an institution shall use the cash basis of accounting and count the following funds toward the 10% of revenues from sources of funds other than those provided by Title IV:

- “(A) funds used by students to pay tuition, fees, and other institutional charges from sources other than funds provided under this title as long as the institution can reasonably demonstrate that such funds were used for such purposes;
- (B) institutional funds used to satisfy matching-fund requirements for programs under this title;
- (C) funds from savings plans for educational expenses established pursuant to the Internal Revenue Code of 1986;
- (D) funds paid by a student, or on behalf of a student by a party other than the institution, for an education or training program that is not eligible for funds under this title, so long as the program is approved or licensed by the appropriate state agency or an accrediting agency recognized by the Secretary; and
- (E) institutional aid, as follows:
 - a. in the case of institutional loans, only the amount of loan repayments received during the fiscal year; and

- b. in the case of institutional scholarships, only those provided by the institution in the form of monetary aid or tuition discounts based upon the academic achievements or financial need of students, disbursed during the fiscal year from an established restricted account, and only to the extent that the funds in that account represent designated funds from an outside source or income earned on those funds.”

An institution that fails to meet the requirements for 3 consecutive years shall become ineligible for Title IV funds. If an institution fails to meet the requirements in any one year, the Secretary may impose one or more of the following sanctions:

- a. Place the institution on provisional status;
- b. Require increased monitoring or reporting.

The Secretary shall identify on the COOL website any institution that fails to meet the requirements in any one year.

Section 487A(b) Expands the authority of the Secretary to continue the voluntary participation of institutions as Experimental Sites as of July 1, 2005 (Congressman Chris Van Hollen (D-MD)).

Section 484(s) Pell Grant Eligibility Provision:

A student who does not have a certificate of graduation from a school providing secondary education may be eligible for assistance for no more than two academic years if such student is deemed academically gifted and talented, is a junior or senior in secondary school and has not received any Title IV, is selected for participation and is enrolled full-time and resides on campus in a residential college gifted student program for early enrollment.

Part H – Program Integrity

Section 496(a) Standards for Accreditation:

- If an association has or seeks to include within its scope of recognition the evaluation of the quality of institutions or programs offering distance education, the agency addresses the quality of its distance education programs but it is not required to have separate standards, procedures, or policies, and
- Requires an institution offering distance education programs to have processes by which it establishes that the student who registers in a distance education course or program is the same student who participates and completes the academic work, and receives academic credit.

Section 496(a)(5)(A) Standards:

The standards shall assess the success with respect to student achievement in relation to the institution's mission, including consideration of student academic achievement as determined by the institution, retention, course and program completion, State licensing examinations, and job placement rates, and other student performance data used by the institution to evaluate or strengthen its educational programs.

Section 496(a)(5)(E) Standards:

The standards shall assess the fiscal and administrative capacity (as appropriate to the specified scale of operations) and, for an agency where its approval for such institution determines eligibility for Title IV student assistance, board governance within the institution.

Section 496(a)(6) Standards:

Each agency shall establish and apply review procedures throughout the accreditation process, including evaluation and withdrawal procedures, that comply with due process that provide for:

- “(A) adequate specification of requirements and deficiencies at the institution of higher education or program being examined;
- (B) an opportunity for a written response by any such institution to be included in the evaluation and withdrawal proceedings;
- (C) upon the written request of an institution, an opportunity for the institution to appeal any adverse action at a hearing prior to such action becoming final before an appeals panel that-
 - (i) shall not include current members of the agency or association's underlying decision-making body that made the adverse decision; and
 - (ii) is subject to a conflict of interest of policy; and
- (D) the right to representation by counsel for such an institution.”

Section 496(a)(8) Standards:

Each agency *shall make available* to the public and submit to the Secretary and the State licensing body, including comments from the affected institution, a summary of its actions involving:

- Final denial, withdrawal, suspension, or termination of accreditation; and
- Any other adverse action taken.

Section 496(G) Operating Procedures:

- Ensures that its onsite comprehensive reviews for accreditation or reaccreditation include evaluation of the substance of the information required in Section 485(a)(l);
- *Confirms as part of its review for accreditation or reaccreditation that the institution has transfer policies that are publicly disclosed and specifically state whether the institution denies a transfer of credit based solely on the accreditation of the institution at which the credit was earned.*

NOTE: Congressman Mark Souder (R-IN) and Timothy Bishop (D-NY) introduced this amendment on the House floor.

- Develops a brief summary, available to the public, of final adverse actions;
- Monitors the *growth* of distance education programs at institutions that are experiencing significant enrollment growth relative to institutional capacity to serve its students effectively (Congressman Vernon Ehlers (R-MI));
- Discloses publicly on the agency's website or through similar dissemination:
 - A list of individuals who comprised the evaluation teams during the prior calendar year and the title and institutional affiliation of such individuals, although the institution reviewed does not need to be identified;
 - A description of the process for selecting, preparing, and evaluating such individuals, and
 - Any statements related to the accreditation responsibilities of such individuals, and
- Reviews the record of student complaints from the student information process in Section 485(a)(1)(J) (i.e., the process for students to register complaints with the accrediting agencies).

Section 498A (b) Program Review and Data:

- Provides to the institution adequate opportunity to review and respond to any program review or audit finding and underlying materials;
- Review and take into consideration the institution's response in any final program review or audit determination;
- Maintain and preserve the confidentiality of the program review report or audit finding until a final program review or audit determination has been issued; and
- Require that the authority to approve or issue a program review or audit finding that contains any finding that exceeds or may exceed \$500,000 in liabilities shall not be delegated to any official beyond the COO of FSA.

Title V Developing Institutions:

The bill reduces red tape for Hispanic Serving Institutions by eliminating the two-year lapse between grants that Hispanic Serving Institutions are forced to contend with under current law.

Title VI – International Education Programs: H.R. 3077 passed the House on October 21, 2003.

Title VII – Graduate and Postsecondary Improvement Programs: This section includes the provisions included in H.R. 3076, which passed the House on October 21, 2003. In addition, an amendment to revise the Byrd Honor's Scholarship Program to focus on math and science is included. Under the Fund for the Improvement of Postsecondary Education (FIPSE), an amendment would authorize grants for institutions to develop partnerships between local education agencies and institutions of higher education to establish or expand existing dual enrollment programs at institutions of higher education that allow high school students to earn high school and transferable college credit (David Wu (D-OR)).

Title VIII – Clerical Amendments: These are the provisions included in the "FED-Up" bill (H.R. 12) that was not enacted.

Title IX – Amendments to Other Education Laws: This bill amends other education laws including reports and studies, including a study to evaluate the higher education-related indebtedness of medical school graduates at the time of graduation (Congressman Tom Price (R-GA)) and a study on the decreasing number of under-represented minority males entering and graduation from colleges and universities (Congressman Danny K. Davis (D-IL)).

PRESIDENT BUSH ISSUES FY 2007 BUDGET PROPOSAL

On February 6, 2006, President Bush released his proposed budget for FY 2007. Included in the budget proposal is \$54.4 billion in discretionary appropriations for the Department of Education, which represents a decrease of \$3.1 billion or 5.5 percent from the funding levels appropriated in FY 2006. Of these funds, \$380 million would be allocated to increase funding and create new programs in the areas of math, science, and "critical" languages. Included in a Department of Education press release of February 6, 2006, funding sought for the coming fiscal year is "an effort to eliminate underperforming programs while increasing resources that promote the competitiveness of our students and nation." Programs eliminated in the budget plan include both the TRIO Upward Bound and Talent Search Programs, in addition to GEAR UP and LEAP Programs.

The FY 2007 budget proposal assumed that the *Higher Education Reconciliation Act* (HERA) included in the *Deficit Reduction Act of 2005*, S. 1932, would be enacted, which it was on February 8, 2006, when it was signed into law by President Bush.

The Department of Education held a press conference on February 6, 2006 to discuss the education funding requests proposed in President Bush's FY 2007 budget plans. Secretary of Education Margaret Spellings said that [t]his budget request soundly targets resources where they are needed most and working best." A press release issued following the press conference stated that the President was determined "to support what works and cut the Federal budget deficit in half

by 2009. [T]he Education budget demonstrates an effort to eliminate underperforming programs while increasing resources that promote the competitiveness of our students and our nation.”

Senator Mike Enzi (R-WY), Chairman of the Senate Health, Education, Labor and Pensions (HELP) Committee, issued a statement acknowledging the tough choices presented by Mr. Bush’s FY 2007 budget request, but he said that he is committed to working with his colleagues to review and strengthen programs under the HELP Committee’s jurisdiction to ensure that they are cost effective and accountable.

The full budget for the Department of Education is available at:

<http://whitehouse.gov/omb/budget/fy2007/education.html>

The press released issued by the Department of Education is found at:

<http://www.ed.gov/print/news/pressreleases/2006/02/02062006.html>

The major provisions are as follows:

- **Creation of Academic Competitiveness Grants and National SMART Grants**, a new need-based mandatory program that would award grants of up to \$750 for first-year Pell Grant recipients and \$4,000 to high achieving students who are majoring in the sciences, mathematics, technology, engineering, or critical foreign languages. First- and second-year students must have completed a rigorous high school curriculum. The older students must maintain a 3.0 grade point average to receive National Science and Mathematics Access to Retain Talent (SMART) Grants.
- **FFEL and Direct Loans:**
 - Interest rates to be fixed rates: For Stafford loans made on or after July 1, 2006, the interest rates will be fixed at 6.8 percent. For PLUS loans, the interest rate will be fixed at 8.5 percent.
 - Phased elimination of origination fees on most student loans. For FFEL borrowers, 3 percent origination fee will be reduced by 1 percentage point as of July 1, 2006 and reduced each year until, as of July 1, 2010, fees would be eliminated in the FFEL program and reduced to 1 percent in Direct Loan program. (FFEL borrowers would pay a 1 percent insurance premium after July 1, 2010.)
 - Increased loan limits. Beginning July 1, 2007, annual loan limits would increase from \$2,625 to \$3,500 for first-year students (subsidized), from \$3,500 to \$4,500 for second-year students (subsidized), and from \$10,000 to \$12,000 for graduate students (unsubsidized).
 - Limited circumstances for FFEL borrowers to consolidate loans into Federal Direct Consolidation Loan. Eligibility for FFEL borrowers to obtain a Federal Direct Consolidation Loan would be limited to borrowers in default and borrowers who have been denied a FFEL Consolidation Loan.

- Expanded teacher loan forgiveness. Loan forgiveness for highly qualified math, science, and special education teachers serving low-income communities is made permanent. The Taxpayer-Teacher Protection Act of 2004 temporarily expanded this forgiveness from \$5,000 to \$17,500 for loans made between October 1, 1998 and September 30, 2005. The benefits would also be broadened to include private school teachers.
- Active duty military deferment. A new deferment of up to 3 years, during which the government would pay the interest on a student loan, would be created in the FFEL, Direct Loan, and Perkins Loan programs for borrowers serving on active duty or performing qualifying National Guard duty, during a war or other military operation or national emergency. The new deferment would apply to loans for which the first disbursement was made on or after July 1, 2001.
- Reinstated two expired student loan provisions for schools with low default rates. Institutions with cohort default rates of less than 10 percent for the 3 most recent fiscal years would be exempt from requirements that loans to first-year students not be disbursed until 30 days after enrollment and that all loans be disbursed in at least two separate installments. (Effective on the date of enactment, February 8, 2006.)
- Pell Grants:
 - Pell Grant annual maximum will remain at \$4,050.
 - Pell Grants would be made available year-round at eligible 2- and 4-year degree granting institutions, giving students a more convenient option for accelerating their studies and promptly completing their education.
 - As a further incentive for timely completion, Pell Grant eligibility would be limited to 18 semesters.
 - The Pell Grant award rule related to tuition sensitivity, which limits the amount of support for students with the greatest need at low-cost institutions, would be eliminated.
- Campus-Based Programs:
 - Supplemental Educational Opportunity Grants (SEOG) and Federal Work-Study (FWS) would receive the same funding levels as FY 2006.
 - The Federal portion of the FY 2007 collections to Perkins Loan Revolving Funds (funds received between October 1, 2006 and September 30, 2007) would be recalled.

- Other (as a result of the *Deficit Reduction Act of 2005*):
 - Elimination of the 50 percent rule for schools offering telecommunications courses.
 - Clarification of a current provision under which applicants convicted of drug-related offenses are ineligible for Federal financial aid. The restriction on student eligibility would only apply to students who commit the drug-related offense while enrolled in a postsecondary institution.
 - Military personnel on active duty would automatically be considered independent students.

WHAT IS THE DEPARTMENT OF EDUCATION UP TO?

ED Establishes Peer Review Panel

In 2004, the Department of Education established a Consistency Panel, now known as the Peer Review Panel. Effective October 1, 2004, prior to the issuance of a decision concerning a (1) change in ownership, or (2) new location or program of a domestic proprietary or private non-profit school that is provisionally certified, on cash monitoring or reimbursement, or that is required to provide surety, the case team making the decision will present their case and recommended decision to the Peer Review Panel for concurrence prior to its issuance.

Change in ownership application decisions that must be presented to the Peer Review Panel include pre-acquisition reviews, issuance of TPPPAs, and Provisional PPAs, and excluded change in ownerships.

New locations or programs included as part of recertification applications do not have to be presented to the Peer Review Panel with the exception of a first recertification application submitted by a school coming off its initial period of participation in Title IV programs.

A school that is required to provide surety includes any school that has posted or will be required to post a letter of credit for failing to meet the composite score standards of financial responsibility or refund requirements.

The Peer Review Panel consists of eight individuals, including someone from the General Counsel's Office.

ED Expands E-App

The Department is also working on a School Eligibility Channel (SEC) Standards Project with the goal of "developing, documenting, and deploying processes and procedures that support a set of national standards" that are predictable, repeatable, and responsive to change.

As of February 26, 2006, the Department made changes and additions to the Application for Approval to Participate in Federal Student Financial Aid Programs.

While the Department did not add new questions, the questions have been expanded. Some of the changes made include the following:

Questions #22-24: The application now requests information about the institution's owner type specific to each level of owner, specifically, publicly traded, closely held corporation, subchapter S corporation, limited liability corporation, general partnership, limited liability partnership, or voting trust. Previously, the institution would select only one ownership type that had to cover all the owners.

Question #25: The 10-year limitation in the question was removed. "Has a person or entity listed in Question 24 or a member of that person's family or a director of your institution owned 25 percent or more or held a position listed below of another institution that is now participating in or ever participated in federal aid programs or of a third-party servicer listed in Question 58?"

Also a new question added is: "Is there any liability currently owed to the Department that was established during the period or position held?"

Question #26: Under Educational Programs, the institution is advised that it must be able to demonstrate a reasonable relationship between the length of the program and the entry-level requirement for the recognized occupation for which the program prepares the student. The Secretary considers the relationship to be reasonable if the number of clock hours provided in the program does not exceed by more than 50 percent the minimum number of clock hours required for training in the recognized occupation for which the program prepares the student. If the program exceeds by more than 50 percent of the State or Federal minimum number of clock hours, the institution must provide an explanation in #69.

Question #28: This question asks if the institution contracts with an organization or ineligible institution to provide more than 25 percent of its program and if so, the institution must identify the entity. This question now includes examples such as "internships, externships, practicum in nursing, midwifery, medical technician, etc."

Question #58: The question now asks for information about the Ability-to-Benefit Test used and asks the institution to identify the tester, if applicable.

Section M: The social security number and the home address of person owners are requested.

PBO Plans New Federal Student Aid Coordinating Structure

On March 21, 2006, Terri Shaw, the Chief Operating Officer of Federal Student Aid, described her proposal for a new coordinating structure for Federal Student Aid, with the following objectives:

1. Improve coordination and communication among Federal Student Aid business channels;
2. Consolidate business operations to ensure consistency, efficiency and effectiveness among those business units;
3. Increase focus on two key priorities: Program Integrity (i.e., partner oversight, monitoring and compliance functions) and the "student view" (i.e., awareness and outreach); and
4. Align performance management functions to ensure enterprise view of contracts, project management, risk management and performance management reporting.

With regard to program compliance, all business units within Federal Student Aid with functional responsibility for oversight and/or monitoring of schools, lenders, guaranty agencies or other state and financial organizations that participate in the Title IV programs will be combined into a new organization called Program Compliance under the direction of Victoria Edwards. The Ombudsman, Debra Wiley, and the Policy Liaison and Implementation organization, under the direction of Jeff Baker, will report to the Office of Chief Operating Officer, which is managed by Jim Manning, Federal Student Aid's Chief of Staff. Ms. Shaw stated that she does not expect that there will be any impact on the work of any Federal Student Aid employees as a result of the changes.