

**National Association of Student Financial Aid Administrators
Higher Education Act Reauthorization Recommendations 12/31/02**

December 19, 2002

The Honorable Howard P. "Buck" McKeon
Chair, House 21st Century Education Subcommittee
Washington, D.C. 20510

Dear: Mr. Chairman:

On behalf of the nearly 3,000 members of the National Association of Student Financial Aid Administrators and NASFAA's Board of Directors, I want to thank you for inviting the Association to submit recommendations on how to improve and strengthen the Higher Education Act. Our package includes recommendations and rationale. We will follow-up with legislative language to support these recommendations.

To facilitate your consideration of our recommendations, we have listed our recommendations in the following order: Federal Pell Grants, FSEOG, LEAPP/SLEAPP, Part B and D loans, Federal Work-Study, Federal Perkins Loans, Federal Methodology, General Provisions, and Return of Funds. Our format identifies the issue (and statutory citation where possible), our recommendation, and rationale.

NASFAA developed these recommendations using a fourteen-member Reauthorization Task Force to carefully analyze existing law and to solicit and develop proposals from our members. An Advisory Group of more than 75 individuals also provided valuable input. We believe that the resulting recommendations, approved by NASFAA's Board of Directors, accomplish the goal of improving current programs, and more effectively meeting the goals and objectives of this Act, especially to provide greater access to a postsecondary education for our nation's citizens, reduce regulatory burden, and promote accountability in the wise use of taxpayer's funds.

We hope these recommendations will be helpful to you as you begin your work. If we can assist you in any way, please feel free to contact us.

Sincerely,

Dallas Martin
President

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The Honorable George Miller
Ranking Minority Member
Committee on Education and the Workforce
Washington, D.C. 20510

Dear Representative Miller:

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Pell Grant Program

Pell Grant Issue 1: Pell Grant Entitlement. [no comparable section of the HEA]

Recommendation: Create a Pell Grant Program as a "true" entitlement and assure that such an entitlement will extend for ten years into the future. The Pell Grant maximum should double in next five years, with an inflation adjustment after that. The maximum award under this entitlement proposal would be as follows:

AY 2004-2005 \$5,800 authorized
AY 2005-2006 \$6,000 entitlement
AY 2006-2007 \$6,500 entitlement
AY 2007-2008 \$7,000 entitlement
AY 2008-2009 \$7,500 entitlement
AY 2009-2010 \$8,000 entitlement
AY 2010-2011 inflation adjustment
AY 2011-2012 inflation adjustment
AY 2012-2013 inflation adjustment
AY 2013-2014 inflation adjustment
AY 2014-2015 inflation adjustment

Rationale: The Federal Pell Grant is the keystone of the financial aid partnership for needy students. We appreciate that the Congress has generously increased the maximum award in recent years. Still, the current appropriated maximum award of \$4,000 is well below the authorized \$5,800 maximum award in the Higher Education Act. For years, many in the higher education community and Members of Congress have been alarmed over increasing student debt and have urged increases in grant funding to redress the "grant/loan imbalance." Only twice since the founding of the Pell Grant Program in 1972 has the appropriated maximum award matched the authorized level. If we are serious about reducing student loan debt; if we are serious about increasing grant assistance; if we are serious about providing increased educational opportunities; then, once again, NASFAA suggests that making the Pell Grant Program a true entitlement, divorced from the vagaries of the appropriations process, is the only way we can help reduce student debt levels, guarantee adequate grant assistance, and increase educational opportunities.

We also recommend setting a new national goal. The Congress this year is poised to complete a five-year process increasing the amount of federal spending on medical research by doubling the budget of the National Institutes of Health (NIH). With the accomplishment of this admirable goal, we call on the Congress to start anew on an ambitious national goal that will benefit so many of our citizens and the nation itself and begin a five-year process to double the Pell Grant maximum award from \$4,000 to \$8,000.

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We also suggest the Pell Grant entitlement go outside the bounds of the conventional legislative process and extend for ten years. Doing so accomplishes critical goals, most important, it provides an assurance of funding for current and near-term future students, as well as showing students in junior high schools that if they meet financial eligibility requirements and apply themselves academically, then the finances for affording a postsecondary education are in place. Such a long-term entitlement will give those who may be on the margins academically the incentive to apply themselves to their studies, knowing the funding will be there.

**Pell Grant Issue 2: Pell Grant Authorized Maximum (If Not an Entitlement.)
[Section 401(b)(2)(A)]**

Recommendation: Double the Pell Grant maximum award. Should Pell Grant not be made into a "true" entitlement, the authorized maximum should at least double in the next five years.

Rationale: The Federal Pell Grant is the keystone of the financial aid partnership for needy students. We appreciate that the Congress has generously increased the maximum award in recent years. Still, the current appropriated maximum award of \$4,000 is well below the authorized \$5,800 maximum award in the Higher Education Act. For years, many in the higher education community and Members of Congress have been alarmed over increasing student debt and have urged increases in grant funding to redress the "grant/loan imbalance." Only twice since the founding of the Pell Grant Program in 1972 has the appropriated maximum award matched the authorized level.

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Pell Grant Issue 3: Pell Grant Minimum Award. [Section 401(b)(5)]

Recommendation: Phase-in an increased Pell Grant minimum award to \$750.

Rationale: Currently, if an individual evidences Pell Grant eligibility for an award of from \$200 to \$399, then the individual qualifies for a grant of \$400. NASFAA recommends eliminating this bonus payment and phasing-in an increase in the minimum Pell Grant award to \$750 so that the grant will be truly meaningful for recipients. The minimum grant has not been changed in over a decade and goes primarily to students from middle-income rather than poor families. Operationally, the phase-in mandates a minimum eligible EFC of 3800. As the Pell Grant maximum increases, eventually, use of a 3800 EFC results in achievement of the \$750 minimum. This shift will target Pell Grant funding to the neediest recipients and will free up funding that can be used to provide even greater increases in the Pell Grant maximum award.

Pell Grant Issue 4: Insufficient Pell Grant Funding. [Section 401(g)]

Recommendation: Reaffirm current congressional disclosure language and reject Administration's proposal that Secretary set the level of Pell Grant maximum award if funding is insufficient.

Rationale: Current law mandates the Secretary inform the Congress whenever funding for the Federal Pell Grant Program is insufficient to fully fund the congressionally mandated maximum award level. We reaffirm this approach in the current law and oppose a proposal made by the Administration in their February FY 2003 Budget submission. The Administration proposed that whenever ED estimates that funding is insufficient to fully fund the congressionally mandated maximum award, then the Secretary has the authority to reduce the maximum award below the level set in the appropriations bill. This gives the Secretary broad authority to set the maximum award that no prior ED Secretaries have had. We believe the Congress has the responsibility to fund the program to fully pay for the maximum award that that body has set and only the Congress should have the authority to reduce a prior decision concerning the proper level of the maximum award.

Pell Grant Issue 5: Loss of Pell Grant Eligibility Due to a School's Default Rate. [Section 401(j)]

Recommendation: Eliminate current statutory provision that mandates that schools losing eligibility to participate in the FFEL or Direct Loan Programs due to high default rates also lose their eligibility to participate in the Federal Pell Grant Program.

Rationale: We understand that as a result of this provision in the 1998 reauthorization that many schools whose primary missions are to provide educational opportunities for needy students have dropped their participation in the FFEL or Direct Loan Programs so that they would not lose Pell Grant eligibility for their students. These schools should not be disadvantaged in their Pell Grant participation, since many such schools (especially community colleges) have few borrowers. Consequently, a few defaults could tilt them in a loss of loan eligibility and consequent loss of Pell eligibility. NASFAA opposed the inclusion of this provision in the last reauthorization.

Pell Grant Issue 6: Tuition Sensitivity. [Section 401(f)]

Recommendation: Eliminate current statutory “tuition sensitivity” provision that mandating that a student eligible for a maximum Pell Grant will have that award reduced in the following fashion: For any academic year for which an Appropriation Act provides a maximum basic grant in an amount in excess of \$2,700, the amount of a student's basic grant shall equal \$2,700 plus one-half of the amount by which such maximum basic grant exceeds \$2,700; plus the lesser of- (a) the remaining one-half of such excess; or (b) the sum of the student's tuition and, if the student has dependent care expenses (as described in section 472(8)) or disability-related expenses (as described in section 472(9)), an allowance determined by the institution for such expenses.

Rationale: The result of this provision is to reduce the award for the neediest Pell Grant recipient attending a lower cost college. Currently, only California community college students are affected by this provision, but as the Pell Grant maximum award increases, students at other lower cost schools across the nation will be impacted by this provision. The provision was developed as a compromise more than ten years ago and has outlived its usefulness. It perpetrates an injustice on poor students that will be extended to other postsecondary institutions that attempt to give postsecondary opportunities to students through a policy of low costs. The law defines Cost of Attendance as also including room and board, books and transportation and when these costs are considered even the full maximum Pell Grant is insufficient.

Pell Grant Issue 7: Front-Loading Demonstration Pilot Project. [no comparable section of the HEA]

Recommendation: Establish a front-loading demonstration project.

Rationale: This demonstration project would be modeled after the distance education demonstration project placed into the law by the reauthorization of the HEA in 1998 (Section 486). It would be entirely voluntary; would be limited to a small number of volunteer schools; would sunset or end with the expiration of the Higher Education Act; would require periodic reports; would be flexible in its parameters; and would test front-loading grants in a way that would give concrete answers as to the benefits and negative consequences of front-loading grants and back-loading loans.

When candidate George W. Bush was campaigning for president, one of the hallmarks of his education proposals was a front-loaded Pell Grant for first-year students. First-year students were to receive a \$5,100 Pell Grant maximum award, rather than a \$3,300 award (the maximum at that time). Early in his Administration, he dropped support for that proposal, however, it would not be surprising if the proposal or a variation of it surfaced in the Administration's reauthorization proposal.

Clearly, many NASFAA members would oppose such a proposal and the Reauthorization Task Force heard that from our early vetting of this proposal with our Reauthorization Advisory Group. The Task Force and Board of Directors concluded otherwise believing as professionals we have an obligation to explore new ways of delivering aid or, at a minimum, testing ideas in the real world. In that spirit, NASFAA believes a small, voluntary demonstration project is desirable to answer many of the practical and theoretical issues surrounding front-loading. It is not enough to state that front-loading is "bait and switch" without testing the validity of that premise with a real world experiment. The proposed demonstration project needs to be given legislative parameters yet needs a certain flexibility to really test both the operational and value premises and assumptions behind front-loading grants as a way to increase college participation and reduce loan debt. Allowing needy students a first year free of loans or lower loan debt may encourage at-risk students to find out their capabilities.

Pell Grant Issue 8: Negative EFC Needy Student Targeting Provision.

Recommendation: Add Pell Grant funding in the amount of any calculated negative Expected Family Contribution (EFC) to the student's Pell Grant award, not to exceed the cost of attendance. Students who qualify for the low-income by-pass (for TANF & General Relief recipients) automatically receive an additional \$750 in Pell Grant funding.

Rationale: NASFAA believes that the poorest of the poor as evidenced by individuals with negative EFCs should qualify for a bonus Pell Grant award. For example, a student with a negative EFC of 750 would have \$750 added to the maximum award they qualify for. Consequently, a student with a negative \$750 EFC, who otherwise qualifies now for a \$4,000 maximum award, under this proposal would receive a Pell Grant award of \$4,750. NASFAA recognizes that negative EFCs can be calculated beyond 750, but currently are not. We suggest not going beyond this level for reasons of cost to the government, but believe the extra cost of this recommendation is a reasonable solution to reducing student debt and increasing the amount of grant assistance in a fiscally responsible way.

Pell Grant Issue 9: Reinstatement of Pell Grant Eligibility. [Several Sections]

Recommendation: Reinstatement of student eligibility should be consistent for all Title IV programs.

Rationale: Reinstatement of a student's eligibility should be consistent for all Title IV programs. The student's eligibility should be reinstated for the payment period in which he/she becomes eligible. Once a student has defaulted on a federal student loan or is required to repay an overaward, he/she is ineligible for any Title IV funds until that defaulted loan overaward has been paid in full. Once the default/overaward has been paid the student may regain eligibility for a federal Pell Grant for the period of enrollment in which eligibility was regained.

Currently, when a student regains Title IV eligibility, for example, by clearing a Title IV loan default or Title IV overpayment, the period for which eligibility is regained varies by program. FFEL and Direct loans may be certified retroactive to the beginning of the academic year, but Pell Grant and campus-based funds may be paid only for the payment period during which eligibility was regained.

All Campus-Based Programs

All Campus-Based Issue 1: Campus-Based Programs Allocation Formulas [Sections 413D, 442, 462]

Recommendations:

A. Phase-out the base guarantee by fiscal year 2009 in accordance with the following schedule:

Fiscal Year 2004 – 100% of base guarantee
Fiscal Year 2005 – 80% of base guarantee
Fiscal Year 2006 – 60% of base guarantee
Fiscal Year 2007 – 40% of base guarantee
Fiscal Year 2008 – 20% of base guarantee
Fiscal year 2009 and thereafter – 0% of base guarantee

B. Modify the fair share portion of the process by:

1. Increasing the allowance for books and supplies in the average cost of attendance determination from \$450 to \$800 for Fiscal Year 2004 and adjust it by the change in CPI each succeeding year.
2. Extending the income categories to reflect the distribution of EFCs relative to the average cost of attendance.

C. Direct the Secretary to conduct a study of alternative measurements of institutional need for campus-based funds considering factors such as, but not limited to, distribution of EFCs, state grants, institutional grants (need based and non-need based), the distribution of full-time and part-time students, and tuition discounts. The results of the study shall be reported to Congress by June 30, 2006.

D. Mandate that for participation in the SEOG Program a school must participate in another Campus-based Program.

Rationale: The campus-based allotment formulas, through the base guarantee based on fiscal year 1999 allotments, have suppressed the allocation of funds to institutions with a growing student population and do not reasonably reflect the proportions of needy students at many institutions. A gradual phase-out of the base guarantee will permit a redistribution of funds to reflect more accurately the distribution of student need among institutions.

The modifications for the book and supplies allowance will provide a more current estimate of the costs in the formula.

The extension of the income bands will permit a more equitable assessment of institutional need by permitting a fairer representation of the distribution of EFCs for

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middle- and upper middle-income families in the calculation of institutional need. The current bands are capped at \$60,000+ and \$20,000+ for dependent and independent students and compress the representation of the EFCs. An extension of the bands to a cap of about \$120,000 and \$40,000 would provide for a more refined computation of institutional need.

The study and report by the Secretary will allow for community discussion of the formulas to permit progress toward the development of a more equitable allotment process.

NASFAA is cognizant of the potential shift of funding and proposes to mitigate the effects of “cherry picking” by requiring a school that wishes to participate in the SEOG Program must also participate in one of the other two campus-based programs, either FWS or Perkins. To further lessen the impact on schools, in Issue 17 in the General Provisions section, NASFAA recommends that a school have the authority to transfer up to 25% among its Campus-based Programs in any manner it chooses rather than the limited authority already granted in statute; this authority for the Perkins Loan Program not only includes FCC, but also collections.

All Campus-Based Issue 2: Campus-Based Programs Allocation Formulas [Several HEA Sections]

Recommendation: Establish a common overaward tolerance of \$500, applicable to the campus-based and Stafford programs.

Rationale: Currently, there is a \$300 tolerance for the campus-based programs and a limited tolerance for Stafford Loans applicable only when an overaward results from the \$300 tolerance in FWS only. Thus, receipt of an additional scholarship may have a disproportionate effect on a student's awards. This recommendation seeks to ensure consistent treatment of students across the Title IV programs and simplify institutional procedures.

**Federal Supplemental Educational Opportunity Grant (FSEOG)
Program– Part A, Subpart 3**

FSEOG Issue 1: Authorization for FSEOG [Section 413A]

Recommendation: Increase authorization levels for FSEOG.

Rationale: The FSEOG Program allows participating institutions the flexibility of offering grants to needy students to meet their educational needs. Annually the need for funds exceeds the allocation.

FSEOG Issue 2: Priority of FSEOG Awards [Section 413C(c)(2)]

Recommendation: Eliminate the lowest EFC order for awarding. Retain the preference that FSEOG recipients also be Pell Grant recipients but permit schools to direct no more than 10% in FSEOG funds to other exceptionally needy students, who may be non-Pell recipients, as defined by the institution.

Rationale: This flexibility would allow financial aid administrators to target funds to the neediest students.

FSEOG Issue 3: Allocation of Funds [Section 413D(a)(4)(A)-(B)]

Recommendation: Delete these two provisions.

Rationale: Conforming amendment to enable implementation of Issue 2. Eliminating these two provisions in the allocation formula allows new money to go to schools with the highest number of Pell eligible students, rather than basing the allocation on graduation or transfer rates.

**Leveraging Educational Assistance Partnership (LEAP) and Special
Leveraging Educational Assistance Partnership Program (SLEAP)—
Part A, Subpart 4**

LEAP Issue 1: Purpose and Appropriations Authorized [Section 415A]

Recommendation: LEAP funding should be continued and increased to prevent the elimination or severe reduction of some state need based grant programs.

Rationale: The purpose of the LEAP Program is to encourage the development of state need-based financial aid initiatives that provide student access to higher education. States should be encouraged to continue these types of programs.

Part B and D FFELP and Direct Loan Student Loan Issues

Loan Issue 1: Increased Loan Limits [Section 428(b)(1)(A)]

Recommendations: (a) Increase undergraduate annual loan limits to the following levels effective in 2004 with stepped increases in both subsidized and unsubsidized annual limits of \$500 in 2007 and 2009; for graduate/professional borrowers stepped increases in subsidized annual limits of \$1,000 in 2007 and 2009; increase graduate/professional borrower annual loan limits; increase unsubsidized loan limit to 150% of subsidized loan limit.

Annual Limits for Stafford Loans*

	<i>Subsidized Loans</i>	<i>Total (subsidized & unsubsidized loans)</i>
<i>Dependent Undergraduates</i>	\$7,000	\$7,000
<i>Undergraduates without access to PLUS</i>	\$7,000	\$14,000
<i>Graduate & Professional Students</i>	\$10,000	\$25,000

*Does not include certain health profession student annual & aggregate limits which would be added to both categories; there would be no change from current practice for such loans—annual and aggregate.

(b) There would be only one loan limit for undergraduate borrowers rather than the current first-year, second-year, and third- and fourth-year limits.

(c) Schools would have the authority to implement lower loan limits for undergraduate and graduate students. At the school's discretion such lower limits could be devised in three ways: school-wide, class level, and academic program. A statutory provision would be placed into the law prohibiting any executive agency or judicial review of a school's decision to have lower limits than the federal maximums. Permit schools to implement a student appeals process to allow for a higher loan limit on a case-by case basis; such a process may not be subject to review by the authorities.

(d) New loan limits apply to first academic year after the date of enactment of the newly reauthorized Higher Education Act.

Rationale: NASFAA believes one of the highest priorities for this HEA reauthorization, after providing for adequate grant assistance, is to raise loan limits. Reauthorization Task Force members wrestled with the question of whether or not to increase loan limits and, if so, how high. We believe we have developed a balanced approach to student loans with a strong emphasis on the need to increase grant funding. We believe loan limits should be increased. We reject the notion advanced by some that there is no need to raise loan limits because there is little evidence that students need increased limits.

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The last time loan limits were raised for first-year students was when Ronald Reagan was president (1986). The last time loan limits were raised for all other students George Bush, the father, was president (1992). Loan limits were not raised during the HEA reauthorization in 1998. We regret this fact since we warned then that without an increase in the federal limits borrowers would increasingly turn to private label loans. That prediction has come true.

We need to raise loan limits now, not only to “catch up” for past lack of loan limit increases, but also establish a structure for future changes. Consequently, we are recommending subsidized loan limits for undergraduates that are the same no matter what academic year the borrower is in, instead of the current three limits. All the proposed loan limits are straight-line inflation increases from the last time loan limits were raised in 1992. Such estimates use the Consumer Price Index (CPI) inflation index rather than the higher education index (HEPI) since the CPI is the federal standard and HEPI is less recognized by the federal government. If we had used HEPI our proposed loan limits would have been considerably higher.

NASFAA recommends increased subsidized loan limits for undergraduate borrowers starting at \$7,000 and for graduate and professional students starting at \$10,000, in 2004, with stepped increases in the out-years for both. We also recommend increasing unsubsidized loan limits for undergraduates starting at \$7,000 and for graduate and professional students to 150% of the subsidized limits with stepped increases in the out years. It is important to note these limits are statutory limits and do not include certain health profession student annual and aggregate limits which are regulatory and would be added to both categories; there would be no change from current practice for such loans—annual and aggregate.

Even though we are proposing increased loan limits we are proposing a complementary policy that would allow schools to implement lower loan limits on a school-wide, class level, or academic program basis. A school could decide to have a school-wide limit that was lower than the federal limit. A school could decide to have a lower loan limit for its first-year students. A school could decide to have a lower loan limit for liberal arts majors and a higher one for its engineering students. It would be up to the school to decide to have a lower limit and what that limit should be. This new authority would be in addition to the current authority found in Section 428(a)(2)(F), which permits schools to refuse to certify (or to reduce the amount of) a student's loan on a case-by-case basis. The decision by a school to have a lower limit would be statutorily protected from review by any court or ED. Finally, schools, under this recommendation, would have the authority to implement a student appeals process so that a borrower may be granted a higher loan amount than normally would be allowed under a school policy implementing a lower loan limit as permitted under this policy recommendation. Such appeals would be granted on a case-by-case basis and such a policy may not be subject to review by the authorities.

If loan limits are not raised in this reauthorization, and the next reauthorization will not take place until 2009 or 2010, it is an unreasonably long period of time not to remain at

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current levels.

Loan Issue 2: Increased Aggregate Loan Limits [Section 428(b)(1)(B)]

Aggregate Limits for Stafford Loans*

	<i>Subsidized Loans</i>	<i>Total (subsidized & unsubsidized loans)*</i>
<i>Dependent Undergraduates</i>	\$35,000	Same
<i>Undergraduates without access to PLUS</i>	\$35,000	\$70,000
<i>Graduate & Professional Students</i>	\$85,000	\$195,000

*Does not include certain health profession student annual & aggregate limits which would be added to both categories; there would be no change from current practice for such loans—annual and aggregate.

Recommendation: To reflect the change in annual loan limits change aggregate loan limits to \$35,000 for dependent undergraduate students. Update to \$37,500 in 2007 and to \$40,000 in 2009. Undergraduates without access to PLUS would have an aggregate loan limit of \$70,000 (only \$35,000 of this amount may be in subsidized loans). Such amounts in 2007 and 2009 would increase to reflect changes in the annual limits.

Graduate/professional borrowers would have an aggregate limit of \$195,000 of which \$85,000 is subsidized loans. Update in 2007 and in 2009 to reflect changes in the annual limits proposed in those years. It is important to note these limits are statutory limits and do not include certain health profession student annual and aggregate limits which are regulatory and would be included in both categories; there would be no change from current practice for such loans—annual and aggregate.

Rationale: This is a simple additive process derived from the proposed annual loan limits, based on five years of full loan limits.

Loan Issue 3: Repayment Plans [Section 428(b)(1)(E)&(9), Section 455(d)&(e)]

Recommendation: Modify loan repayment plans to reflect best of the current FFEL/DL loan repayment options i.e., graduated, extended, and income-contingent repayment.

- (a) Keep the 10-year standard repayment plan.
- (b) Modify graduated repayment plans so that the maximum repayment period is 15 years; maintain the requirements that no installment may be less than the interest that accrues between payments; and modify the current three times rule.
- (c) Modify the extended repayment plans so that any borrower is eligible, that fixed annual or graduated repayment amounts are possible, and use the Direct Loan repayment schedule.
- (d) Extend the Direct Loan Program's Income Contingent Repayment plan to FFELP borrowers at the option of the lender; drop the FFELP Income sensitive Repayment plan; and eliminate requirement that after 25 years any cancelled remaining balance is taxable income.
- (e) Allow borrowers flexibility to change repayment plans yearly.
- (f) Mandate that every five years the holder contacts the borrower to ascertain whether the borrower wishes to change repayment plans to a shorter time period to reduce the total loan repayment amount.

Rationale: With NASFAA recommending increases in annual and aggregate loan limits, we decided that the loan repayment options needed to be carefully examined so that borrowers can tailor a repayment plan that meets their personal and financial needs. Our recommendations for change, in large part, take the best of the current FFELP and Direct Loan repayment plans. It is our intent that borrowers have the same repayment plans no matter whether their Stafford loans are FFELP or Direct Loans. For many borrowers the standard 10-year repayment plan will continue to be the best repayment plan in terms of not extending payments with a consequent increase in total loan debt. Our recommendations merge the best features in the graduated, extended, and income-contingent repayment plans. Borrowers annually will have the option to change plans. We also believe those borrowers in longer-term repayment programs should be contacted every five years to determine if they wish to continue in their current loan repayment plan or if they want to switch to another plan that will lower their total loan debt.

Loan Issue 4: Interest Rates [Section 427A(l), Section 427A(k), Section 455(b)(7), & Section 455(b)(6)]

Recommendation: a) On July 1, 2006, lower maximum cap on interest rates from 8.25 to 6.8% for subsidized and unsubsidized loans. Continue variable interest rate, rather than fixed rate. Lower PLUS maximum cap to 7.5% on that date. b) Provide a refundable tax credit on student loan interest paid to a limit of \$2,000 per year for the life of the loan.

Rationale: President Bush earlier this year signed a bill requiring that on July 1, 2006, the interest rate on Stafford Loans be set at 6.8%. No longer would interest rates be variable as they are now. NASFAA's recommendation would lower the cap on the maximum interest rate from the current 8.25% for Stafford loans to 6.8% and lower the PLUS maximum interest rate cap to 7.5% on that date too. We believe borrowers should have the best interest rate available and that a variable rate is the best option presently rather than a fixed 6.8% interest rate that goes into effect in 2006.

NASFAA recommends establishment of the tax credit up to \$2,000 for interest paid on student loans in addition to the current deduction. Such a tax credit would be refundable and is, obviously, more valuable than the current tax deduction. We also recommend a borrower option that such a tax credit could be sent directly to the holder of the loan to help reduce the borrower's loan debt.

Loan Issue 5: Loan Subsidies [Section 427A(g), Section 455(b) and Various Other Subsections]

Recommendation: a) All borrower subsidies are continued, including but not limited to, the grace and in-school periods. b) Loan subsidies for lenders and guaranty agencies are reduced to prevent a windfall from higher loan limits and extended repayment plans

Rationale: NASFAA believes the loan subsidies borrowers receive are important benefits and should remain in place. NASFAA further recognizes that its recommendations for increases in loan limits and modification of loan repayment options so that longer payment periods could be more attractive to borrowers results, if the current subsidies remain in place for the lending community, in larger payments to those lending partners. Our recommendation to reduce such subsidies should not be construed as a wish to destabilize the industry or remove a fair profit from their participation in the federal loan programs. However, we recognize that a number of the changes we propose would lead to an increased profitability of their student loan portfolios with little additional work performed by the industry. We propose that NASFAA work with interested parties to develop a new payment or reimbursement system. We do not intend that changes in loan limits or repayment terms result in a windfall profit for little additional work. We further recognize a restructuring of these subsidies would help pay the cost of the some of the changes we seek.

Loan Issue 6: Borrower benefits [Section 428(b)(1)(M), (7), (c)(3), 428H(e) 455(f), & various other sections]

Recommendation: Deferments, forbearance, cancellation and other such student benefits are maintained as in current law. However NASFAA recommends merging the best of such benefits between the Stafford and Perkins Loan Programs so that such benefits in each program mirror the benefits of the other program.

Rationale: NASFAA recommends that various student benefits continue and that the benefits should be equalized between those offered in the Stafford Loan and Perkins Loan programs.

Loan Issue 7: Eliminate Origination Fee [Sections 438(c) & 455(c)]

Recommendation: Eliminate the loan origination fee currently charged to students. Transfer responsibility for payment of the insurance premium from the student to the federal government.

Rationale: The origination fee should be eliminated and if there is a need for an insurance premium that should be paid by the federal government rather than by students. It is appropriate that the federal government make such a payment to support and finance guaranty agencies. NASFAA firmly suggests that the origination fee was intended to be temporary when it was imposed on student borrowers in the early 1980s, and it has continued far too long to the detriment of student borrowers. While a federal budget convenience, the origination fee and insurance premium in both programs is a major handicap for student borrowers, denying them all the loans funds they qualify for and that are necessary to finance their education. As students graduate with increasingly higher student loan debt, NASFAA believes that elimination of the origination fee for all federal student loans is in the best interests of students.

Loan Issue 8: Student Loan Terms and Conditions [Section 427A(j), 428(b)(1)(H), 438(c)(2), 455(a)(1), & 455(g)]

Recommendation: Equalize FFEL and DL student terms and conditions. Write into law mandatory student benefits such as on-time repayment and automatic, electronic payment, etc.

Rationale: Provisions of the Higher Education Act are contradictory. A provision of law governing the Direct Loan Program, Section 455(a)(1), requires that “Unless otherwise specified in this part, loans made to borrowers under this part shall have the same terms, conditions, and benefits, and be available in the same amounts, as loans made to borrowers under sections 428, 428B and 428H of this title.” While this is straightforward language mandating, unless otherwise specified, that Direct Loan borrowers have the same terms, conditions, and benefits as FFELP borrowers, contradictory law is evident in other HEA provisions. For example, Section 438(c)(2) authorizes lenders to charge an origination fee “not to exceed 3.0% of the principal amount of the loan...” Section 428(b)(1)(H) allows guaranty agencies to collect “a single insurance premium equal to not more than 1.0% of the principal amount of the loan...” A further example, Section 427A(j) permits a lender to charge a borrower an “interest rate less than the rate which is applicable under this part.” The meaning of Section 455(a)(1) is contradicted by Sections 438(c)(2), 428(b)(1)(H), and 427A(j) which allow lenders, or other parties to the lending process, to offer benefits to FFELP borrowers that are not available to Direct Loan borrowers since such Direct Loan borrower benefits are not authorized by statute. Direct Loan borrowers have an advantage over FFELP borrowers since they can consolidate their loans while in school.

NASFAA firmly believes it is time to equalize the terms and conditions of student loans so that all borrowers no matter what loan delivery system (FFELP or Direct Loans) have the same loan terms and conditions. At the same time, NASFAA wishes to continue popular student FFELP benefits, but make them available to all borrowers regardless of loan delivery system, school choices, or by inequities among student benefit offerings by the lending community, e.g. lenders, guaranty agencies, secondary markets, et. al.

Consequently, no longer would there be disparities in student loan benefit terms and conditions. Every student would pay the same interest rate, same origination fee (if it is not eliminated per NASFAA's recommendation), the same insurance premium (if it continues to be paid by the student and not the federal government per NASFAA's recommendation). NASFAA suggests there is not a need in either FFELP or Direct Loans for an in-school consolidation benefit and so would eliminate it from the DL program. NASFAA suggests that inequities in the treatment of borrowers need to be eliminated in the current loan program. This recommendation would do so treating all borrowers alike. At the same time, NASFAA recognizes that a number of the FFELP borrower benefits are creative and help reduce student debt. We recommend that these benefits, such as incentives for on-time repayment or for automatic loan repayment deduction from a borrower's checking account, should be made available to all borrowers regardless of the source of their loans. Consequently, NASFAA recommends writing such benefits into the

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law so all borrowers may take advantage of the above named benefits and any others that NASFAA staff may identify.

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Loan Issue 9: To be provided in early January

Loan Issue 10: Loan Consolidation [Section 428C, 455(g) & various other sections]

Recommendation: Continue loan consolidation program, but return to first principles. Allow consolidation so that borrowers with multiple loans may have a single holder. Allow consolidation to prevent borrower defaults. Change interest rate from a fixed rate to a variable one to conform to recommendation that all interest rates are variable capped at a maximum rate of 6.8%. Clarify single holder rule. Consider consolidation loans to carry a higher interest rate.

Rationale: NASFAA believes that loan consolidation is an appropriate option so that borrowers with multiple loans may consolidate with one holder and that such loans are a useful tool to keep a borrower from entering into default. Consequently, we propose maintaining loan consolidation as an option for borrowers; continuing consolidation for borrowers with loans from multiple holders; conforming all interest rates; modifying the single holder rule to clarify the relationship of a Perkins Loan in consolidation, and having borrowers pay an add-on for the ability to consolidate and to reduce subsidy costs. NASFAA is very concerned about the abusive and misleading recent marketing of consolidation loans, loans that increase total student repayment debt.

As a result of this framework, we recommend returning loan consolidation to first principles, the understanding of the uses of consolidation when the program was first adopted by the Congress, e.g., to help ease the confusion and paperwork of have multiple holders and to prevent default. NASFAA suggests too many borrowers are being seduced by sophisticated marketing of loan consolidation options without realizing the consequences of such an action (e.g. higher total loan debt and the loss of eligibility for some loan benefits). NASFAA is also concerned with questions of generational equity, e.g. some students consolidate to receive a lower interest rate—a rate, determined by the economy, which is not available to another borrower. For example, a borrower may consolidate their loan today and receive a historically low interest rate. The borrower's sister or brother five years from now because of the state of the economy then might have to pay a considerably higher rate. That is a generational inequity. NASFAA suggests that convenience loan refinancing should be prohibited. Nowhere in setting up the loan consolidation program years ago did Congress contemplate using the system as a means of refinance.

Controversy is rampant over the single holder rule. Our recommendation would maintain the rule and clarify the position of a Perkins Loan in consolidation, i.e. Perkins Loans can be consolidated, but are not considered to be held by another holder in order to get around the single holder rule. This proposal would also include certain health loans made by the school. Many knowledgeable observers suggest elimination of the single holder rule would grossly distort and destabilize, perhaps, cripple the student loan market. This, they say, would occur when the lender who estimates and depends on a certain revenue stream coming from a loan in order to stay competitive, indeed, stay in the student loan business, would not be able to do so if a loan can be consolidated by any competitor with the marketing savvy or high pressure tactics to “steal” that loan away.

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NASFAA proposes that the interest rate for consolidation loans track the interest rate for Stafford Loans. NASFAA recommends all loans, including consolidation loans, have a variable interest with Stafford Loans capped at a maximum interest rate of 6.8%. We suggest further study and consideration of applying a premium, a modest basis point increase, be applied to consolidation loans to help reduce the consolidation loan subsidy that might be better used to offset costs to gain other benefits, such as increased loan limits or elimination of the origination fee, in the zero sum budget game that will be played in this HEA reauthorization.

NASFAA further believes that its recommendations for changes in repayment plans and options, if adopted, will go a long way in providing borrowers with attractive, sensitive, and fair terms that will obviate the need for the high level of loan consolidation activities over the last several years. NASFAA's loan consolidation recommendations are intended to bring some common sense, promote consumer protections and awareness, maintain some semblance of FFELP industry stability, and reduce unnecessary increases in loan debt.

Loan Issue 11: School as Lender [Section 435(d)(2)(D)]

Recommendation: Maintain school as lender provision. Clarify proceeds beyond administrative expenses are to be used only for need-based student aid at the school.

Rationale: NASFAA recommends maintaining this provision and clarifying that proceeds, after subtraction of administrative costs, be used exclusively for need-based student aid programs at the institution.

Loan Issue 12: Loan Certification [New HEA Section]

Recommendation: Allow schools the ability to certify loans up to 30 days after the student's last date of enrollment.

Rationale: This recommendation would give flexibility to schools to deal with students who were unable to complete the loan application process prior to ceasing enrollment or who anticipated resources that did not materialize.

Loan Issue 13: Loan Disbursement [Section 428G(a)(3), (b)(1)]

Recommendation: Eliminate the 30-day delay for first-time students and multiple disbursements for single term loans.

Rationale: The two provisions that allowed waivers of these requirements recently expired and efforts to renew them continue unabated. They should be permanently extended in reauthorization if this is not accomplished before then.

Loan Issue 14: Loan Proration [Section 428(b)(1)(a), 435new section]

Recommendation: Eliminate loan proration for student borrowers enrolled in programs of at least one academic year in length. Retain proportional proration for student borrowers enrolled in undergraduate programs of less than an academic year in length.

Rationale: Currently, Stafford loan limits must be prorated if (1) the student is enrolled in a program which is shorter than one academic year, or (2) the student is enrolled in a program that is one academic year or longer but the individual student is borrowing for a final period of enrollment that is less than a full academic year in length.

The latter circumstance may occur when the program itself is not an even multiple of academic years (e.g., a program spanning three semesters where two semesters comprise an academic year, or a 1500-clock hour program where the academic year is 900 clock hours). It can also occur when the student is taking longer than the normal time to complete; for example, a student in a 4-year (8 semester) program needs one additional semester to graduate. In either case, loan limits for the student's final ("remaining") period of enrollment must be prorated. Proration is not required for loan periods that are shorter than an academic year if that period does not represent the student's final period of enrollment in the program; for example, a student who "stopped out" for the fall term of his junior year but re-enrolls for the spring term of that year may borrow up to the full loan limit.

Loan proration for remaining periods is proportional; the maximum amount the student may borrow is directly related to the number of credit or clock hours for which the student is enrolled.

Proration of loans for remaining periods is complex and burdensome to administer. It also creates hardship for students who have already incurred at least one year's worth of educational expenses and have need for a greater amount than proration currently allows. Retaining loan proration only for programs that are less than an academic year in length most effectively targets borrower populations that are more likely to find repayment of higher loan debt difficult.

Loan Issue 15: Borrower Rights and Protections [New HEA Section]

Recommendation: Lenders, guaranty agencies, secondary markets, credit bureaus and/or servicers should be prohibited from releasing and/or selling student information for any purpose not related to the processing and servicing of student loans.

Rationale: Strong language needs to be part of the statute to prevent the use of student information for anything other than the disbursement and collection of student loans. Some borrowers are receiving certain reduction benefits for their loans in exchange for permission to a lending entity to release or sell, for example, their E-mail address to parties outside the student loan processes. NASFAA recommends prohibiting this invasion of privacy in the guise of providing some minor benefit. Student information should only be used in the processing and servicing of student loans.

Loan Issue 16: Borrower Rights and Protections Disclosures [New HEA Section]

Recommendation: Require lenders, holders and loan servicers to provide individual borrowers and potential borrowers full disclosure on borrower benefits. The language of these marketing and disclosure pieces must be clear and easy to understand. In addition to outlining student rights and responsibilities, all potential repayment options and benefits must be provided, including statistics on how many borrowers actually benefit from each option and benefit.

Rationale: Borrowers many times do not understand the type and scope of benefits available to them. They may believe that they are entering into a repayment program that will provide them flexibility but in the long run costs them more money and is more restrictive than another option.

Loan Issue 17: Consumer Information and Education [New HEA Section]

Recommendation: Direct the Secretary to develop and distribute consumer information to student loan borrowers and potential student borrowers concerning debt management and student loan related information. Lenders, guarantors, servicers and secondary markets will be responsible for the distribution of this material.

Rationale: The Secretary has the ability to design materials that address the needs of the student borrower. In addition, schools may not have the resources available to develop and deliver the comprehensive materials required by the Secretary or needed by the student. It seems more practical for the Secretary and the Department to be responsible for this issue.

Likewise, the points of time at which the borrower needs these materials are generally beyond the scope of control of the school. These points generally involve the borrower and the lender and include, but may not be limited to: time the loan is requested, time the borrower enters repayment, times when the borrower is experiencing difficulties in meeting his/her payment obligations, and times when the borrower may be seeking new repayment terms and possible consolidation. It is at these points in time that the borrower needs “just-in-time” counseling on what options are available, something the schools have no control over.

Loan Issue 18: Disbursements [Section 428G]

Recommendation: Schools should be allowed the ability to request uneven disbursements during a loan period. This should be allowed for undergraduate and graduate level loans.

Rationale: Students often have significantly greater expenses in some terms than in others. With even disbursements they are often unable to meet their expenses in some terms, yet have excess funds in others.

Loan Issue 19: Loan Counseling [Section 422(h)(8)(a)(ii), 485(b) & 454(a)(2)]

Recommendation: Require Part B lenders or guaranty agencies and the Department of Education under Part D to perform all statutory loan-counseling activities, unless the school elects to perform these duties in whole or in part.

Rationale: NASFAA recommends that the HEA statutory entrance and exit counseling be performed by lenders (including ED for the Direct Loan Program), or by guaranty agencies on behalf of lenders. Schools would be able to select the lender(s) or agency(ies) or combination of those entities, or the Department of Education under Part D, to perform these counseling activities. Schools could provide such services themselves either in whole or in part.

Loan Issue 20: Loan Forgiveness [Section 422(h)(8)(A)(i), 428J, 428K, 460, 465]

Recommendation: The loan forgiveness provisions for subsidized Stafford loans should be the same as those provided in the Perkins Loan Program and vice versa.

Rationale: Loan forgiveness provisions in the Perkins and Stafford loan programs should be the same to provide borrower equity in loan terms and conditions. The more favorable provisions of the Perkins Loan Program should be retained and applied as well to Stafford.

Loan Issue 21: Master Promissory Note (MPN) [Section 432(m)(1)(D)]

Recommendation: Direct the Secretary to review and revise the Master Promissory Note (MPN) provisions to allow two-year colleges and proprietary institutions the ability to use the multi-year feature provisions of the MPN.

Rationale: Not allowing these schools the ability to use the continuation provisions is disruptive to the student's borrowing and slows the student's access to education.

Loan Issue 22: Overaward Provisions [Section 428(G)(d)(2), 443(b)(4)]

Recommendation: Establish consistent overaward provisions across all Title IV programs.

Rationale: The suggested amendment would allow an overaward tolerance of \$500 in the FFEL and Direct Loan Programs.

Given the many circumstances under which an overaward may be created, and the fact that modest overawards are permitted in other Title IV programs, NASFAA recommends that similar treatment be permitted in the loan programs. NASFAA believes that a \$500 overaward is low enough to prevent the borrower from incurring unreasonable excess debt, but sufficient to avert costly and inconvenient administrative burdens for students, lenders, and schools.

Loan Issue 23: Voluntary Flexible Agreements (VFA) [Section 428A]

Recommendation: Maintain statutory VFA authority and urges future consideration of new models for guaranty agency services.

Rationale: Voluntary Flexible Agreement statutory language was included in the last HEA reauthorization. The purpose of VFAs is to experiment with new ways to deliver and pay for services provided by guaranty agencies. Several agencies have taken advantage of this authority, including ASA, Great Lakes, and the Texas agencies. NASFAA believes that several of the current VFA experiments hold considerable promise for reorienting not only the structure of the current payment system for guaranty agencies, but, more importantly, refocusing their activities and services provided in reducing default claims. NASFAA urges further investigation and further consideration in the future of a new system of service and payment based on one or more of the current VFA experiments. We do not urge adoption of such a model at this time, since we believe certain outstanding questions remain and there is a need for the current VFA experiments to mature before we are ready to urge a wholesale reform of guaranty agency functions.

Federal Work Study Program (FWS)—Part C

FWS Issue 1: Increase FWS authorization [Section 442(b)]

Recommendation: Increase FWS authorization.

Rationale: NASFAA recommends the FWS first-year authorization level be increased for this successful student/school/government program.

FWS Issue 2: Community Service Requirement [Section 443(b)(2)(B)]

Recommendation: Allow those schools that can certify that ten percent of their student body is involved in community service to be exempt from any FWS community service spending requirements.

Rationale: NASFAA strongly supports the notion that all members of the higher education community should participate in community service activities that will benefit the nation and engender in all a sense of social responsibility and commitment to the community. Because many schools have a strong commitment to community service and incorporate it into their institutional philosophies and program structures, and because we believe incentives to grow community service initiatives are more productive than mandates, we recommend recognizing the efforts of schools that are successful in this regard. Recognizing that the development and nurturing of exemplary community service programs, even in the absence of JLD participation, is very important, NASFAA recommends encouraging such activity via the creation of a model community service program award to be given annually to schools that exemplify the best of community service. Recognized schools could also receive preferential treatment for the allocation of FWS funds.

FWS Issue 3: Community Service Requirement [Section 443(b)(2)(B)]

Recommendation: Expand and clarify the conditions under which the Secretary may grant a waiver of the utilization of Federal Work-Study funds for community service. Do not prescribe in the law what the requirements beyond the 7% will be as each institution has varying degrees of access to community service opportunities for its students.

Rationale: Many schools have a strong commitment to community service which is incorporated into their institutional philosophies and program structures. These institutions often have difficulty meeting the current 7% requirement to expend Federal Work-Study funds on community service. This statutory change is suggested to permit the Secretary to recognize schools that have voluntarily undertaken substantial community service activities, and not because of a government mandate. In so doing, the Secretary could avoid penalizing schools that are unable to meet the federal commitment because community service slots are not available for Federal Work-Study student workers in the community due to the school's other community service activities.

FWS Issue 4: Purpose [Section 441(c)(1)]

Recommendation: Expand the definition of community service to include child care services provided only to campus employees and students.

Rationale: The current statute includes "child care services provided on campus that are open and accessible to the community" in the definition of community service. Many campus-based child care facilities have waiting lists due to the demand from the school's employees and students for affordable and convenient child care. In such cases other members of the community-at-large are unable to use these services as the students or students and employees have first priority. Expansion of the definition would recognize that these child care facilities are in fact providing quality and affordable child care to members of the community who happen to be employees or students of the school.

FWS Issue 5: Job Location and Development Programs [Section 446(a)]

Recommendation: Increase the amount of Federal Work-Study allocations that can be used for Job Location and Development (JLD) Programs from 10 percent or \$50,000 to 15 percent or \$75,000.

Rationale: The JLD program has successfully assisted many students find part-time jobs while attending school. In addition to serving as an important financial resource for students, the program provides students with career-related jobs that offer an opportunity for job exploration and resume building. Students are able to gain invaluable experience that helps direct them to an appropriate career and makes them better candidates in the job market upon graduation. Many colleges would be able to expand these advantages to even more students if the JLD levels were increased. The current levels have not been increased in over ten years. NASFAA believes that increased demand for the program and inflation since the last increase justify this recommendation. This provision does not represent an increase in an institution's Federal Work-Study allocation or any increase in federal expenditures.

FWS Issue 6: Job Location and Development Programs [Section 446(a)]

Recommendation: Allow an institution to use 20 percent or up to \$100,000 of its Federal Work-Study allocation for a Job Location and Development (JLD) program if at least 5 percent or \$25,000 of this amount is specifically allocated to the development of off-campus community service jobs.

Rationale: There is a growing national interest in providing opportunities for students to engage in community service work. Although the original JLD language includes developing community service jobs as allowable JLD activities, NASFAA feels that schools will be encouraged to increase their programs even more if the JLD funding limits are expanded. Allowing additional funds to be used to dedicate staff and resources to developing community service jobs enables institutions to expand their programs to the greatest possible number of students and community service providers. Since JLD positions are not limited to Title IV-eligible students, this provision provides an incentive for institutions to encourage a broad range of its students to engage in community service and signifies Congressional support for these activities. This recommendation does not represent an increase in an institution's Federal Work-Study allocation or any increase in overall federal expenditures.

Need Analysis—Part F

Need Analysis Issue 1: To be provided in early January

Need Analysis Issue 2: Inclusion of Siblings in the Family Size [Section 480(l)]

Recommendation: Exclude all children aged 24 years and older from household size and number in college for dependent student families and independent student families.

Rationale: The suggested amendment recognizes the complexity of the variety of family situations in our world today and asserts that young adults who qualify as independent students for Title IV aid should be responsible for their own maintenance. NASFAA believes that financial aid administrators can address the care of elderly family members and/or family members who are disabled using the authority under Section 479A.

Need Analysis Issue 3: Independent Student Definition [Section 480(d)]

Recommendation: Retain current definition; clarify that to qualify for independent status as a veteran, the student must have served in the military for the required number of days that would qualify the student as a veteran as defined by the Veterans Administration.

Rationale: NASFAA believes that the current definition targets the appropriate population and should be retained with one modification. The current definition for veteran status in the Title IV programs does not correspond with the certifying federal agency, the Veterans Administration. Strengthening this definition will curb perceived abuses in the current law. All students who meet the VA definition and serve the required number of days with a discharge other than dishonorable would qualify as independent. All students currently in the military on active duty would qualify for independent status, regardless of days served. National Guard and Reserve training (including the initial active duty training period) would not count as active duty service.

Need Analysis Issue 4: Earned Income Credit (EIC) [Section 480(b)]

Recommendation: Exclude the earned income credit from untaxed income.

Rationale: The EIC is a tax benefit provided by the IRS to aid the "working poor." NASFAA supports providing the true benefit to low-income families and not adding it back to the formula analysis.

Need Analysis Issue 5: Treatment of Paper Tax Losses [Section 475, 476, and 477]

Recommendation: Exclude net operating losses carried-forward and Schedule E losses as offsets against Adjusted Gross Income.

Rationale: NASFAA is concerned that "paper losses" unfairly allow some families to qualify for Pell Grants and other need based programs. We recommend excluding Schedule E and prior year carry-forward losses because they are artificial losses. We do not recommend changing the current treatment of losses from Schedules C, D, or F as they are actual losses.

Need Analysis Issue 6: Treatment of Student Assets [Section 475(d)]

Recommendation: Add a \$1,000 asset protection allowance (APA) for dependent students and single independent students under the age of 26. For married students, use an APA based on the age of the older spouse. The minimum allowance for students under the age of 26 will be \$1,000.

Rationale: The suggested amendment would protect students who have been prudent and saved for their education and not disadvantage these students when compared to the student who couldn't save, or chose not to save. Using a minimum APA will help to ensure that low-income students with modest savings continue to qualify for maximum Pell Grant eligibility.

Need Analysis Issue 7: Updating State/Local Tax Tables [Section 478(g)]

Recommendation: Replace the Treasury Statistics of Income file with the data and tax model used by the Institute of Taxation and Economic Policy for the updating process.

Rationale: The suggested amendment requires the Secretary to update the current state and local tax table to more sensitively recognize the variance in state tax structures by increasing the number of income bands. A simple review of the Treasury Statistics of Income file provides an inadequate assessment of the full effect of state and local taxes. Since sales tax was eliminated as an allowable deduction, the current updating language would severely understate the effective tax rate. NASFAA believes that adding the data and tax model used by the Institute of Taxation and Economic Policy to the updating process would improve the tax tables for all families and protect the working poor in particular.

Need Analysis Issue 8: Income Protection Allowance [Section 478(b)]

Recommendation: Use the Consumer Expenditure Survey (lowest 20% table), to develop the IPA tables instead of updated BLS data.

Rationale: The Federal Methodology Income Protection Allowance (IPA) has been updated by the change in the consumer price index from year to year. The problems with the current table are that (1) the market basket of goods and services that underlies the IPA was established by the Bureau of Labor Statistics in the 1960s, and (2) the family equivalency tables (i.e., coefficients that are used to adjust the family of four, with children aged 8 and 13 to other family sizes with children of college age) were also established in the 1960s. It would be reasonable to use the government-sponsored Consumer Expenditure Survey which includes a more contemporary market basket of goods (lowest 20% table) to update the IPA tables.

Need Analysis Issue 9: Simplified Needs Test [Section 479(b)]

Recommendation: Eliminate this formula treatment.

Rationale: The linkage with tax filing status significantly complicates the identification of eligible families. As an added benefit of eliminating this formula, availability of the asset information will provide a more accurate assessment of eligibility for those families with assets. The SNT does not make the process simple and is not achieving its stated goal.

Need Analysis Issue 10: Automatic Zero EFC [Section 479(c)]

Recommendation: Eliminate this formula treatment.

Rationale: The suggested amendment would eliminate this formula treatment. NASFAA is concerned about whether the current automatic zero approach identifies and serves its intended audience. The tax form a family is "eligible to file" is a central eligibility criterion for the formula. Many low-income families go to tax preparers who generally use the long form. These families are often not knowledgeable enough about the tax system to understand that they could have filed a simpler form thus making them eligible for this formula. NASFAA does not anticipate a negative impact on the FAFSA. Families will complete all data items just as they currently do. If there is any negative formulaic impact resulting from this change, NASFAA believes that the current formula offsetting dependent student income in the amount of the negative adjusted parental available income mitigates the impact.

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Need Analysis Issue 11: To be provided in early January

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Need Analysis Issue 12: To be provided in early January

Need Analysis Issue 13: Veterans' Benefits [Section 480(c)]

Recommendation: Establish consistent treatment of VA monthly educational benefits for all financial aid programs regardless of the chapter. Selected benefits should be assessed at 50% of the award amount for both the campus-based programs (as a resource) and the loan programs under parts B & D (as estimated financial assistance).

Rationale: NASFAA believes that veteran's educational benefits should continue to be treated as a resource and not as a part of the income component in the formula in determining a student's eligibility for financial aid awards. Our members believe that this treatment should be the same for all Title IV programs other than Pell Grants. The current exclusion of Chapter 30 benefits from estimated financial assistance (for purposes of subsidized Stafford Loans only) significantly increases the complexity of overall aid administration. However, since these men and women have contributed in a unique way to their country, we suggest that these benefits should be assessed at 50% of the total benefit for all Title IV programs other than Pell Grants. Affected veteran's educational benefits include those paid under Chapters 30, 31, 32, and 35 of title 38 of the United States Code. The current treatment of other VA benefits should continue with no change.

Federal Perkins Loan Program—Part E

Federal Perkins Loan Issue 1: Authorization for Federal Perkins Loan Program [Section 461]

Recommendation: Increase the authorization level for the Federal Perkins Loan Program.

Rationale: The Federal Perkins Loan Program allows participating institutions the flexibility of offering needy students low-interest loans to meet their educational needs. Annually the need for funds exceeds the allocation.

Federal Perkins Loan Issue 2: Allocation of Funds [Section 462(e)(3)(a)]

Recommendation: Allow schools that wish to terminate participation in the Federal Perkins Loan Program the opportunity to continue to collect outstanding loans; use the collections to establish a federal endowment fund; and to use the proceeds from that endowment for Federal SEOG or Federal Work-Study awards to students.

Rationale: For many years schools have received a minimal amount of new money for the Federal Perkins Loan Program (based on available appropriations and the funding formula), and rely on repayment funds to lend to new borrowers. Some schools may find that the needs of their students may be satisfactorily met through Stafford Loans but that need still exists for FSEOG and FWS.

Under current provisions, should a school determine that they no longer wish to participate in the Federal Perkins Loan Program it must assign all of its loans to the U.S. Department of Education and return the federal share of the cash balance in the fund.

Under this recommendation, a school that terminates participation in the Federal Perkins Loan Program would be allowed the option to collect its outstanding loans, retain the funds to establish a Federal SEOG/FWS endowment, and use the proceeds from the endowment solely for FSEOG and/or FWS awards. Schools would maintain a vested interest in the collection of the loans issued, and a vested interest in keeping collection costs down. Schools would have an incentive to invest the endowment funds at rates equal to or greater than the current 5 percent interest rate. [Currently schools are required to lend out the repaid funds as soon as possible] The earnings from the fund would expand the amount of federal grant and work-study funds for students without any additional federal appropriations. Since these schools would no longer qualify for an annual federal Perkins allocation, increased FCC would be available to those schools that wish to remain in the Federal Perkins Loan Program. The federal government would not have to expand its collection operations to absorb reassigned loans.

Federal Perkins Loan Issue 3: Federal Perkins Loan Limits [Section 464(a)(2)(A)]

Recommendation: Increase the Federal Perkins Loan annual undergraduate maximum to \$7,000 and \$10,000 for graduate/professional students with stepped increases in 2007 and 2009 paralleling our recommendations for the Part B and D loan programs. In addition, increase the cumulative undergraduate graduate/professional limits to reflect these increases.

Rationale: Raising the annual and aggregate limits would allow participating schools additional flexibility in matching need-based programs to the specific needs of their students. By increasing the limits, schools would have a greater ability to help the neediest students limit their educational borrowing to just one loan program. This recommendation would also eliminate the differential annual limits and the intermediate (2-yr) cumulative limit and parallel our recommendations for increases in the Part B and D loan programs.

Federal Perkins Loan Issue 4: Perkins Loan Interest Rate [Section 464(c)(1)(D)]

Recommendation: Maintain the interest rate for the Federal Perkins Loan program at the current level.

Rationale: NASFAA believes the current rate is appropriate.

Federal Perkins Loan Issue 5: Forbearance [Section 464(e)]

Recommendation: Delete the words "upon written request."

Rationale: Borrowers are not required to submit written requests for forbearance under the Federal Stafford Loan Programs. This same provision should also be available to Federal Perkins Loan borrowers.

**Federal Perkins Loan Issue 6: Cancellation of Loans for Certain Public Service
[Section 465]**

Recommendation: Retain these benefits.

Rationale: Current cancellation benefits are incentives, which encourage graduates to enter into low-wage professions that provide benefits to society at large.

Federal Perkins Loan Issue 7: Regaining Title IV eligibility after default [Section 465]

Recommendation: Allow a defaulted borrower who voluntarily makes all past and currently due payments to regain eligibility for all Title IV programs.

Rationale: Currently a defaulted Perkins borrower who voluntarily makes all past and currently due payments due regains eligibility only for Perkins Loans. This is inconsistent with all other provisions relating to regaining eligibility and makes administration of the programs unnecessarily complicated. It is also illogical to allow a previously defaulted borrower to regain eligibility for another loan but not for work or grants.

General Provisions—Part G

General Provisions Issue 1: FISAP Schedule [Section 482(a)(2)(B)]

Recommendation: Establish October 1 as the date for submission of the FISAP.

Rationale: NASFAA's recommendation would prevent the Department from setting too early a date for completion of FISAPs and would allow schools adequate time to complete this form. The current statute states the final date for submission is by October 1. This wording could become subject to interpretation that an earlier deadline could be set.

General Provisions Issue 2: Toll-Free Information [Section 483(d)]

Recommendation: Retain current law.

Rationale: NASFAA believes the toll-free number is a useful aid and should be retained to continue providing services for students, families, and high school guidance counselors among others.

General Provisions Issue 3: Student Eligibility [Section 484(d)]

Recommendation: Expand the Ability to Benefit (ATB) provisions to permit a student to meet the ATB requirement by successfully completing, with the equivalent of a grade of C or better, at least six units of college courses that are applicable toward a degree or certificate.

Rationale: The Ability to Benefit regulations were established as a measure to determine if a student who had not earned a high school diploma or its equivalent has the ability to understand and be successful in his or her program of study. Data from a recent experimental site project show that students who do not have a high school diploma or its equivalent but who pass at least six units of college courses have grades and retention rates that are equal to or higher than students with high school diplomas.

General Provisions Issue 4: Selective Service Data Base Matching [Section 484(n)]

Recommendation: Eliminate the provisions that require schools to track Selective Service registration.

Rationale: NASFAA recommends eliminating the provisions related to Selective Service registration from the Higher Education Act and repeal section 1113 of P.L. 97-252 (50 U.S.C. sec. 462(f). If the government believes that Selective Service registration is useful, it should use means other than the Title IV programs to force compliance. NASFAA recommends that compliance can be attained in more cost effective ways and with less paperwork and bureaucracy than through use of the Title IV programs. NASFAA recommends retaining section 484(n), however, if the Congress does not repeal the statute requiring Selective Service registration.

General Provisions Issue 5: I-9 Employment Eligibility Verification [Section 484(g)(2)]

Recommendation: Include the results of data base matches as acceptable in lieu of documents used to establish employment eligibility.

Rationale: The current practice requires the collection of copies of social security cards, alien registration cards, citizenship documents, or passports even though citizenship, social security and INS matches are performed in the application process. NASFAA's recommendation would vastly simplify this process without compromising the law's intent of verifying identity and eligibility for employment.

General Provisions Issue 6: Elimination of Drug-Related Suspension [Section 484(r)]

Recommendation: Eliminate requirement to suspend or terminate a student's eligibility for Title IV funds based on drug-related convictions.

Rationale: This requirement is unrelated to postsecondary enrollment or financial need and should not be a factor in financial aid eligibility. Additionally, it denies students a second chance to improve their lives after having made a mistake with illegal drugs. These students have already been punished by the law and should not be punished a second time.

General Provisions Issue 7: Grant Forgiveness [Section 484A]

Recommendation: Eliminate the liability of a student's estate or family to repay a grant in the event of a student's death.

Rationale: Currently loans, including PLUS loans, may be forgiven in the case of the death of a student. Under current statute this forgiveness does not apply to the repayment of grants under similar circumstances. While such cases are rare, NASFAA believes this compassionate treatment should be extended when a student dies and has a grant repayment pending.

General Provisions Issue 8: Information Dissemination Activities [Section 485(a)]

Recommendation: Update the statute to better reflect changes in technology and the realities of campus information sharing.

Rationale: NASFAA strongly believes students must be adequately informed of student financial aid procedures and policies and must understand their rights and responsibilities. NASFAA recommends rewriting this section so that consumer information is provided to students in a more cost effective and streamlined manner. The current statutory requirements are too prescriptive and force unnecessary costs on schools that can provide such information to Title IV recipients in more effective and efficient ways than the “one size fits all” approach in the current HEA.

General Provisions Issue 9: Automatic In-School Deferments [Section 485B]

Recommendation: Permit lenders to automatically provide an in-school deferment for individuals who have outstanding loans and return to their studies.

Rationale: Many borrowers who return to school do not realize that re-enrolling in school does not automatically place them in deferment. They fail to realize that there may be additional paper work to make this possible. If the school was allowed to submit an automatic in-school deferment to the NSLDS, the lender would receive notification that the student has returned to school. Upon receiving this notification the lender could contact the student to determine if he/she wishes to continue to make payments or enter into a deferred status. This change in the statute would amend the current confusing process and ensure that borrowers who return to school do not end up in technical default while waiting to file for their deferments.

General Provisions Issue 10: Provision of State Grant Assistance [Section 487(a)(9)]

Recommendation: Move to student consumer information section the requirement that postsecondary institutions provide students with information concerning state grant assistance.

Rationale: Providing information on the availability and eligibility of students for state grant assistance is not the responsibility of postsecondary institutions. Schools attempting to assemble such information find it so general as to be of little use. NASFAA recommends developing alternative and more effective means of carrying out the purpose of this section by modifying Section 485(d), and, then, to require the Department of Education to provide such sources of information for students.

General Provisions Issue 11: Distribution of Voter Registration Materials [Section 487(a)(23)]

Recommendation: Eliminate requirement to distribute voter registration materials.

Rationale: NASFAA recommends elimination of this provision. This provision and several others should not be requirements in the HEA. Such provisions are tangential to the vital purposes of the authorizing law, at best, and, at worst, micromanage financial aid offices and are unfunded mandates. Such provisions purposes can be better accomplished outside the HEA.

General Provisions Issue 12: Campus Crime Reporting [Section 485(f)]

Recommendation: NASFAA will make recommendations for change in these provisions at a later date after consultation with other higher education associations.

Rationale: NASFAA will identify and negotiate changes in these requirements with other higher education associations. This does not mean we do not want changes in the law. Such changes affect a wide swath of campus offices and interests, not only the financial aid office, and, therefore, such changes to streamline, refine, and reform these requirements is better accomplished in concert with all in the higher education community.

General Provisions Issue 13: Experimental Sites and Quality Assurance Programs (QAP). [Section 487A]

Recommendation: Authorize the Secretary to select institutions for voluntary participation in Quality Assurance Programs and Experimental Sites. This section shall not be used as a criterion for participation in any activity or program authorized by this title.

Rationale: NASFAA believes both the Experimental Sites and QAP authorized in Section 487A are valuable programs. NASFAA would like to add legislative language to ensure that participation in each program is voluntary and that diversity among postsecondary institutions selected is a priority of the Secretary. NASFAA recommends that continued experimentation be broadly focused and not subject to any limitation, such as a focus on verification.

General Provisions Issue 14: Experimental Sites [Section 487A]

Recommendation: Expand Experimental Sites authority to all sections of Title I and Title IV. Require the Secretary to establish policies and procedures for conducting the experiments and evaluating the results. Require the Secretary to report annually to the Congress, including proposing changes to the regulations in the areas addressed by successful experiments or making recommendations to Congress for statutory changes.

Rationale: The purpose of experiments is to demonstrate the success or failure of different ways of doing things. If experiments prove successful, these experiments should be models for modifying the law for all institutions. Experimental sites should be true experiments for new ways of doing things and not seen just as regulatory relief or selective exemption from federal laws/regulations.

General Provisions Issue 15: Quality Assurance Evaluation [Section 487A]

Recommendation: Require the Secretary to evaluate the results of the Quality Assurance Program and Distance Education Demonstration Project and recommend appropriate changes to law and regulation based on the successful components of those programs.

Rationale: These programs have been in existence long enough for the Secretary to draw conclusions about what is working and what is not. Those pieces that have been successful should be incorporated into the law.

General Provisions Issue 16: Coordination with IRS [Section 484(q)]

Recommendation: Require an IRS Data-Match Demonstration Project

Rationale: There is reluctance on the part of the IRS and the Dept. of Education to begin wholesale income data matches. In order to identify the potential costs, savings, levels of error and operational benefits/pitfalls, the secretaries of Education and Treasury should set up a controlled data match demonstration project for a period of three years with plans to implement for all applicants in subsequent years if the demonstration project proves successful.

General Provisions Issue 17: Transfer of Campus-based Program Funds. [Section 488]

Recommendation: Expand the authority of schools to transfer funds between all campus-based programs.

Rationale: NASFAA believes postsecondary institutions should have authority to transfer up to 25% of funds in one campus-based program to another, rather than the more limited transfer authority in current law. Additionally, given the small appropriation for new FCC in the Federal Perkins Loan program, this expansion of authority to transfer funds would be extended to permit transfer of 25% of annual loan collections to FSEOG or FWS. NASFAA believes this is a common sense change that provides administrative flexibility allowing schools to make decisions according to institutional and student needs and such total flexibility to move campus-based funds among all programs is a highly desirable policy change. This change would not increase campus-based program appropriations or increase allocations to individual schools.

General Provisions Issue 18: Administrative Expenses [Section 489]

Recommendation: Delete the word “offsetting” from subsection (b).

Rationale: The current statute states the sole purpose of the administrative expense allowance is to offset the administrative costs of the Federal Pell Grant and campus-based programs. The deletion of the reference to offsetting recognizes the need for institutions to use these funds directly for financial aid administration.

General Provisions Issue 19: Funds for Administrative Expenses [Section 458]

Recommendation: Move this section from Part D to Part G in the statute.

Rationale: This section currently is in Part D pertaining to Federal Direct Loans. However, the administrative funds authorized in this section are used for payments to guaranty agencies and for the Department's financial aid systems operations. Therefore, since the funds are applicable to programs authorized under different parts of the statute, it appropriately should be written in the General Provisions part of the Act.

General Provisions Issue 20: Non-Allowable Charges [New HEA Section]

Recommendation: Permit schools to provide notice to students on their policies for paying non-allowable charges with Title IV aid and allow students to opt out.

Rationale: Experimental Site studies over the past seven years have demonstrated that advising students about an institutional policy to apply Title IV to non-allowable institutional charges and permitting the student to "opt out" produces significant institutional administrative savings, with little or no negative effect on students. Institutions participating in the experiment reported improved customer service, faster delivery and improved student retention since this option enabled students to re-enroll without first paying off library, infirmary charges, transportation passes etc. NASFAA believes that requiring institutions to publish their policies and permitting students to decline this option provides sufficient consumer information protections while enhancing customer service to the student and producing administrative cost savings.

General Provisions Issue 21: Prior Term Institutional Charges [New HEA Section]

Recommendation: Require schools to provide notice to students of their policies for paying a maximum of \$500 in prior award year charges with Title IV aid and allow the student to opt out, rather than require advance permission from the student.

Rationale: Experimental site studies over the past seven years have demonstrated that permitting students to use a portion of their current term aid to pay prior award year charges has aided student retention. Students, who would otherwise have been denied the ability to re-enroll due to outstanding prior award year charges and no means to pay those charges, have been able to re-enroll through use of this provision. NASFAA recognizes, however, that a limit should be placed on the amount of prior charges paid with current term aid in order to ensure that the student retains sufficient funds to successfully complete the current term. NASFAA recommends that institutions be permitted, without the student's specific authorization and unless the student objects, to pay up to \$500 of prior charges from current term financial aid.

General Provisions Issue 22: Overaward Tolerance [Section 442(b)(4)]

Recommendation: Establish in Part G (General Provisions) a common overaward tolerance of \$500, applicable to the campus-based and Stafford programs.

Rationale: Currently, there is a \$300 tolerance for the campus-based programs and a limited tolerance for Stafford Loans applicable only when an overaward results from the \$300 tolerance in FWS only. Thus, receipt of an additional scholarship may have a disproportionate effect on a student's awards. This recommendation seeks to ensure consistent treatment of students across the Title IV programs and simplify institutional procedures.

General Provisions Issue 23: Error Tolerance [Section 487(c) & 498A]

Recommendation: Establish a tolerance for the assessment of liabilities connected with audit and program review exceptions.

Rationale: An institution with procedures in place that are in compliance with Title IV requirements may experience a limited amount of human error that does not indicate any pattern of incompetence, fraud, or abuse. It is reasonable to allow nominal tolerances to account for simple error.

General Provisions Issue 24: Safe Harbor Provision [New HEA Section]

Recommendation: Establish a waiver of liability resulting from unclear, conflicting, or incorrect guidance from the Department of Education.

Rationale: The complexity of student aid administration is reflected not only by error on the part of institutions but also error on the part of the Department. We believe institutions should be held harmless when this occurs.

General Provisions Issue 25: Student Consumer Information [Section 485]

Recommendation: Eliminate consumer notifications that must be sent to every student/prospective student. Instead, require that this information be made available upon request and that this availability be publicized on the institution's Web site, course catalog, or other widely disseminated publication.

Rationale: Dissemination of massive amounts of student consumer information has not been demonstrated to be necessary or effective and is costly. Schools should have the information readily available upon request.

General Provisions Issue 26: Consultation and Negotiated Rulemaking. [Section 492]

Recommendation: NASFAA will make recommendations for change in these provisions at a later date after consultation with other higher education associations.

Rationale: NASFAA will identify and negotiate changes in these requirements with other higher education associations. This does not mean we do not want changes in the law. Such changes affect a wide swath of campus offices and interests, not only the financial aid office, and, therefore, such changes to streamline, refine, and reform these requirements is better accomplished in concert with all in the higher education community.

NASFAA strongly supports continuing the negotiated rulemaking process to promulgate all regulations associated with the Higher Education Act. The participation of affected players in the field of student financial aid has unquestionably improved the quality, reasonableness, and efficiency of regulations governing the administration of Title IV funds. Only by involving those professionals and other parties who implement and live by these rules can an element of realism be ensured. Only by allowing such broad involvement can the best ideas and the most thorough analysis be obtained.

General Provisions Issue 27: Verification [Section 484(q)]

Recommendation: Mandate that ED and the IRS implement a verification system of student data by a certain date.

Rationale: The 1998 HEA reauthorization authorized ED and IRS to set up a system to verify student financial aid applicant data. Such data elements included adjusted gross income, Federal income taxes paid, filing status, and exemptions reported by applicants (including parents) under this title on their Federal income tax returns for the purpose of verifying the information reported by applicants on student financial aid applications. Some progress has been made in the last four years, but the earliest the Department and IRS could even begin a pilot project would be in 2004-2005. Assuming the HEA reauthorization is signed into law in 2004, NASFAA would set a statutory date for implementation of such a system no later than three years from the date of enactment of this law. Current estimates show savings of some \$300 to \$800 million by implementation of such a verification system. These savings could be used to support increases proposed by NASFAA elsewhere in our recommendations for change. If ED and IRS cannot meet this date for implementation, they could petition the Congress for an extension and explain why they cannot implement such a system nine years after Congress first authorized this verification system.

General Provisions Issue 28: Taxation of Student Aid (Modify IRS Code)

Recommendation: Eliminate the taxation of student assistance funds.

Rationale: While certain scholarship and student aid funds are not taxable, other scholarship, fellowship, and FWS assistance is taxable if such funds are used for items such as room and board, travel, research, clerical help, equipment, etc. NASFAA strongly endorses elimination of this tax so that students have all the aid they are entitled to without having to pay taxes on a portion of it.

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General Provisions Issue 29: To be provided in early January

General Provisions Issue 30: Recognized Occupation Requirement for Proprietary Institutions [Title I]

Recommendation: Modify statute and regulations to define eligibility based on the nature of the degree, not the type of institution so that:

- All programs should be reviewed for eligibility for the purpose of this provision, based on the nature of the degree. Programs that are at the associate, bachelor's, or graduate level should be exempt from the requirement that the program lead to a specific occupation.
- Programs that do not lead to an associate, bachelor's, or graduate degree could be eligible if they met the following criteria:
 1. The program is at least two years in length and the credits are fully acceptable towards a bachelor's program, OR
 2. The program leads to a recognized occupation and meets the following minimums:
 - It is an undergraduate program that provides at least 15 weeks of instruction and 600 clock hours, 16 semester or trimester hours, or 24-quarter hours. The program may admit students without an associate degree or equivalent.
 - It is a graduate/professional program, or admits only students with an associate degree, and provides at least 10 weeks of instruction and 300 clock hours, 8 semester or trimester hours, or 12-quarter hours.
 - It is a program that admits some students who do not have an associate degree or equivalent, and must meet specific qualitative standards. (These programs are only eligible for FFEL and Direct Loans.) The program provides at least 10 weeks of undergraduate instruction and 300-599 clock hours. The program may admit students without an associate degree or equivalent.

Rationale: The regulations currently have different definitions for determining program eligibility based on the type of institution offering the program. We believe that the determination of program eligibility should not be based on whether a school is for-profit, public or private non-profit. Currently, institutions offering similar programs are not treated similarly under Title IV regulations. Only for-profit institutions are blocked from offering degree or certificate program unless they "provide training for gainful employment in a recognized occupation" (as found in the U.S. Department of Labor's Dictionary of Occupational Titles). Although a for-profit institution and a public institution may offer identical programs, accredited by the same authorizing body, the students attending the proprietary institution may be barred from receiving federal aid due to this provision.

These limitations are unfair to students and consumers. Their choice of schools will be driven by the wrong conditions; rather than choosing a school based on quality, location,

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or services provided that meet their needs, the student may be forced to choose based on institutional type. This provision creates inequity among otherwise similar programs.

**General Provisions Issue 31 Distance/Non-Traditional Education and Financial Aid
[Several HEA Sections]**

Recommendation: NASFAA will make recommendations for change in these provisions at a later date after consultation with other higher education associations.

Rationale: NASFAA will identify and negotiate changes in these requirements with other higher education associations. This does not mean we do not want changes in the law. Such changes affect a wide swath of campus offices and interests, not only the financial aid office, and, therefore, such changes to streamline, refine, and reform these requirements is better accomplished in concert with all in the higher education community.

Return of Title IV Funds Issues

Return of Title IV Funds Issue 1: Extraordinary Circumstances [Section 484B]

Recommendation: Allow financial aid administrators to override the Return of Funds requirements in the event the withdrawal resulted from documented extraordinary circumstances.

Rationale: This recommendation acknowledges that certain students experience unavoidable circumstances that force them to withdraw from college. For example, a student might experience a temporarily incapacitating illness, or the tragic death of an immediate family member. A member of the military reserves might be called to immediate active duty. Currently, a Pell Grant repayment might still be required despite the fact that the student had every intention and expectation of completing the enrollment period. In all likelihood, the student will return to school, thus justifying the investment of public funds.

Return of Title IV Funds Issue 2: Federal Funds Included [Section 484B(a)(1)]

Recommendation: Exclude LEAP/SLEAP from the funds included in the Return of Funds calculation.

Rationale: It is difficult to determine whether state grants actually include LEAP funds. This change ensures that all students are treated equitably.

Return of Title IV Funds Issue 3: Amount Disbursed [Section 484B(a)(3)(A)(ii)]

Recommendation: Allow schools to substitute undisbursed grant funds (for which the student was eligible) for the portion of earned funds originally derived from loans.

Rationale: Schools determine the frequency and dates of disbursement of Title IV funds. It may be no fault of the student if disbursement of some Title IV funds was delayed until after the student withdraws. This recommendation would allow the student access to all Title IV grant funds that were awarded without regard to the timing of disbursements or to circumstances such as retroactive selection for verification.

Example: Assume that a student received a \$1000 loan disbursement and was also awarded a \$1000 Pell Grant that had not been disbursed by the time the student totally withdrew from the institution. The institutional charges were \$1,000 and the student withdrew at the 30% point in the term. According to the Return of Title IV Funds policy, the student has earned \$600. Consequently the school retains \$600 and returns to the lender \$400 of the student's loan. The student was not able to use any of the Pell Grant and has an outstanding loan balance of \$600 after leaving school. If this recommendation would be adopted, the institution would be allowed to replace the \$600 loan with \$600 from the Pell Grant award. This would benefit the student in that her loan balance would be reduced to \$0, thereby preventing a possible default.

**Return of Title IV Funds Issue 4: Unofficial Withdrawals [Section
484B(c)(1)(A)(iii)]**

Recommendation: Repeal requirement to identify unofficial withdrawals.

Rationale: This recommendation recognizes that identifying unofficial withdrawals is equivalent to the Department requiring all schools to take attendance. However, the Department has repeatedly stated that it does not wish to require schools to take attendance. Faculty members at many institutions refuse to take attendance. Students who withdraw from one of these schools are unfairly treated; 50% of their Title IV funding must be returned simply because it is impossible to document their attendance beyond the mid-point of the term. Student withdrawals in these circumstances are normally addressed through the Satisfactory Academic Progress standards of each institution.

Return of Title IV Funds Issue 5: Withdrawal Date [Section 484B(c)]

Recommendation: Affirm the institutional determination of the withdrawal date.

Rationale: The statute clearly states that the date of withdrawal is the date the institution indicates that the student withdrew, in accordance with institutional policies. As the Department has imposed a more restrictive definition, a change is needed to reinforce the current statute. This recommendation will clarify attendance-taking requirements, affected institutions, and other issues related to the determination of withdrawal date. Determination of withdrawal dates should be determined by institutional policy and not by regulation.

Return of Title IV Funds Issue 6: Percentage of Payment Period or Period of Enrollment Completed [Section 484B(d)]

Recommendation: Consider that a student has earned 100% of his or her Title IV aid if the withdrawal occurs on or after the 50% point in the payment or enrollment period. Further, if the student withdraws before the 50% point in the payment or enrollment period, the denominator of the fraction shall be 50% of the number of days or the number of clock hours in the payment or enrollment period.

Rationale: This recommendation acknowledges that by the mid-point of the term students have participated in a significant way in the course of study. These students have incurred full liability for their tuition, fees, and room and board. Currently, grants and loans are adjusted to account for withdrawal through the 60% point in the term. Students who withdraw on or before the 60% point in the term incur very large liabilities with the school since at least 40% of their Title IV aid must be returned. We believe that students who attend at least 50% of the term earn 100% of their Title IV aid. In addition, using 50% of the number of days or clock hours in the payment period or period of enrollment as the denominator for the fraction determining the earned percentage recognizes the fact that the student's expenses for the semester are not linear, but primarily incurred during the first month of the term. This recommendation will also eliminate the cliff effect experienced when a student withdraws near the 60% point in the term. If the student withdraws at the 59% point, 41% of Title IV aid must be returned, but if the student withdraws at the 61% point, no Title IV aid is to be returned. Under this recommendation, if the student withdraws at the 49% point, 2% of the Title IV aid must be returned, and if the student withdraws at the 51% point, no Title IV aid is to be returned. The cliff effect is eliminated.

Return of Title IV Funds Issue 7: Post-Withdrawal Disbursements [Section 484B(a)(4)(A)]

Recommendation: Restore authority for late and post-withdrawal disbursements at the discretion of financial aid administrators.

Rationale: This recommendation acknowledges that financial aid administrators are in the best position to determine a student's need for funds after the student has ceased enrollment. Either mandating or denying these late disbursements could have devastating consequences for individual students, by causing them to receive and then immediately repay funds that they may not need or by failing to offer the needed financial support for expenses they have already incurred.

Return of Title IV Funds Issue 8: Institutional Charges [Section 484B]

Recommendation: Eliminate the category of books and supplies from inclusion in Institutional Charges for Return of Funds purposes.

Rationale: The financial aid community lacks clear guidance and understanding on this issue, as evidenced by the Department's five-page letter explaining when books and supplies qualify as institutional charges. This document was written under pre-1998 refund rules, applied to the Return of Funds provisions, but never further updated. Further, the books and supplies are in the possession of the student who therefore holds the value of them. To ensure that all students are treated equally without regard to the school that they attend, books and supplies should not be considered as institutional charges for purposes of the Return of Funds calculation.

Return of Title IV Funds Issue 9: De Minimus Repayment Amounts [Section 484B(b)]

Recommendation: Authorize a *de minimus* repayment amount of \$100 for students and schools.

Rationale: Recognizing both the necessity of protecting the federal fiscal interest in the instance of students who withdraw after receiving Title IV program funds and the significant administrative costs of institutions, we believe that there is a minimum threshold below which neither students nor schools should be required to return calculated repayment amounts.

Return of Title IV Funds Issue 10: Grants Repaid by Student [Section 484B(b)(2)]

Recommendation: Determine the grant protection by subtracting one-half of the original grant amount for which the student is eligible from the amount of grant the student is expected to repay.

Rationale: The Department's current interpretation simply divides in half the amount of grant the student must repay providing the least possible grant protection to students. We do not believe it was Congress's intent for the provision to work in this way.

Return of Title IV Funds Issue 11: Time Frame [Section 484B]

Recommendation: Allow the school 60 days after the date of the school's determination that the student withdrew to: return Title IV funds, notify student of grant overpayment requirements, and notify student of eligibility for post withdrawal disbursement.

Rationale: This recommendation acknowledges that schools are often unable to meet the 30-day requirement for various reasons. The 30-day period does not discount weekends or school holidays thus reducing the 30-day period to as few as 15 working days. Withdrawals that occur within the add/drop period are particularly difficult to monitor at some schools because of the volume of students and because they are able to drop and add courses via an automated system. Students may drop all of their classes on one day and then reregister the next during this period with no penalty. Because of the lateness of some official census dates, schools run the risk of not being in compliance with the 30-day rule. This period needs to be extended to allow schools to fully comply with the Return of Funds requirements.

Return of Title IV Funds Issue 12: Leaves of Absence [Section 484B(a)(2)]

Recommendation: Clarify that multiple leaves of absence are permitted within the statutory timeframe.

Rationale: Although the Department's most current regulations permit multiple leaves of absence, prior regulatory interpretations created a complex set of exceptions. Circumstances that would cause a student to request such a leave are often repetitive and it is certainly possible that a student may need to request a second leave. This recommendation would place the authority for multiple leaves clearly in statute.