

**H.R. 3039, THE EXPANDING
OPPORTUNITIES IN HIGHER
EDUCATION ACT OF 2003**

HEARING

BEFORE THE

SUBCOMMITTEE ON 21ST CENTURY
COMPETITIVENESS

OF THE

COMMITTEE ON EDUCATION
AND THE WORKFORCE

U.S. HOUSE OF REPRESENTATIVES

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**H.R. 3039, THE EXPANDING OPPORTUNITIES
IN HIGHER EDUCATION ACT**

Thursday, September 11, 2003

U.S. House of Representatives

Subcommittee on 21st Century Competitiveness

Committee on Education and the Workforce

Washington, DC

The Subcommittee met, pursuant to notice, at 9:33 a.m., in room 2175, Rayburn House Office Building, Hon. Howard P. (Buck) McKeon, presiding.

Present: Representatives McKeon, Keller, Osborne, Cole, Carter, Gingrey, Burns, Kildee, Tierney, Wu, McCollum, Owens, and Hinojosa.

Staff present: Kevin Frank, Professional Staff Member; Alexa Marrero, Press Secretary; Catharine Meyer, Legislative Assistant; Deborah L. Samantar, Committee Clerk/Intern Coordinator; Kathleen Smith, Professional Staff Member; Liz Wheel, Legislative Assistant; Mark Zuckerman, Minority General Counsel; Ellynn Bannon, Minority Legislative Associate/Education; Maria Cuprill, Minority Legislative Associate/Labor; Tylease Fitzgerald, Minority Staff Assistant; Ricardo Martinez, Minority Legislative Associate/Education; Alex Nock, Minority Legislative Associate/Education; and Joe Novotny, Minority Legislative Assistant/Education.

Chairman MCKEON. Good morning. Happy to see you all here this morning. I don't know if you have had the opportunity to turn on the TV or the radio this morning, but there are lots of reminders of 2 years ago, just about a half-hour earlier. I think it would be fitting if we paused for a moment of silence in remembrance of those who lost their lives then and since, in defense of our freedom.

[Pause.]

Chairman MCKEON. Thank you. I'd like to ask ranking member Kildee if he would lead us in the Pledge of Allegiance. All stand, please.

Mr. KILDEE. I pledge allegiance to the flag of the United States of America, and to the republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

Chairman MCKEON. Thank you very much. A quorum being present, the Subcommittee on 21st Century Competitiveness of the Committee on Education and the Workforce will come to order.

We are holding this hearing today to hear testimony on H.R. 3039, the Expanding Opportunities in Higher Education Act of 2003.

Under Committee Rule 12(b), opening statements are limited to the Chairman and the ranking minority member of the Committee. Therefore, if other members have statements, they will be included in the hearing record.

With that, I ask unanimous consent for the hearing record to remain open 14 days to allow member's statements and other extraneous material referenced during the hearing to be submitted in the official hearing record.

Without objection, so ordered.

STATEMENT OF HON. HOWARD P. "BUCK" McKEON, CHAIRMAN, SUBCOMMITTEE ON 21st CENTURY COMPETITIVENESS

Good morning, again. Thank you for joining us this morning to hear testimony regarding H.R. 3039, the Expanding Opportunities in Higher Education Act of 2003.

Last night we finished voting at about 10 or 10:30, and because of that, we have no votes scheduled for today, and unfortunately, because of that, we have many members I'm sure that have gone home. Otherwise, I know we would have a full dais here, because all the members of the Committee are very interested in what we are doing in higher education. I'm sure they would be here if it weren't for that.

This legislation, introduced by my friend and colleague, Representative Tom Cole, breaks down existing barriers and opens the doors of postsecondary education a bit wider to all students, especially low income and minority students.

I appreciate our witnesses taking the time to discuss this legislation with us today and look forward to a productive and open discussion.

With the passage of the Higher Education Act in 1965, the Federal Government made great gains in affording our nation's students the opportunity to pursue postsecondary education. In our knowledge based economy, it is more important than ever to remove road blocks to innovative ideas and methods of providing education to students seeking to pursue their dream of access to and completion of a postsecondary education.

We must all open our minds to the advancement of technology in pursuit of those goals, and while reviewing the past in making future decisions, recognize that times have indeed changed, and we must change with them.

We must promote advancement in distance education, clarify the treatment and classification of educational institutions, and simplify the methods used to determine a student's financial need for student aid purposes.

H.R. 3039 strives to accomplish this by improving access, expanding opportunities and removing unnecessary and outdated barriers within the Higher Education Act, all while maintaining the integrity and security of the student aid programs.

This legislation strengthens and extends student support programs and enhances the ability of minority serving institutions to meet the needs of their students.

First, this bill amends current law by combining the now separate definitions of “institutions of higher education” under one section within the law. The definitions do not change, other than in one area I will talk about in a minute. The bill simply combines the existing definitions, and it does so without changing any of the safeguards currently within the law. This combined definition will allow more institutions the opportunity to apply for competitive grants within the HEA and thereby better serve more students.

Congress has made tremendous strides over the years to improve access to higher education, while at the same time ensuring that the poorly performing institutions of the past no longer are able to participate.

Institutions themselves have done a good job over the years in monitoring the conduct and administrative capability of other institutions. No one wants to return to the past of high student loan default rates or bad institutions providing substandard education. This bill does not allow those events to reoccur.

As mentioned earlier, the bill makes one change to the existing definition of an eligible institution, that is the repeal of a requirement known as the 90/10 rule. Current law requires only for-profit institutions to demonstrate that at least 10 percent of the revenue they receive is derived from sources other than Title IV funds.

Unfortunately, this rule may actually force these schools to raise their tuition as many of them serve fully federally funded students in our nation’s most impoverished areas.

There are also questions as to the application of this rule and whether the sources of funds considered “derived from Title IV funds” is fair and accurate. Do we want to terminate high quality institutions solely because their ratio may be 89/11?

H.R. 3039 also enhances access to distance education programs. Current law prohibits colleges and universities from having more than 50 percent of their students enrolled in distance education programs and does not allow them to offer more than 50 percent of courses through distance education. This rule thwarts the efforts of many from pursuing higher education, including working adults, urban residents, minorities, and others.

By repealing this rule, but ensuring that accreditors are monitoring the quality of these programs, more students will gain access to postsecondary education. Some have said that if we repeal this rule, the Title IV student aid programs will be at risk.

In a report recently released by the U.S. Department of Education in reviewing the distance education demonstration program currently in law, it says, and I quote “The Department has uncovered no evidence that waiving the 50 percent rules, or any of the other rules for which waivers were provided, has resulted in any problems or had negative consequences. Three years of experience working with the demonstration program participants indicates that the potential risk to Title IV student financial assistance programs has more to do with the financial viability and administrative capability of the institution than with the mode of delivery in which the education is offered.”

Furthermore, this bill strives to provide minority students with additional educational opportunities. The bill provides additional

assistance to allow minority serving institutions to develop and enhance their internet and technological capabilities.

H.R. 3039 also simplifies the grant process for tribally controlled colleges and universities, as well as Alaska Native and Native Hawaiian serving institutions.

These changes for minority serving institutions will build upon the work we accomplished earlier this year with the Ready to Teach Act, a bill which made improvements to the nation's teacher training programs.

In that legislation, because we recognize the importance of minority serving institutions among the institutions training the teachers of tomorrow, we provided for the establishment of centers of excellence for teacher training programs at high quality minority serving institutions. These centers of excellence would strengthen and improve teacher preparation programs at minority serving institutions including historically black colleges and universities, Hispanic serving institutions, tribally controlled colleges or universities, Alaska Native serving institutions, or Native Hawaiian serving institutions.

In addition, the centers of excellence would provide an opportunity to increase teacher recruitment and development at minority serving institutions, and provide assistance in the form of scholarships to help provide for the cost of completing a teacher preparation program.

Recognizing that we must continue to support programs that provide quality educational services to students from low income families where neither parent graduated from college, H.R. 3039 enhances support services to expand opportunities for low income individuals.

It increases the minimum grant levels to the TRIO program and builds upon the High School Equivalency Program (HEP) and the College Assistance Migrant Program (CAMP) to augment services to migrant or seasonal farmer workers and their families.

This bill also includes bipartisan legislation I recently introduced, H.R. 2956, the Financial Aid Simplification Act, to examine and simplify the current need analysis formula and financial aid forms that all students applying for aid must complete. This will go a long way in expanding access, as the complex formula and forms can very often intimidate students and their families, discouraging them from ever even beginning the process.

The bill also makes many enhancements to the Higher Education Act too numerous to mention here, that will improve programs, make necessary technical changes and enhance services.

As we continue our work to re-authorize the Higher Education Act, providing students with access to a quality higher education remains our central goal. We must remove unnecessary barriers, improve and simplify programs and processes and allow these critical programs to reach their full potential to serve students and help them reach their educational dreams.

I hope we can all work together to do what we know is right for the students and families we want to assist and not allow substance and policy to fall victim to politics.

I look forward to the comments and recommendations that our witnesses may have.

It is great working again with Mr. Kildee on this process. We had a good process in 1998, and I am hopeful that we can have that same kind of rapport and process as we go forward on this. [The prepared statement of Mr. McKeon follows:]

**Statement of Hon. Howard P. "Buck" McKeon, a Representative in
Congress from the State of California**

Good morning. Thank you for joining us this morning to hear testimony regarding H.R. 3039, the Expanding Opportunities in Higher Education Act of 2003. This legislation, introduced by my friend and colleague, Representative Tom Cole, breaks down existing barriers and opens the doors of post-secondary education a bit wider to all students, especially low-income and minority students. I appreciate our witnesses taking the time to discuss this legislation with us today and look forward to a productive and open discussion.

With the passage of the Higher Education Act in 1965, the federal government made great gains in affording our nation's students the opportunity to pursue post-secondary education. In our knowledge based economy, it is more important than ever to remove road blocks to innovative ideas and methods of providing education to students seeking to pursue their dream of access to, and completion of, a postsecondary education. We must all open our minds to the advancement of technology in pursuit of those goals and, while reviewing the past in making future decisions, recognize that times have indeed changed and we must change with them. We must promote advancement in distance education, clarify the treatment and classification of educational institutions and simplify the methods used to determine a student's financial need for student aid purposes.

H.R. 3039 strives to accomplish this by improving access, expanding opportunities and removing unnecessary and outdated barriers within the Higher Education Act, all while maintaining the integrity and security of the student aid programs. This legislation strengthens and extends student support programs and enhances the ability of minority serving institutions to meet the needs of their students.

First, this bill amends current law by combining the now separate definitions of "institutions of higher education" under one section within the law. The definitions do not change, other than in one area I will talk about in a minute. The bill simply combines the existing definitions, and it does so WITHOUT changing any of safeguards currently within the law. This combined definition will allow more institutions the opportunity to apply for competitive grants within the HEA and thereby better serve more students.

Congress has made tremendous strides over the years to improve access to higher education, while at the same time ensuring that the poorly performing institutions of the past no longer are able to participate. Institutions themselves have done a good job over the years in monitoring the conduct and administrative capability of other institutions. No one wants a return to the past of high student loan default rates or bad institutions providing substandard education. This bill does not allow those events to reoccur.

As mentioned earlier, the bill makes one change to the existing definition of an eligible institution, that is the repeal of a requirement known as the 90/10 rule. Current law requires only for-profit institutions to demonstrate that at least 10 percent of the revenue they receive is derived from sources other than Title IV funds. Unfortunately, this rule may actually force these schools to raise their tuition as many of them serve fully federally-funded students in our nation's most impoverished areas. There are also questions as to the application of this rule and whether the sources of funds considered "derived from Title IV funds" is fair and accurate. Do we want to terminate high quality institutions solely because their ratio may be 89/11?

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“The Department has uncovered no evidence that waiving the 50 percent rules, or any of the other rules for which waivers were provided, has resulted in any problems or had negative consequences. Three years of experience working with the demonstration program participants indicates that the potential risk to Title IV student financial assistance programs has more to do with the financial viability and administrative capability of the institution than with the mode of delivery in which the education is offered.

Furthermore, this bill strives to provide minority students with additional educational opportunities. The bill provides additional assistance to allow Minority Serving Institutions to develop and enhance their internet and technological capabilities. H.R. 3039 also simplifies the grant process for Tribally Controlled Colleges and Universities, as well as Alaska Native and Native Hawaiian serving institutions.

These changes for Minority Serving Institutions will build upon the work we accomplished earlier this year with the Ready to Teach Act, a bill which made improvements to the nation’s teacher training programs. In that legislation, because we recognize the importance of Minority Serving Institutions among the institutions training the teachers of tomorrow, we provided for the establishment of Centers of Excellence for teacher training programs at high quality Minority Serving Institutions. These Centers of Excellence would strengthen and improve teacher preparation programs at Minority Serving Institutions including Historically Black Colleges and Universities, Hispanic Serving Institutions, Tribally Controlled Colleges or Universities, Alaska Native Serving Institutions, or Native Hawaiian Serving Institutions. In addition, the Centers of Excellence would provide an opportunity to increase teacher recruitment and development at Minority Serving Institutions, and provide assistance in the form of scholarships to help provide for the cost of completing a teacher preparation program.

Recognizing that we must continue to support programs that provide quality educational services to students from low-income families where neither parent graduated from college, H.R. 3039 enhances support services to expand opportunities for low-income individuals. It increases the minimum grant levels to the TRIO program and builds upon the High School Equivalency Program (HEP) and the College Assistance Migrant Program (CAMP) to augment services to migrant or seasonal farm workers and their families.

This bill also includes bipartisan legislation I recently introduced, H.R. 2956, the Financial Aid Simplification Act, to examine and simplify the current need analysis formula and financial aid forms that all students applying for aid must complete. This will go a long way in expanding access, as the complex formula and forms can very often intimidate students and their families, discouraging them from ever even beginning the process.

The bill also makes many other enhancements to the Higher Education Act too numerous to mention here, that will improve programs, make necessary technical changes and enhance services.

As we continue our work to reauthorize the Higher Education Act, providing students with access to a quality higher education remains our central goal. We must remove unnecessary barriers, improve and simplify programs and processes and allow these critical programs to reach their full potential to serve students and help them reach their educational dreams. I hope we can all work together to do what we know is right for the students and families we want to assist and not allow substance and policy to fall victim to politics. I look forward to the comments and recommendations that our witnesses may have.

I will now yield to Mr. Kildee for any opening statement that he may have.

Chairman McKEON. I now yield to Mr. Kildee for his opening statement.

**STATEMENT OF HON. DALE E. KILDEE, RANKING MEMBER,
SUBCOMMITTEE ON 21st CENTURY COMPETITIVENESS**

Mr. KILDEE. Thank you, Mr. Chairman. I wanted to start by joining Chairman McKeon in remembering those who were lost 2 years ago on September 11. The nation has gone through and continues to go through the aftermath of this terrible tragedy, and I join Chairman McKeon and the other members of the Subcommittee in

expressing our deep felt sympathy for the families and victims of September 11 and their continued recovery.

Despite this somber day, I am pleased to be joining Chairman McKeon in today's hearing on H.R. 3039, and I would particularly like to welcome a longtime friend of mine, Dr. David Moore, who was the president of Mott Community College in Flint, and followed with a very distinguished career in the military, and now he is chairman and CEO of Corinthian Colleges.

David, we were neighbors and friends, compadres there in Flint, Michigan, and it is good to have you here, and we look forward to your testimony.

H.R. 3039 represents the second part of the Committee's efforts to re-authorize the Higher Education Act. I am looking forward to the testimony of today's witnesses and hope that we can use your insight to make this legislation better.

H.R. 3039 has many positive aspects, but also several provisions which concern me, but I am convinced that as in 1998, when Buck McKeon and I wrote the last reauthorization, that we are going to do it again this year.

We have some problems that we are trying to work out, but we used to do that in 1998 by having breakfast about once a month, every 3 weeks, and reaching an agreement. We would not let the staff come to the breakfast. They worried a lot while we were there at that breakfast making agreements. We would come out and say here is what we agreed and you put it together.

I am sure knowing the two of us and knowing we are anxious to have a good higher education bill, that we are going to really work hard to bring a bipartisan bill. We do our best work when we work in a bipartisan manner.

On the positive side, I welcome the bill's provisions to simplify the process of applying for student financial aid that has been championed by Congressman Ronald Manuel working with our Chairman.

These provisions should ensure that more of our disadvantaged students have access to the financing necessary to obtain a postsecondary education.

In addition, H.R. 3039 strengthens the High School Equivalency Program, HEP, and the College Assistance Migrant Program, CAMP, by expanding mentoring, guidance, child care, and transportation services to migrant and seasonal farm workers.

The bill's provisions to strengthen the TRIO program are also important improvements.

While these positive aspects are worthy of note, several of the bill's provisions make me at this time unable to support this legislation in its current form, but this is a bill in process and a bill in progress.

First, the legislation merges the two existing definitions of "institutions of higher education." This change can dilute an already meager pot of funds for minority serving institutions. I want to look at that very closely. This could literally take funds away from Hispanic serving institutions and other institutions which serve some of the most disadvantaged students. I am sure we can study that together.

Second, the bill repeals the 90/10 rule. The current provision requires that proprietary institutions derive at least 10 percent of their revenue from non-Federal sources.

As many of you know, this provision was adopted as one of the means to control some fraudulent activity in the 1980's. While I recognize that the 90/10 provision is not written in stone, I think we should examine it very carefully to make sure that we keep the purpose in mind, and I think there is room for really active and productive discussion on this, Mr. Chairman.

Third, the bill does not ensure adequate accreditation and fiscal oversight for distance education programs. And again, we have discussed this at length.

If Congress does decide to lift the so-called 50 percent rule, we must ensure that distance education programs receive additional oversight for the accreditation process and meet a higher standard of fiscal accountability.

I believe that H.R. 2193 introduced by Congressman Andrews and myself is a good step toward ensuring that these goals are met.

Any changes in this area must be very carefully examined, and we intend to do that.

This legislation should also be improved by the inclusion of a program to strengthen and establish graduate degree programs at Hispanic serving institutions. This initiative would greatly improve the access of disadvantaged students to graduate degree programs.

While I know the majority was considering this initiative, it is not included in the introduced version of H.R. 3039, and I hope we can secure its inclusion during our efforts on this legislation.

As the Committee proceeds with consideration of this legislation in the coming weeks, it is my desire and expectation to resolve our differences. I hope this Committee will come out with as fine a product as we did in 1998, and I look forward to working with not only my colleague but my friend, the Chairman of this Committee, Mr. McKeon.

Chairman MCKEON. Thank you, Mr. Kildee. We now will introduce our witnesses. The first witness will be Dr. Donald Heller. Dr. Heller is currently an associate professor and senior research associate at the Center for the Study of Higher Education of Pennsylvania State University.

He also serves as a faculty member for the Harvard Institutes for Higher Education. Previously, Dr. Heller served as an assistant professor of education at the University of Michigan.

Additionally, he has authored and co-authored numerous books and journal articles, including "Condition of Access, Higher Education for Lower Income Students" and "State Financial Aid, Need, Merit and Access to Higher Education."

Next will be Dr. Antonio Flores. Dr. Flores has served as president and chief executive officer of the Hispanic Association of Colleges and Universities since 1996. Previously, he was director of programs and services at the Michigan Higher Education Assistance Authority and the Michigan Higher Education Student Loan Authority.

Dr. Flores currently serves as chairman of the Board for the Balti Adilante Leadership and Scholarship Fund, and the Hispanic Association on Corporate Responsibility.

Then we will hear from Mr. George Chin. Mr. Chin has served as the university director for financial aid at the City University of New York since 1981. Prior to his current position, he worked in the financial aid office at St. Francis College and the State University of New York at Stonybrook.

Mr. Chin has also served as the president of the New York State Financial Aid Administrators Association and the Eastern Association of Student Financial Aid Administrators.

And finally, Mr. David Moore. Mr. Moore is the chairman and chief executive officer of Corinthian Colleges, Inc. Throughout his career, he has been the president of various institutions, including the National Education Corporation, Inc., the DeVry Institute of Technology in Los Angeles, and Mott Community College in Flint, Michigan, as Mr. Kildee mentioned. Mr. Moore also served a distinguished career in the United States Army where he received the rank of colonel.

Welcome, each and every one of you. We appreciate you taking the time and being here and look forward to hearing your testimonies.

Before we begin, I think you understand how those lights work. When they come on, it will be green. After 4 minutes, yellow. And after one minute, it will be red and your time is up.

Your full testimony as you have sent to us will be included in the record, and we look forward to hearing from each of you, beginning with Dr. Heller.

**STATEMENT OF DONALD E. HELLER, ASSOCIATE PROFESSOR
AND SENIOR RESEARCH ASSOCIATE, CENTER FOR THE
STUDY OF HIGHER EDUCATION, PENNSYLVANIA STATE UNI-
VERSITY**

Dr. HELLER. Thank you, Mr. Chairman. Mr. Chairman and members of the Subcommittee, thank you for the invitation to address the Subcommittee on the Expanding Opportunities in Higher Education Act of 2003.

I will take my brief time today to comment on four aspects of this proposed legislation which include: implementing a single definition for "postsecondary institution;" the repeal of the 90/10 rule; the repeal of the 50 percent rule, and simplifying the Federal student aid programs.

First, I urge you not to implement a single definition for all postsecondary institutions. The existing law distinguishes between public and private non-profit colleges and universities which are eligible for Title III and Title V institutional assistance, and for profit institutions, which are not eligible for these programs.

For almost 40 years, this distinction has served well for both the institutions and the public. Non-profit colleges and universities have important public service missions that are not shared by for profit institutions. For profit institutions also are not held to the same accountability standards as are their non-profit counterparts.

In an era of limited Federal resources, it makes little sense to open up the Title III and V programs to a broader array of institutions, thus diluting the assistance to colleges and universities that have borne the blunt of the recent recession.

The amount of money available in Title III and V is very limited, and many of these programs have grown little in recent years. For example, the \$80 million available in the strengthening institutions program, which benefits colleges and universities enrolling large numbers of Federal aid recipients, has changed little in the last 8 years.

In order to ensure that these limited funds are used most effectively to assist this nation's neediest students, I would urge Congress not to eliminate the dual definition law.

The 90/10 rule dictates that a proprietary institution must receive no more than 90 percent of its revenue from Federal sources in order for the students to qualify for Title IV assistance.

I can think of no good reason for eliminating this rule at this time. As a for profit with a mission that is not as restrictive as that of public and non-profit colleges and universities, these institutions have the flexibility to develop revenue sources to supplement those available through Title IV. I believe that eliminating this provision of the law will potentially open the door to more fraud and abuse in the Title IV programs, without doing anything to improve educational opportunity for disadvantaged students in this nation.

I do encourage Congress to examine ways to ease the burden of the 50 percent rule, while not eliminating it entirely without appropriate study and deliberation.

The use of technology in both distance and classroom based instruction holds great promise for broadening access to postsecondary education. It is important to ensure that Federal regulations do not get in the way of innovation.

In the last reauthorization, as the Chairman mentioned, Congress mandated that the Department of Education conduct a demonstration project to examine whether this rule can be eased. Over 100 higher education institutions have participated in this project.

While the Department has begun and done some analyses of the results, I would suggest that Congress request the Department or another party to conduct a thorough evaluation of the project in order to determine if and how this rule should be eased, while still ensuring that Federal student aid is dispersed efficiently and effectively to the nation's needy students.

Section 401 of this legislation calls for a study to be conducted by the Advisory Committee on Student Financial Assistance, on how the qualification for Title IV assistance can be simplified. I strongly encourage you to include this provision in the legislation.

Research indicates that applying for Title IV aid has become a complex process, and is one that is a barrier to college access for low income students.

A well designed study conducted by the Advisory Committee in conjunction with outside experts can help inform Congress and the Department on ways to improve how data about families' financial circumstances are collected, and how those data are used to determine eligibility for Federal assistance.

Another provision of the bill calls for the Secretary to notify students who qualify under Federal means tested aid programs, such as the school free and restricted lunch or food stamps, of their eligibility for Pell grants. This is an excellent idea, and I would encourage Congress to go even one step further and examine ways not

just to notify students of their eligibility for assistance, but to make an actual commitment of such aid earlier in their high school or even middle school careers.

Research has consistently demonstrated that the earlier students can prepare both academically and financially for college, the more likely they will enroll.

There are a number of programs out there that have demonstrated the ability of programs like this to work for poor students, and I would be happy to talk more about those during the question period.

This reauthorization is a particularly important one. In contrast to 1998, when higher education benefited from flush coffers and a robust economy, many colleges and universities today find themselves facing constrained resources and increasing demand.

If the No Child Left Behind Act is successful in graduating even more disadvantaged students from high school and preparing this for college, then the demand for higher education will increase even further.

The role of the Federal Government in ensuring postsecondary education opportunity is critical in an era when other parties have been unwilling or unable to shoulder their burden.

I want to thank the Subcommittee again for the opportunity to address these issues, and I would be happy to take any questions after my colleagues have had a chance to testify.

Thank you.

[The prepared statement of Dr. Heller follows:]

Statement of Donald E. Heller, Associate Professor and Senior Research Associate, Center for the Study of Higher Education, The Pennsylvania State University, University Park, Pennsylvania

Thank you for the invitation to address the subcommittee on the Expanding Opportunities in Higher Education Act of 2003. My name is Donald E. Heller, and I am an education professor at The Pennsylvania State University. My comments today represent my views on portions of this legislation, based on the research I and other scholars have conducted on federal aid and its impact on postsecondary students and institutions.

The reauthorization of the Higher Education Act of 1965 is always a critical juncture for higher education, and this reauthorization is particularly important. The fiscal conditions facing most states and the nation as a whole have placed great constraints on the resources available for funding higher education institutions and students. Most observers believe the situation is unlikely to improve in the near future; thus, the decisions made by Congress during reauthorization will be vital to the future of American higher education.

The United States is universally recognized as having the best system of higher education in the world. Part of what has created this reputation is the existing level of competition among the more than 6,000 postsecondary institutions in the nation, competition that benefits the more than 16 million students enrolled in these Title IV-eligible institutions. Most students, regardless of their academic interests or geographic location, have some form of choice available to them when they are contemplating their postsecondary plans. But those choices are often limited by the financial and other resources available to those students and their families. It is because of these constraints that the federal role in funding higher education students and institutions is so critical.

I will take my brief time today to comment on four aspects of the proposed legislation: 1) implementing a single definition for postsecondary institutions; 2) repeal of the 90/10 rule governing institutional receipt of federal funds; 3) repeal of the 50 percent rule governing institutions enrolling students in distance education programs; and 4) simplifying the federal student aid programs.

Single Definition for Postsecondary Institutions

I urge you not to implement a single definition for all postsecondary institutions in the nation. The existing law distinguishes between public and private, non-profit colleges and universities—which are eligible for Title III and Title V institutional assistance—and for-profit institutions—which are not eligible for these programs. For almost 40 years this distinction has served well both the institutions and the federal government. Public and private non-profit colleges and universities have important public service missions and obligations that are not shared by for-profit institutions. For-profit institutions also are not held to the same accountability standards as are their public and non-profit counterparts. In an era of limited resources at both the federal and state levels, it makes little sense to open up the Title III and V programs to an even broader array of institutions. This would dilute the potential of the programs to assist many colleges and universities that have borne the brunt of the recession.

There are a number of accountability measures that affect public and private non-profit colleges and universities in ways distinct from for-profit institutions. Public colleges in most states are subject to reporting and accountability regulations from state higher education boards that go above and beyond the minimal reporting required of all licensed postsecondary institutions in the state. In addition, freedom of information laws in many states provide a mechanism for the public to access information about subjects as diverse as salaries, presidential searches, and compliance with federal, state, and local laws. Financial information about private non-profit colleges is available via their Internal Revenue Service 990 forms. Information about for-profit institutions, in contrast—particularly if they are not publicly-held—is not as readily available to students and their families.

Another important distinction that this subcommittee should keep in mind when debating the creation of a single definition for postsecondary institutions is that of access to capital markets. For-profit institutions have unlimited access to private capital markets (both borrowing and equity) that is not available to public and private non-profit colleges and universities. While the latter institutions can sometimes take advantage of access to specialized debt markets through the issuance of tax-free bonds, the amount of borrowing available in these markets is limited, and these colleges and universities have no access to equity markets.

The amount of money available in the Title III and Title V programs is very limited, and many of these programs have grown little in recent years. For example, the roughly \$80 million available in the Strengthening Institutions Program—which benefits colleges and universities enrolling large numbers of federal aid recipients—has changed little in the last eight years. In order to ensure that these limited funds are used most effectively to assist this nation's neediest students, I would encourage Congress not to eliminate the dual definition laws.

Elimination of the 90/10 Rule

The 90/10 rule dictates that a proprietary institution must receive no more than 90 percent of its revenue from federal sources in order for its students to qualify for Title IV assistance. I can think of no good reason for eliminating this rule. It is more than reasonable to expect a for-profit institution to demonstrate its ability to compete in the higher education marketplace without being more than 90 percent dependent upon revenue from federal sources. As a for-profit, with a mission that is not as restrictive as that of public and non-profit colleges and universities, these institutions have the flexibility to develop revenue sources to supplement those available through Title IV. I believe that eliminating this provision of the law will potentially open the door to more fraud and abuse in the Title IV programs, without doing anything to improve educational opportunity for disadvantaged students.

Repeal of the 50 Percent Rule

I would encourage Congress to examine ways to ease the burden of the 50 percent rule, while not eliminating it entirely without appropriate study and deliberation. This rule restricts the number of distance education courses that can be offered and the number of students enrolled in them in order for students to be deemed eligible for Title IV grants, loans, and work study assistance. The use of technology in both distance and classroom-based instruction holds great promise for broadening access to postsecondary education as well as for changing the ways that faculty teach and students learn. While we still have much to understand about how to use technology most effectively in higher education, it is important to ensure that federal regulations do not get in the way of innovation and experimentation. Let me use an example from my own institution.

Each semester, thousands of students take courses at Penn State's World Campus, one of the nation's largest and most well-respected distance education pro-

grams. Finding ways to simplify the awarding of federal Title IV funds to students enrolled there would help Penn State ease the delivery of funds to more low- and middle-income students around the country who could benefit from the World Campus courses and programs. In addition, as our own residential students who are Title IV-eligible enroll in World Campus courses, it becomes an administrative burden to monitor the distribution of their student aid between World Campus courses and traditional term-based courses for which the current regulations are written. Regulations that better address the unique benefits and methods for education delivered through technology, and easing the constriction of the 50 percent rule, will encourage further expansion of higher education programs and courses to more and more people.

In the 1998 reauthorization of the Higher Education Act, Congress mandated that the Department of Education conduct a demonstration project on distance education to examine whether the 50 percent rule can be eased. Currently, over 100 higher education institutions are participating in the demonstration project. While the Department has issued some preliminary reports to Congress on the status of the demonstration project, I suggest that Congress request the Department or another party to conduct a thorough evaluation of the project in order to determine what worked well and what has not worked as effectively. The results of such an evaluation could help determine if and how the 50 percent rule should be eased, while still ensuring that federal student aid is disbursed efficiently and effectively, and helps accomplish the goals of promoting equity and opportunity in higher education.

Simplifying the Federal Student Aid Programs

Section 401 of the Expanding Opportunities in Higher Education Act of 2003 calls for a study to be conducted by the Advisory Committee on Student Financial Assistance on how the qualification for federal Title IV assistance can be simplified. I strongly encourage you to include this provision in the legislation. Applying for Title IV aid has become a complex process, one that taxes the resources and capabilities of many students and their families. Research on college access indicates that information about the federal financial aid programs and how to apply for them is a barrier for low-income students.

The Advisory Committee is the ideal organization to conduct such a study because of its role in advising both the Congress and the Secretary of Education on student financial aid matters. I believe that a well-designed study conducted by the Advisory Committee in conjunction with outside experts can help inform Congress and the Department on ways to improve how data about families' financial circumstances are collected, and how those data are used to determine eligibility for federal assistance. Such a study can help establish how best to balance the twin goals of program effectiveness and efficiency.

Another provision of the bill calls for the Secretary of Education to notify students who qualify under federal means-tested aid programs, such as free lunch or food stamps, of their eligibility for Pell Grants. This is an excellent idea, and I would encourage Congress to go even further and examine ways not just to notify students much earlier in their school careers of their eligibility for federal Title IV assistance, but to make an actual commitment of such aid (conditional, of course, upon their enrollment in a Title IV-eligible institution). Research has consistently demonstrated that the earlier students can prepare both academically and financially for college, the more likely they will enroll.

There are excellent programs that make such an early commitment of financial aid, and they have been found to be successful in promoting the college attendance of low-income students. Indiana's Twenty-First Century Scholars program is an outstanding example of a state that makes an early commitment of publicly-funded financial assistance for college to low-income students. Seventh and eighth grade students in the state have to pledge the following:

- Graduate with an Indiana High School Diploma from a charter school, freeway or other Indiana school accredited (or seeking accreditation) through Performance Based Accreditation (PBA) by the Indiana Department of Education.
- Achieve a cumulative high school GPA of at least 2.0 on a 4.0 scale (a "C" average).
- Not use illegal drugs or alcohol, or commit a crime.
- Apply for admission to an eligible Indiana college, university or technical school as a high school senior.
- Apply on time for state and federal financial aid (Indiana Twenty-First Century Scholars website, <http://scholars.indiana.edu/stepup.xml>)

In return, the state commits to pay up to four years of tuition at any public institution in the state the student attends, or an equivalent amount at an Indiana private institution. This assistance is in addition to any federal, institutional, or pri-

vate aid for which the student qualifies. In addition to the tuition grant, the Twenty-First Century Scholars program also provides academic support to the students while enrolled in middle school, high school, and college, and has a parent involvement component.

The unique aspect of this program is that it makes a commitment of tuition assistance to students as early as their middle school years. There are no qualifiers or caveats; as long as the student adheres to the pledge, the Indiana legislature has committed to appropriate sufficient funds to pay for the student's tuition for four years. A recent independent evaluation of the program concluded that, "Participation in the Scholars Program improved postsecondary opportunity for low-income students. This study confirms that the program played a role in the substantial gain in college access in the 1990s in Indiana" (Lumina Foundation for Education, Meeting the Access Challenge: Indiana's Twenty-first Century Scholars Program).

Conclusion

As I stated earlier, this reauthorization of the Higher Education Act of 1965 is a particularly important one. In contrast to the last reauthorization in 1998, when higher education institutions enjoyed the benefit of flush state coffers and a robust economy, many colleges and universities today find themselves facing constrained resources in an era of increasing demand. More and more students are knocking on our colleges' doors, driven both by the demographics of the baby boom echo as well as the increased need for some form of postsecondary training in order to be successful in today's labor markets. If the No Child Left Behind Act is successful in graduating more disadvantaged students from high school and preparing them for some form of postsecondary training, then the demand for higher education will increase even further in the near future.

The combination of constrained resources and increasing demand leaves low-income students in peril. The fiscal crisis has forced many higher education institutions to cut back on course offerings and institutional financial aid at the same time they are raising tuition prices. The role of the federal government in ensuring postsecondary educational opportunity is critical in an era when other parties have been unwilling or unable to shoulder their burden.

I want to thank the subcommittee again for the opportunity to address these important issues facing Congress. I would be happy to take any questions you may have.

Chairman MCKEON. Thank you.
Dr. Flores?

STATEMENT OF ANTONIO FLORES, PRESIDENT AND CHIEF EXECUTIVE OFFICER, HISPANIC ASSOCIATION OF COLLEGES AND UNIVERSITIES

Dr. FLORES. Buenos Dias. Good morning. Thank you, Chairman McKeon, Ranking Member Kildee, Representative Hinojosa, and all the distinguished members of the House Subcommittee on 21st Century Competitiveness, for allowing me to testify on behalf of the Hispanic Association of Colleges and Universities, also known as HACU.

I am honored to appear before you in support of H.R. 3039, the Expanding Opportunities in Higher Education Act of 2003, as it relates to Hispanic serving institutions or HSIs, introduced under the leadership of Representative Cole.

Although the initial version of H.R. 3039 leaves out a series of vital recommendations concerning HSIs and Hispanic American success in higher education, HACU applauds the Subcommittee's inclusion within the expanding opportunities bill of the removal of onerous and unnecessary regulatory burdens on HSIs.

The bill would eliminate a 2-year wait out period between Title V applications. It will also remove the 50 percent low income assurance requirements in the current definition of HSIs.

These changes will enhance HSIs and align them much better with other minority and developing institutions supported in the Higher Education Act.

We know that the 50 percent documentation requirement for low income students is really a redundant requirement and it creates a second class citizenship status for HSIs if kept in the law.

Likewise, allowing institutions to maintain continuity between grant cycles is critical to the development of those institutions that receive awards from Title V.

We want to also applaud your continued support for HBCUs, historically black colleges and universities as well as tribal colleges and universities, sister institutions of HSIs.

We also commend the bill's provisions that substantially enhance urgently needed college preparatory programs and college retention initiatives. These measures will provide very important benefits to Hispanic Americans. Hispanics make up the nation's youngest and largest ethnic population. Hispanics also suffer the lowest high school and college graduation rates of any major population group.

These reasons, we believe, are sufficient for Congress to consider awarding the same advantage points under TRIO competitions to HSIs as those granted to other institutions already in these programs.

It is only fair to level the playing field for these programs as well as HSIs are concerned.

Please allow me to also address the following critical omissions within the bill that directly impact on HSIs. Title V remains the chief means for targeting Federal funds to HSIs, which remain largely under funded for the concentrated largest number of Hispanics in higher education today.

You probably know that HSIs represent only 7 percent of all institutions in the country, yet graduate more than 60 percent of all the Hispanics in 2 year and 4 year degree programs.

Hispanics are already contributing more than one of every two new worker joining the American labor force, and by the year 2025, Hispanics will represent one of every two new workers joining the labor force in our country.

Clearly, Hispanics will have a dramatic impact on our country's future economic success, national security, and global leadership. Yet, HSIs who serve the largest concentrations of Hispanic higher education students, receive only half the Federal funding on average per student compared to all of the degree granting institutions. This is exacerbated when we take into account the fact that the numbers of HSIs will increase by at least 50 percent within the next 5 years because of dramatic demographic shifts in the country.

This funding crisis for our HSIs must be addressed, and unfortunately, the bill in its present form does not do so.

Therefore, first, I urge you to include in this measure an increase in authorized funding levels for HSIs under Title V to \$465 million, to adequately meet the present needs of our historically under funded HSIs.

Second, we must afford our largest population the opportunity to acquire the advanced skills and knowledge required to build a better future for our nation. This bill does not address this. Less than 5 percent of Hispanics obtain a graduate or professional degree. I

urge you to include within this important legislation the authorization of \$125 million for a new Part B under Title V to increase and improve graduate education for Hispanics.

Finally, we also respectfully urge you to consider the other recommendations highlighted in our written testimony.

I would be remiss if I were not to mention our objection to making for profit institutions under the same definition as non-profits, as proposed in this version of the bill. This will dilute the scarce resources available to non-profit HSIs by adding at a minimum 107 new for profits to the current 249 HSIs that already are really under funded, because numerous other legislative acts authorizing funds for higher education in other agencies reference definitions under this law, we believe that those resources will also be impacted negatively for non-profits.

Mr. Chairman and distinguished members of the Subcommittee, I'm very grateful for this opportunity to present this testimony and I will welcome any questions you might have. Thank you.

[The prepared statement of Dr. Flores follows:]

Statement of Antonio Flores, Ph.D., President and CEO, Hispanic Association of Colleges and Universities

Executive Summary

Thank you, Chairman McKeon, Representative Hinojosa, and other distinguished members of the House Subcommittee on 21st Century Competitiveness for allowing me to testify on behalf of the Hispanic Association of Colleges and Universities (HACU). We applaud your tireless efforts to enhance access and educational opportunity, particularly in higher education, for all citizens and deserving residents of our great nation.

I am honored to submit written testimony in support of H.R. 3039, the Expanding Opportunities in Higher Education Act of 2003, with respect to its proposed changes for Title V, Hispanic Serving Institutions (HSIs). I take this opportunity to urge you to incorporate into this bill the series of specific recommendations transmitted by HACU on June 10, 2003, to members of Congress on the impending reauthorization of the Higher Education Act of 1965 (HEA), as amended. A copy of the "HACU Public Policy Priorities for HEA Reauthorization" is appended to my testimony for the official record of this hearing.

HACU applauds H.R. 3039 for addressing some of our recommendations, but we are disappointed that the bill does not take into consideration the following amendments recommended by HACU on behalf of the HSI community:

1. To authorize \$50 million "and such sums as may be necessary" under Title II for eligible HSIs to expand teacher education programs of high quality in academic areas of urgent national need.
2. To increase the authorized funding level for HSIs under Title V to \$465 million "and such sums as may be necessary" to meet the pressing needs of exceedingly under funded HSIs and new HSIs emerging within the next five years.
3. To authorize \$125 million "and such sums as may be necessary" for a new Part B under Title V for increased and improved graduate education at HSIs.
4. To authorize \$50 million "and such sums as may be necessary" for a Technology Enhancement Program that would close the "digital divide" at HSIs.
5. To authorize under Title VI \$30 million annually "and such sums as may be necessary" for an Institute for Pan-Hispanic International Studies through HSI consortia and \$20 million for a Hispanic International Scholars and Fellows program.
6. To authorize \$45 million "and such sums as may be necessary" to create a graduate fellowship program that would involve HSIs and non-HSIs in partnerships to increase Hispanic participation and success in areas of national priority.

We thank you for the modest enhancements for HSIs included in H.R. 3039, but urge you to consider the above recommendations as described in greater detail and supported by compelling analyses in the appended document to this testimony.

At a time when more than one of every three new workers joining the American labor force today is Hispanic, we cannot afford to continue neglecting the edu-

cational needs of this growing population that is projected to add one of every two new workers in the nation by 2025. As we envision the future of America's population in the 21st Century, it is imperative to recognize that failing to educate the fast-growing Hispanic population would have disastrous economic and social consequences for the entire nation. We are talking about one-half of America's future workforce.

As the youngest, fastest-growing, and now largest ethnic population in the nation, Hispanic Americans are mindful of their enormous historic role in advancing economic prosperity and social progress. The more Hispanics are called to assume leadership roles in government, the military, the business community, and civic life in general, the more their higher education is a requirement.

Nearly 50 percent of the 1.8 million Hispanics in higher education are enrolled at HSIs today, and a higher percentage of them are projected to enroll at HSIs in the years ahead. Consequently, the current 219 HSIs are increasing their absolute members and proportion of Hispanic students from year to year. Furthermore, given the rapid Hispanic population growth, HACU projects that nearly 100 more HSIs will emerge within the next five years. In other words, within the next HEA reauthorization cycle, HSIs are expected to surpass the 300 mark.

Regretfully, the authorized and appropriated funding levels for HSIs under Title V of the HEA have been inadequate at best to meet the capacity-building needs of these institutions that are the backbone of Hispanic higher education. Data from the Integrated Postsecondary Education Data System (IPEDS) of the National Center for Education Statistics (NCES) documents that HSIs, on average, receive 50 cents per student for every federal dollar that the rest of the higher education community gets. This blatant inequity must be addressed without delay.

In the year 2000, the U.S. Bureau of the Census reported that the median age of Hispanics was 26, compared to 36 for all other groups and to 39 for non-Hispanic whites. Likewise, it projected the near doubling of the Hispanic population under the age of 18 between 2000 and 2020, compared to a 6 percent increase for African Americans and an actual decline of 5 percent for non-Hispanic whites. As of today, nearly one of every five students in K-12 education is Hispanic, but historically only one of every 10 who started kindergarten graduated from college. These compelling statistics demand that Congress and the Federal administration ensure that funding and support for HSIs and for the higher education success of Hispanic Americans be increased dramatically, now!

Because of the history of neglect that HSIs and Hispanic Americans have endured for so long, HACU is especially concerned about the proposed definitional changes of H.R. 3039 that would make for-profit institutions potentially eligible for the already meager funding appropriated for HSIs, especially in light of the projected increase in the number of non-profit HSIs. We urge you to reconsider this aspect of H.R. 3039, for, if enacted, it would further erode the weak federal support available to current HSIs.

Chairman McKeon and distinguished members of this House Subcommittee, I applaud your commitment to the enhancement of HSIs and Hispanic higher education. Your championing of this national priority clearly demonstrates foresight and wisdom because the very future of our nation hangs in the balance.

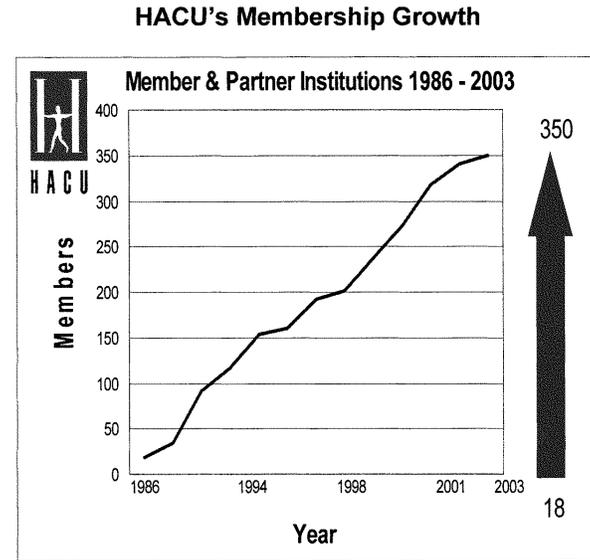
Thank you again for inviting me to testify on HACU's behalf.

Gracias!

Introduction

The Hispanic Association of Colleges and Universities (HACU) is the national voice of Hispanic-Serving Institutions and Hispanic higher education. Incorporated as the champion of Hispanic success in higher education in December of 1986 with 18 charter members, HACU has grown rapidly over the years to its current total membership of 350 strong, including HSIs. Figure 1, below, illustrates its membership growth.

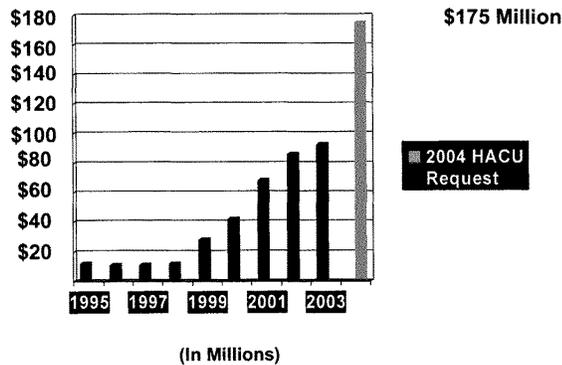
Figure 1



Under HACU's advocacy, Congress first recognized HSIs in the amendments of 1992 as a national resource for federal support under Title III of the HEA. However, it was not until the 1995 fiscal year that the first appropriation of \$12 million for HSIs was included in the federal budget. In the HEA amendments of 1998 the authorized funding level for HSIs was increased under a new Title V and the actual appropriations also began to increase. Figure 2, below, documents annual appropriations for HSIs.

Figure 2

Advocacy - Title V Appropriations for HSIs



It is worth noting that in fiscal year 1995, only 131 HSIs were designated as eligible for Title III funding as per a 25% Hispanic FTE criteria approved by Congress. Currently, 242 HSIs are designated by the U.S. Department of Education as eligible for funding under Title V. Because the amounts appropriated annually are insufficient to provide funding to all HSIs, they compete for limited funds under multi-year grant cycles of 5 years, but only about 50 percent of them receive competitive grants.

Compared to other national higher education associations and to other higher education institutions, HACU and HSIs are very young but very strong. Their strength is fueled by the explosive demographic expansion of the youngest, fastest-growing, and largest ethnic population in the nation. In this sense, HACU and HSIs are driven by a vision of America's future that is richly diverse and yet inclusive, rather than by a past that was oppressive and discriminatory. This is a vision for a bright future rooted in a well-educated and competitive American workforce.

The following sections articulate how to make this vision a reality. They summarize much of the content presented in the "HACU Public Policy Priorities for HEA Reauthorization" of June 10, 2003.

Title II

The request of \$50 million under Title II for eligible HSIs reflects the national crisis that is a grim reality at many K–12 schools across the nation: the lack of qualified teachers to serve the rapidly growing cohorts of children and youth, particularly Hispanics and other students of color. The following table provides evidence of the Hispanic student population growth in the largest metropolitan areas of the country.

Table 1. Percentage distribution of enrollment in the 10 largest public school districts, by race/ethnicity: 2000

District, by order of enrollment size	Total	White, non-Hispanic	Black, non-Hispanics	Hispanic	Asian/Pacific Islander	American Indian/Alaska Native
United States	100	61	17	17	4	1
Total, 10 largest districts	100	19	31	41	9	0
New York City, NY	100	15	35	38	12	0
Los Angeles Unified, CA	100	10	13	71	6	0
City of Chicago, IL	100	10	52	35	3	0
Dade County, FL	100	11	31	56	1	0
Broward County, FL	100	41	36	19	3	0
Clark County, NV	100	50	14	29	7	1
Houston, ISD, TX	100	10	32	55	3	0
Philadelphia City, PA	100	17	65	13	5	0
Hawaii Department of Education	100	20	2	5	72	0
Hillsborough County, FL	100	52	24	22	2	0

NOTE: Detail may not add to 100 due to rounding.

SOURCE: U.S. Department of Education, National Center for Education statistics, unpublished data from Common Core of Data, 2000-01

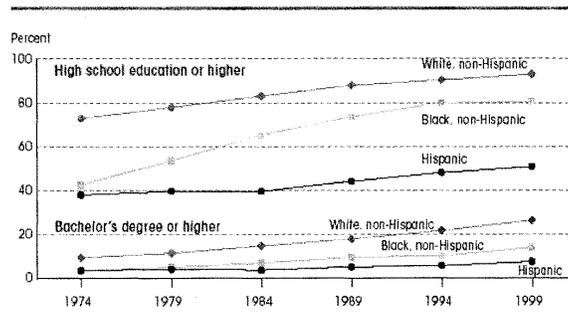
Conversely, less than five percent of the K–12 teachers nationwide are Hispanic, compared to almost 20 percent of Hispanic students in all K–12 schools.

Title IV

Student support service programs under this title, such as TRIO programs, are critical to the educational attainment of low-income and under-educated populations. We urge your support for HACU's recommendations in its appended publication, but especially for the fair inclusion of HSIs in TRIO grant competitions to close the educational gaps between Hispanics and other populations. HSIs and other minority-serving institutions should be granted the same number of points as those given to other institutions for "prior experience" in TRIO competitions.

In addition to family income, parents' educational attainment, especially the mother's, is a major predictor of student outcomes. From 1974 to 1999, the educational attainment gaps between Hispanic and non-Hispanic mothers increased significantly, as documented by Table 2 below.

Table 2. Percent of 6- to 18-year-olds, by mothers' highest education level and race / ethnicity: Selected years 1974 to 1999



NOTE: The Current Population Survey (CPS) questions used to obtain educational attainment were changed in 1992. In 1994, the survey instrument for the CPS was changed and weights were adjusted. Information on mothers' educational attainment is available only for those mothers who lived in the same household as their child.

SOURCE: U.S. Department of Education, National Center for Education Statistics, *The Condition of Education*, 2001, based on U.S. Department of Commerce, Bureau of the Census, *March Current Population Surveys*, various years.

Having a mother who has less than a high school education, living in a family on public assistance programs, living in a single-parent home, and having parents whose primary language is a language other than English are considered reliable predictors of children's future academic and socioeconomic outcomes by a major report on Hispanics of April 2003, "States and Trends in the Education of Hispanics" by the U. S. Department of Education. About 7 out of 10 (71 percent) children entering kindergarten from Hispanic families have one or more of these four risks factors.

Yet in 1994, according to the NCE's PEQIS online data summaries, only 13 percent of Upward Bound participants were Hispanic, compared to 49 percent African Americans and 29 percent non-Hispanic Whites. Given their high risk of educational failure, Hispanics should have a much greater participation rate in all TRIO programs through HSIs that serve their communities.

Title V

Title V remains the chief vehicle for targeting federal funds to historically underfunded HSIs. During the last reauthorization cycle five years ago, Congressman Hinojosa introduced the landmark "Higher Education for the 21st Century Act." Passage of that Act led to new recognition for the strategic importance of the nation's HSIs to our economic strength and national security under a new Title V of the HEA addressing undergraduate education needs.

The landmark Expanding Opportunities bill should build upon those improvements and include a first-time graduate education component to Title V. Without the complement of graduate education opportunities, Hispanic Americans and HSI will remain relegated to second-class status.

HACU supports this new bill's amendments, which will surely lay the foundation under "such sums as may be necessary" provisions to win progressively higher appropriations in each of the next five years of the reauthorized HEA to ultimately bring parity in federal funding for HSIs.

HACU specifically is advocating that undergraduate funding for HSIs under Title V be increased to \$465 million per year "and such sums as Congress deems necessary" for the authorized cycle of years following reauthorization of the HEA.

HACU specifically recommends that the authorization level for graduate education funding for HSIs under Title V be set at \$125 million "and such sums as Congress deems necessary" for each year of the HEA cycle.

HACU is in full support of those provisions of the Expanding Opportunities bill that remove the two-year wait-out and "50 percent lower-income" provisions from existing Title V language.

The 50-percent low-income assurance requirement applies only to HSIs, and not to any other group of Minority-Serving Institution. This requirement creates an unfair burden on HSIs. It is also onerous, since this requirement demands information not normally collected by any degree-granting institution.

The current two-year wait-out period between applications for Title V grants undermines the intent of Title V to enhance the quality and access of higher education opportunities for HSIs and the students served by HSIs.

The current two-year wait-out is inherently destructive in forcibly dismantling effective programs in midstream for an unnecessary two-year period before HSIs with Title V grants can again compete for another Title V grant. There simply is no logic to this requirement; yet, the costs in hampered progress of urgently needed Title V programs are immediate and profound.

This unnecessary requirement will prove especially drastic as early as federal Fiscal Year (FY) 2004, when the first round of five-year Title V grants will expire, forcing many dozens of higher education institutions throughout the country to dismantle their programs for the two-year wait. The need to eliminate this two-year wait-out requirement is urgent and compelling.

HACU also calls upon the committee to add an articulation component to the Expanding Opportunities bill to allow two-year/four-year articulation initiatives to be eligible for Title V grants.

Against a backdrop of chronically low high school and college graduation rates suffered by Hispanics, two-year colleges often are the critical point of entry for Hispanic higher education students. Indeed, more than 50 percent of all Hispanic higher education students attend community colleges.

However, the sheer volume of well-documented reports on the need for diversity in higher education and for great minority attainment of advanced education degrees calls for a new emphasis on assisting Hispanic and other under-represented minority student populations to succeed in completing two-year degree programs, and to seek and ultimately obtain four-year degrees. Supporting greater articulation between two-year and four-year institutions under Title V is necessary for this bill to achieve the desired effect of increasing the number of Hispanics obtaining baccalaureate degrees and pursuing post baccalaureate education. It is also fundamental to almost every other component of this bill.

Title VI

Colleges and universities in the United States welcome on their campuses more than five hundred thousand foreign students, but only 11 percent are from Latin America, including a meager 2 percent from Mexico. Conversely, more than one hundred fifty thousand American college students go for study abroad, more than two-thirds of them to Western Europe, nearly one-half to England alone, and the remaining one-third to all other countries. Less than 5 percent of all the American students abroad are Hispanic. These data clearly document the pressing need to incorporate HACU's proposals for new funding for HSIs and Hispanic Americans to participate in international education programs.

The \$50 million combined request for fellowships, institutional collaboration, and Institute for Pan-Hispanic International Studies would strengthen our national security and enhance our global economic competitiveness. It is a modest investment that could yield invaluable returns to our nation. These funds would result in a much higher rate of Hispanic student participation in studies abroad, increased numbers of other non-Hispanic students at HSIs going to study in Latin America and the Caribbean, greater numbers of Latin American and Caribbean students coming to study at HSIs, and quality scholarly work and institutional development across national boundaries throughout the Americas and the Caribbean.

Title VII

HSIs should be supported to reach out to comprehensive research universities for greater articulation and transfer of Hispanics from 2-year to 4-year and from the latter to advanced research and graduate programs of national need. The \$45 million in combined funds for programs and fellowships can bridge HSIs and comprehensive research institutions of international renown. This is of critical importance to the nation and to diversity at the most selective and well-endowed higher education institutions.

In Conclusion

HACU's recommendations for amendments to the HEA, especially for changes to Titles II, IV, V, VI, and VII are all grounded in our best national interest for a well-educated and trained workforce, an engaged citizenry, and cost-effective approaches to economic and social progress.

HSIs, as the backbone of a Hispanic higher education, require much greater federal support and funding to achieve their missions of educating and training the fast-growing cohorts of new students, particularly Hispanic Americans that represent the best hope for a free and prosperous America in the 21st Century and beyond.

Congress has a unique opportunity to correct the federal neglect of past generations of undereducated Hispanic children and youth. The nation cannot afford to continue ignoring its own future. Congress should rise to the occasion and embrace HACU's recommendations for the good of the country.

[An attachment to Dr. Flores' statement follows:]

HACU and Reauthorization of the Higher Education Act

Policy Priorities for 2003–2004

HACU is requesting that the 108th Congress enhance the level of support for HSIs and Hispanic higher education through the impending HEA amendments, including institutional development, graduate education and technology support under Title V; teacher education/teacher quality provisions under Title II; financial aid and related immigration provisions under Title IV; inclusion of HSIs and Hispanics in international education provisions under Title VI; and targeting Hispanics for greater participation in graduate and professional programs, as well as HSIs for competitive grants under Title VII, Part B.

HACU's priorities for the reauthorization of the HEA evolved from three main streams: (1) a national survey of HSI presidents and key institutional leaders, (2) a series of six regional HSI/HEA public forums, and (3) staff analyses of substantive data reports. The feedback, comments and suggestions, as well as findings that emerged from these three sources were crafted into a draft report outlining HACU's priorities. This document was then posted on the HACU Web site where it generated additional input that was incorporated into the final HACU draft.

Title II:

- HACU recommends creation of a new section under Title II that will authorize \$50 million "and such sums as Congress deems necessary" for eligible HSIs to create new and expand current teacher education programs of high quality standards in those areas where Hispanics students show greater underachievement (e.g., math, science, technology, etc.), as documented by national, state and local reports. This new section under Title II will support competitive grants addressing all PK–12 areas of education.
- HACU recommends that this new section allow funding of consortia and partnerships between HSIs and Associate HSIs (institutions with 10% Hispanic enrollment or at least 1000 Hispanic students, to be defined under Title V: see p. 4 below), for the preparation of Hispanic teachers to meet national, state and local needs.
- HACU recommends that this section also authorize collaboration between PK–12 schools and HSIs, Associate HSIs and any other eligible applicants for grants funded by relevant parts or sections of Title II. These grants are intended to better prepare teachers for those communities and sections of the country where Hispanics and other minority population are congregated in larger numbers.

Title IV:

- HACU recommends doubling the amount of the authorized maximum Pell Grant within the multiyear cycle of the HEA reauthorization, and assuring adequate funding levels for needy students by making the Pell grant an entitlement at a level comparable to the 80/20 ratio originally in place when first initiated.
- HACU recommends substantial increases in the percentage of all direct federal grant monies, versus loans, to college students to prevent students from graduating with a high loan debt, preventing students from continuing education.
- HACU recommends the creation of an adequately funded state challenge-grant program with new federal aid dollars, as a complement to the Pell Grant Program.
- HACU recommends other financial support mechanisms for Hispanic achievement in higher education. These mechanisms include discontinuing all federal student loan-origination fees, fixing the maximum interest rate at or below the current level or prime rate (whichever is lower), and forgiving accumulated federal loan debt of graduates who choose to work for HSIs.
- HACU recommends that the authorization level for TRIO be increased to \$1.7 billion for fiscal year 2005 "and such sums as Congress deems necessary" for each of the four succeeding fiscal years.

- HACU recommends that HSIs and other minority-serving institutions be granted the same number of points as those received by other institutions for “prior experience” in TRIO grant competitions.
- HACU recommends that the authorization level for GEAR-UP programs increase to \$425 million for each of the five years of the HEA and any additional funds “which Congress may deem appropriate and necessary.
- HACU recommends migrant program funding of \$75 million “and such sums as Congress deems necessary” as an annual funding base for the entire HEA cycle.
- HACU recommends providing long term immigrant students, who have successfully completed a secondary school program of study or its equivalent and has been physically present in the United States for a continuous period of not less than five years, with eligibility for federal financial aid programs.

Title V:

- HACU recommends that the funding level for HSIs under Title V specifically directed at infrastructure enhancement for undergraduate programs at 2 and 4-year institutions be increased to \$465 million per year “and such sums as Congress deems necessary” for the authorized cycle of years following the re-acting of the HEA.
- HACU recommends the elimination of the two-year wait out period for HSIs between grant completion and new application cycles. Currently the two-year wait out period is in direct opposition to the intent of Title V to enhance the quality and accessibility of HSIs.
- HACU also recommends that the “50% percent low-income” assurance requirement be eliminated from the funding criteria of Title V; this requirement applies only to HSIs among minority-serving institutions and creates an unnecessary and costly administrative burden.
- HACU recommends the creation of a new section under Title V of the HEA to be identified as Part B, Graduate Education to be authorized at \$125 million “and such sums as Congress deems necessary” for each year of the HEA cycle.
- HACU recommends \$30 million authorized for each year of the HEA cycle “and such sums as Congress may deem necessary” for the creation of a new section under Title V Part D of the HEA to be known as the Technology Enhancement Program for HSIs.
- HACU recommends the creation of a new category of HSIs to be known as “Associate HSIs” for institutions that do not meet the eligibility criteria for HSI designation.

Title VI:

- HACU recommends the creation of a new section under Title VI to be authorized for \$30 million per year “and such sums as Congress may deem necessary” for the establishment of an Institute for Pan-Hispanic International Studies under the auspices of a consortium of eligible HSIs.
- HACU recommends establishing a new section under Title VII to be authorized for \$20 million per year for the HEA cycle, “and such sums as Congress deems necessary” to support the “Hispanic International Scholars and Fellows” program.

Title VII:

- HACU recommends that \$10 million be authorized “and such sums as Congress deems necessary” to create a graduate fellowship program under Title VII of HEA to establish partnerships between HSIs and non-HSIs for increased Hispanic student enrollment and success in graduate and professional programs.
- HACU is also recommending that Congress authorize \$15 million per year of the HEA cycle, “and such sums as Congress deems necessary” to support a “HSI Fellowship Program” under Title VII, Part A, Subpart 5 of the HEA.
- HACU recommends that Congress authorize \$20 million per year of the HEA cycle, “and such sums as Congress deems necessary” to support an HSI/FIPSE program within Part B of the “Fund for the Improvement of Postsecondary Education” of the HEA.

Chairman MCKEON. Thank you.
Mr. Chin?

STATEMENT OF GEORGE CHIN, UNIVERSITY DIRECTOR, STUDENT FINANCIAL ASSISTANCE, CITY UNIVERSITY OF NEW YORK

Mr. CHIN. Good morning. Thank you for this opportunity to talk to you this morning about the financial aid simplification aspects of H.R. 3039. As mentioned before, I've worked in this business a while, and in addition, I have the honor of serving my financial aid colleagues as the national chair elect of the National Association of Student Financial Aid Administrators this year.

After working in this business for about 30 years, I think I probably have a little bit of perspective on some of these provisions, but let me start with just kind of going through a high level overview of what happens with the EFC determination.

Fundamentally, we look at a family's total income, and then we subtract out what are viewed as mandatory expenses for living, taxes, state taxes, and we arrive at a remaining income number, and then we look at assets, and determine whether the family might be able to use some of those assets for college. We total these up, and then we take a chunk of that and say, the family maybe should spend this for college.

That EFC is what drives a lot of the financial aid process because then we derive financial need from that by subtracting that EFC from the cost of attendance, and in our business, our daily job is then to try to find enough money to fill that need, so that the student can afford to go to college.

The EFC formula can really be viewed as a model to try to determine what a family can pay, but as in any model, we have to find some balance between the complexity of the model and how accurate it is or how well it reflects what real life is, and life is fairly complicated.

There are economists who would sit there and say that the current model is probably not complex enough because it relies on a snapshot of a family's ability to pay for college, when a family's ability to pay for college is built up over a number of years, and Dr. Sandy Baum from Skidmore, I think, lays out the case fairly well in a publication NASFAA put out a number of years ago, "Primer on Economics for Financial Aid Professionals." We would be glad to make some copies available for people to look at and get a little more detail about her discussion about that.

On the flip side of this, there are students and parents who fill out the form and do view it as complicated, and too complex, because there are a lot of questions, and the form is long. There is some vagueness from the definitions of the data elements.

I think Congress has tried to address this somewhat in the past by looking at the Higher Education Act and creating a simplified needs test and a zero formula to try to walk some students through the process a little better, a little quicker, and maybe in a little less confusing manner, and the Department has undergone some efforts in the past to simplify the form by reformatting the questions, moving things around.

All these things have worked to some degree, and we still sit here today and say, well, isn't there a better way to do it.

I think this bill takes a pretty good stab at moving forward to try to push that along a bit.

People have always suggested, and I think even this bill suggests, that there are ways for people to file only selected parts of the form, and with today's technology, there are many people who have suggested that you could put a smart form on line which would essentially guide a student to the right section of the form and streamline the process.

My concern about that coming from where we are is that access to internet services is not yet universal, and like most things in life, those who are less well off have less access, so the very people we may be looking to help may be the ones that are not able to take advantage of kind of the technological advance in the process.

I think there are some really nice things in the bill. You proposed linking the eligibility to filing the simple needs test to other means based programs, and in our business, sometimes we sit there and say, how many times does a student have to prove they are poor. I think it's a nice concept. My concern about that is occasionally we read these stories about fraud in some of the other programs, and I would not want that to bleed over into our programs. I think the Inspector Generals take a dim view of any thought of fraud.

I think we have to kind of look at that fairly carefully. I think it is nice and important for the advisory committee to take a comprehensive look at these formulas because they are old. They are showing their age. The world has changed.

The basis for which we built some of these components need to be looked at. We need to look at whether building a lot of the process on the tax code is appropriate, because that has gotten more complex.

I think it is good, and I think you have directed the Committee to look at simplifying it, but the caution is as we talk about models, you have this tradeoff in complexity and accuracy, and when you start reducing elements, you may make the model less accurate and have more concerns and be less sensitive to families in different circumstances.

In our business, our trademark words are "fairness" and "equity." We would like to maintain that.

Although I heard last night they did something on the Senate floor, but as an example of some of the things that need to be looked at, the state tax tables. The Department has gone and adjusted the tables as the law directs them to do, but we also know that the Federal income tax data is not comprehensive in collecting information on all the different types of local taxes students and families pay. We may need to look at a different means of building those tables off better models or better data.

My line on that is we took sales tax out as an income tax deduction in the 1980's, so at the very least, the Federal income tax data does not reflect sales taxes, which are fairly significant for many people.

I think it is wise on the part of the Committee to tell the Advisory Committee to look at program integrity and program intent and the cost of it because at some point, you have to have something that fits into the framework of the programs. Just to kind of say our task is to reduce elements without looking at the broader picture would not result in a product that is terribly helpful to us.

I thank the Committee for putting forth this effort. I hope we can all work collaboratively. I hope the Advisory Committee works collaboratively with us to come out with a good product at the end of the day. I will field any questions you may have when Mr. Moore gets done with his testimony.

Thank you.

[The prepared statement of Mr. Chin follows:]

Statement of George Chin, University Director - Student Financial Assistance, City University of New York

Introduction

Mr. Chairman and members of the Subcommittee on 21st Century Competitiveness, I thank you for the opportunity to testify today on the financial aid simplification aspects of the Expanding Opportunities in Higher Education Act of 2003. I am George Chin and I am employed by the City University of New York (CUNY) which has an enrollment of over 200,000 students at 19 colleges in the system. I also currently serve the National Association of Student Financial Aid Administrators as the National Chair-Elect of its board of directors for the 2003-2004 year. I offer my comments based on a view built on thirty years of work in student financial aid at CUNY and other institutions.

Purpose and Fundamentals of EFC determination

I think it would be useful to briefly review a few fundamentals about need analysis to set a framework for considering changes in the methodology and process. Historically, the measurement and analysis of family finances has been done to arrive at an expected family contribution (EFC) as an indicator of what the family could reasonably be expected to contribute toward the total cost of attending college. Simplistically, this assessment involves three major steps.; The first step is determining the discretionary income available to the family by subtracting "mandatory" expenses such as federal and state taxes, and a reasonable living allowance from the total income. The second step measures the net family assets to see if it is reasonable to expect some contribution from these amounts. The final step is to add the amounts determined from the first two steps, and assess a portion of the resulting discretionary income. The outcome of this calculation is called the Expected Family Contribution or EFC.

What challenges do we face in a review of the need analysis process?

In a technical sense, the EFC formulas could be viewed as a predictive model to determine the financial ability of a family unit to pay for college. In that context, we are challenged to the balance between complexity, accuracy, and, in this case, equity. In looking at the current set of formulas, essentially based on decades-old work, many would make the case that the current model is too simple. Economists, such as Dr. Sandy Baum of Skidmore College, would say that the current process, which relies on a financial snapshot, does not reliably measure a family's ability to pay for college because it is insufficiently precise. A more complex model is necessary to gain greater precision. While time does not enable me to detail economic underpinnings the current Federal Methodology, you can find a more thorough review of these issues in the NASFAA publication Primer on Economics for Financial Aid Professionals written by Dr. Baum.

On the other hand, for many students, the application process is viewed as too complicated because of the length of the FAFSA form and the definitions of the data elements used for the analysis. In the past, efforts have been made to shorten the process for applicants through a simplified needs test and an auto-zero calculation based on income and tax filing status. Efforts have also been made to change the format of the application and reduce the number of questions to facilitate accurate completion but often by moving data elements onto worksheets. However, even these attempts have not been as successful as one would hope.

Suggestions have been made that applications can be filed on-line using smarter forms with logic embedded to ask only those questions that are relevant for a particular applicant and his/her family. While this is feasible on a technological basis, it unfortunately may not significantly enhance the process for many high need applicants who have limited access to internet-based services

Moving Forward

First, a brief comment on the proposed simplified needs test improvements. We appreciate the addition of recipients of means-tested federal benefit programs to the

population eligible for the simplified needs test and the zero expected family contribution formulas. We hope that a mechanism for authenticating the receipt of these benefits is also part of this process to prevent fraudulent use of this provision and to ensure that federal student aid funds are provided to those who truly need them.

Given the aged framework of the current formulas, it is appropriate and necessary to have the Advisory Committee on Student Financial Assistance comprehensively review the need analysis formula and the associated application design and process to facilitate easier and better student access to the financial aid programs. Given the complexity of the issue, we appreciate the stated consideration of program intent, integrity, and cost as well as the impact on the distribution of awards.

The desirable outcome is to have a fundamentally sound set of formulas consistent with the underlying program rationale and sound economic underpinnings. In this context, the charge to the Advisory Committee can result in that outcome if the focus is on the entire set of programmatic concerns rather than predominantly on a goal of simply reducing the number of data elements and shrinking the form.

For example, the case can be made that a reduced set of data elements can still have a fairly high correlation with the net outcome derived from a larger set of data elements. However, the result of fewer data elements may be less sensitivity to the overall financial state of the family. If this is true, it may be less equitable and may as types of income or assets are eliminated from consideration, lead to higher program costs. The end result is that it could be extremely difficult to distinguish needy families from those who have the means to pay. This could inappropriately increase the applicant pool thereby diverting scarce dollars away from the students the programs were designed to serve.

It is clear the underlying allowances and offsets in the formulas need to be reviewed to determine the relevancy of the allowance and the means of updating them. Certainly, the recent discussion of the updating of the state and other tax allowance table would suggest a comprehensive review, as called for in the bill, is timely. Further, recent press about the effect of dependent student earnings on aid eligibility should be reviewed to determine the right offset and taxation rate of the net income after offsets.

We understand that the task for the Advisory Committee is complex and appreciate the directive for the use of a forms design expert and consultation with interested parties. We hope that this consultation ensures that the needs of all of the partners in the delivery system can be addressed. For example, a vastly simplified federal application could have the unintended consequence of complicating the whole process if states or institutional partners find it necessary to use a separate application to deliver funds according to their statutory structure. A system that requires multiple applications could create even greater barriers for high need students.

It is difficult to disagree with an effort to seek simplification, ease the process for students, and communicate better with students to assure them of their potential eligibility for Federal Pell Grants. We hope the result of the study maintains fairness, equity and effectiveness for the use of the student aid programs.

Thank you for the opportunity to appear before you today. I would be pleased to answer any questions you may have.

Chairman MCKEON. Thank you.
Mr. Moore?

**STATEMENT OF DAVID G. MOORE, CHAIRMAN AND CEO,
CORINTHIAN COLLEGES, INC.**

Mr. MOORE. Good morning, Mr. Chairman, members of the Subcommittee. I am David Moore, chairman and CEO of Corinthian Colleges, which is one of the largest private capital funded postsecondary education companies, with 125 colleges and 17 corporate training centers in the U.S. and Canada. We serve over 50,000 students. Our colleges are members of the Career College Association, and I am pleased to speak on behalf of its members.

Our colleges serve the large and growing segment of our population seeking education to become job ready and to advance their careers in today's demanding economy. These are mostly working

adults trying to balance careers, family, and personal obligations to get the education they need to advance in the workforce.

Our colleges offer diploma and certificate programs, as well as associate's, bachelor's and master's degrees. We have also begun to offer fully on line education programs.

We are especially proud of our high rate of graduate placement, 82 percent.

I am pleased to support the Expanding Opportunities in Higher Education Act of 2003. It takes several important steps toward achieving the goals of increasing access, accountability, affordability and quality.

I will focus my remarks on the single definition of an "institution of higher education," elimination of the 90/10 requirement, and distance education reforms. We believe these changes are about students, not institutions.

With regard to the single definition, the proposed changes in the bill are another step in an evolutionary process that Congress began 5 years ago. The proposal is not radical. It simply recognizes that the landscape of higher education is changing.

The key point is that today's student population is different from a generation ago, when the current definitions were created. Most students today are not traditional. That is they are not individuals who graduate from high school, go immediately to a 4-year college, and depend on their parents for financial support. Seventy-three percent of today's students are non-traditional. They are working adults that Corinthian and other proprietary schools serve.

All institutions, whether they are proprietary, public or non-profit, are changing to meet the needs of these students. It is the proprietary schools, however, that are especially geared toward giving them the preparation they need to advance in the workforce. This, together with the growth that career schools have experienced makes it appropriate and timely to move toward a single definition.

With regard to the elimination of the 90/10 rule, again, we strongly support the proposal in this bill. The rule had a dubious premise. It has not been implemented coherently, and most importantly, it is a prime example of the law of unintended consequences.

The 90/10 rule creates the wrong incentives. It pushes institutions away from serving the most in need of financial aid, especially the poor, minorities and women. In fact, the relatively heavy usage of financial aid puts a school at risk of violating 90/10. The risk will only go up if proposals to increase Pell grants, increase loan limits to front load Pell, or equalize loan limits are adopted.

Faced with this risk to their survival, it is hardly surprising that schools would change admission programs and location away from those types of students and toward appealing to more affluent students who can pay their own way, yet that is absolutely contrary to the goal of increased access to the Higher Education Act.

Another fundamental contradiction that 90/10 creates involves the goal of affordability. With Title IV aid limited, one way that a school can raise its non-Title IV revenues is simply to increase tuition. This, of course, is completely contrary to everybody's goal of making colleges more affordable.

The time has come to end this misguided requirement.

Finally, with respect to distance education, the need for reforms to make financial aid more available to students who wish to pursue higher education on line is well established.

The findings of the Web-Based Commission in H.R. 1992 passed in the House in the last Congress shows the time is right for change. I would like to especially draw your attention to the Department's second report on the distance education demonstration program that was just released.

The Department has found no evidence that waiving the current restrictions on distance education in the Act has had any negative consequences. It has also called for the law to be amended to expand distance education opportunities for students. It urged that the quality of distance education, the key point about these programs, be assessed by accrediting agencies.

We agree that an accreditation based approach should be used to allow on line education programs to be Title IV eligible. The Expanding Opportunities Act takes this approach.

Mr. Chairman, there are many other positive features of this bill, such as the proposals for financial aid simplification. The three reforms that I have addressed are good reasons to support it, and I am pleased to do so.

Thank you for your time.

[The prepared statement of Mr. Moore follows:]

**Statement of David G. Moore, Chairman and Chief Executive Officer,
Corinthian Colleges, Inc.**

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to testify about the Expanding Opportunities in Higher Education Act of 2003. I am David G. Moore, Chairman and Chief Executive Officer of Corinthian Colleges, Inc. Corinthian was founded in July 1995, and today is one of the largest for-profit post-secondary education companies in the United States. We are active members of the Career College Association (CCA) and have participated in the development of its legislative positions. As I will show below, the number, breadth and diversity of Corinthian's colleges allow us to speak on behalf of the interests of CCA's members.

Corinthian's colleges serve the large and growing segment of our population seeking to acquire career-oriented education to become more qualified and marketable in today's increasingly demanding workplace. We offer programs at a range of levels of education to serve the needs of these students, including diploma and certificate programs, and degree programs at the Associate's, Bachelor's and Master's levels. Our focus is primarily in healthcare, business, technology and criminal justice. We operate 80 colleges and two continuing education centers in 21 states, and 45 colleges and 15 corporate training centers in seven Canadian provinces. Additionally, Corinthian offers programs exclusively online for students seeking Bachelor's and Associate's degrees in business, criminal justice and accounting, and Master's degrees in business administration and criminal justice. In particular, our FMU Online programs offered through our Florida Metropolitan University are serving primarily adult students who must concurrently manage careers, family and personal lives to gain the education and training they need.

We have achieved great success in helping students to become job ready and advance their careers in today's competitive economy. This is shown by the increase in our total student population to over 50,000 and our high rate of graduate placement—82% of our graduates are employed within six months of graduation in the field for which they have been trained.

My own background includes experience in both for-profit and public higher education. Prior to helping found Corinthian, I served as president of National Education Centers and of DeVry Institute of Technology in Los Angeles, CA. From 1980 to 1992, I worked at Mott Community College in Flint, MI, where I served as President for eight years. Prior to joining Mott, I had a 20-year career in the U.S. Army, retiring at the rank of colonel.

At the first hearing held by the Education and the Workforce Committee on the reauthorization of the Higher Education Act, Chairman Boehner outlined four guid-

ing principles—accessibility, accountability, affordability, and quality. We agree with these goals, and believe that the Expanding Opportunities in Higher Education Act of 2003 takes a number of important steps toward achieving them. In my testimony, I will focus on three important aspects of the proposed legislation—the single definition of an institution of higher education, the elimination of the 90/10 requirement, and the reforms relating to distance education.

I. Single Definition of Higher Education Institution

The Expanding Opportunities Act would strike the sections in the Higher Education Act (HEA) that continue to provide for disparate treatment of for-profit institutions as compared to public and non-profit institutions. It would create a new consolidated section in the HEA on the definition of an institution of higher education.

Corinthian and other career colleges support these changes. They represent further steps in a direction that Congress began five years ago in the last reauthorization in recognition of changes that were occurring in higher education. Those trends have continued and accelerated so that it increasingly makes little sense to perpetuate distinctions that are rooted in history. Changing student demographics and the goals of our society for postsecondary education support the additional steps that the Expanding Opportunities Act would now take.

In the Higher Education Amendments of 1998, Congress transferred all definitions of an institution of higher education from four different sections of the HEA to two sections in a new Title I. This transfer and consolidation recognized that the purpose of all such institutions is to provide access to higher education. Furthermore, the transference and consolidation made plain that the same core requirements applied to all institutions—authorization by a state in which the institution operates, accreditation by an agency recognized by the Secretary of Education, and certification of eligibility to participate in the Title IV student financial assistance programs by the Department of Education. Nonetheless, distinctions between for-profit institutions, on the one hand, and “traditional” institutions, on the other hand, continued.

The Expanding Opportunities Act takes another step in an evolutionary process. It is not a radical step, but rather a recognition that the landscape of higher education has substantially changed. This change can be described in a variety of ways, but most tellingly it is revealed by the changes in demographics and purposes of students who pursue higher education. As the National Center for Education Statistics reported recently, today’s undergraduate population is different from a generation ago. The “traditional” undergraduate—an individual who earns a high school diploma, enrolls full time in college immediately after finishing high school, depends on parents for financial support, and either does not work during the school year or works part time—is now the exception rather than the rule. In 1999–2000, just 27 percent of undergraduates met all of these criteria. Thus, 73 percent of all undergraduates were in some way “nontraditional.”¹

These students are older, have family and work responsibilities, and are concerned with preparation for entry into the work force or advancing their careers. Most institutions of higher education, including nonprofit and public institutions, have modified their program offerings in recognition of this fundamental shift. For-profit institutions from their inception, however, have addressed the needs of this nontraditional population, and prepared and certified them as ready for entry and advancement in the work force. As a result, career colleges comprise 46 percent of all postsecondary institutions and 38 percent of all Title IV—eligible institutions. They are roughly evenly divided between degree and non-degree granting institutions, and enroll approximately 1.3 million students annually.² The maturation of for-profit career institutions, of which Corinthian’s colleges are a prime example, and the way that they match the needs of a changing student population, affirm that the perpetuation of distinctions among institutions of higher education can no longer be justified.

The movement toward a true single definition of an institution of higher education is appropriate and timely. Indeed, it could be argued that the bill does not go as far as it should as it preserves a two-year rule applicable only to for-profit institutions, continues to treat for-profit foreign institutions separately, and restricts for-profit institutions from funding sources for institutional purposes. Nevertheless, the proposed amendments will encourage institutions funded by private capital to fill the needs of our society’s modern work force.

¹ NCES, *Nontraditional Undergraduates, Findings from the Condition of Education 2002*.

² Career Training Foundation, *A Profile of Career Colleges and Universities 4–5 (2003)*.

II. Elimination of 90–10 Rule

As a result of the consolidation and revision of the definition of an institution of higher education, the Expanding Opportunities Act would eliminate the requirement that for-profit institutions have no more than 90 percent of their tuition revenues derived from the Title IV programs. We strongly support the elimination of this “90–10 rule.” The 90–10 rule had a dubious premise to begin with, has failed to be implemented coherently and, most importantly, has had pernicious effects that undermine the public policy goals of the student financial assistance programs.

The hypothesis supporting the enactment of the 90–10 rule and its predecessor, the 85–15 rule, was that students’ willingness to pay some portion of their own money would be an indication of the quality of for-profit institutions. At best, this was an unproven supposition. The rule never purported to examine the quality of these institutions directly; instead, it relied upon an inference about student payments that could just as easily have been explained by other factors—particularly socioeconomic status. The 90–10 rule also involved a second-guessing of the decisions of accrediting agencies that have the responsibility for assessing educational quality in the Title IV system. This has proven unwarranted since, as a recent report by the Inspector General has shown, the agencies that principally accredit for-profit institutions have been more focused on assessing student achievement than those agencies that accredit public and nonprofit institutions.³

On its face, the 90–10 rule appears to be simple. The statute states that a proprietary institution must have “at least 10 percent of the school’s revenues from sources that are not derived from funds provided under Title IV, as determined in accordance with regulations prescribed by the Secretary.”⁴ The regulations developed by the Department of Education, however, are complex. Many of the provisions in these regulations and the Department’s interpretations of them are counter-intuitive and unsupported by the statute. For example, the Department has created a presumption that any Title IV funds disbursed or delivered to a student are used to pay the student’s tuition, fees and other institutional charges, even if the student has received and used non-Title IV funds for those purposes.⁵ This presumption, in other words, turns the 90–10 rule on its head. A rule designed to ensure that students use at least some non-Title IV funds, in fact, counts Title IV funds first and diminishes the importance of non-Title IV funds in making the 90–10 calculation. Non-Title IV funds are disadvantaged or not counted in other ways as well. For example, funds paid to the institution from tuition savings plans established by students and their families pursuant to Section 529 of the Internal Revenue Code may not be counted. This is clearly the students’ own money, and yet the Department’s regulations do not recognize these funds. Nor are institutional funds used to match Title IV funds under the Perkins and SEOG programs recognized.⁶ In all of these instances, non-Title IV funds are utilized by students—again, the ostensible purpose of the 90–10 rule—but the Department’s regulations and interpretations focus on maximizing the counting of Title IV funds.

It must also be recalled that the 90–10 rule is highly punitive. Institutions must notify the Department within 90 days of the end of their fiscal year if they fail to satisfy the rule, including the Department’s unexpected interpretations of it, and they then lose their eligibility to participate in the Title IV programs completely.⁷ There are no opportunities for correction or remediation, and the Department has no authority to impose liabilities or fines as is the case in other instances where institutions may be found in noncompliance with the numerous and often complex provisions of the HEA and Department regulations.

The 90–10 rule as implemented by the Department of Education, therefore, is full of traps for the unwary, and the effects of failing to meet it are draconian. Has it nonetheless succeeded as a reform measure? The answer is that it has clearly not. Other reforms have had a far greater impact in removing substandard institutions from the Title IV system. In fact, the 90–10 rule has had a number of unintended adverse consequences.

First and foremost, the 90–10 rule creates disincentives for institutions to serve those most in need of student financial assistance, especially the poor, minorities and women. These are the groups who most heavily use need-based grant assistance, particularly Pell Grants, to gain access to higher education. Institutions are precluded from denying access to this financial aid for students who qualify. A study commissioned by CCA demonstrates that the 90–10 ratio of an institution is not a

³Final Audit Report, ED–OIG/A09–C0014 (July 2003).

⁴HEA §102(b)(1)(f).

⁵34 C.F.R. §600.5(e)(2).

⁶See Id. §600.5(e)(3).

⁷Id. §600.5(f),(g).

measure of its quality but rather a reflection of the number of students in need that it serves; the more students who are in need, the greater is the institution's 90–10 ratio.⁸

The heavy usage of such Title IV aid puts an institution at risk of violating the 90–10 rule. This risk will increase dramatically if proposals to increase the Pell Grant authorization and loan limits, to front-load Pell Grants, or to equalize loan limits are adopted. An institution facing the risk of losing its eligibility to participate in the student financial assistance programs, and unable to deny financial aid to students who qualify, would have no choice but to consider changing its location or the programs offered to appeal to potential enrollees who are able to pay tuition and fees from their own funds. The study commissioned by CCA suggests that this is precisely what has happened. While Title IV funds pay all costs for about 31 percent of the students who attend career colleges, Title IV funds pay almost none of the costs for approximately 25 percent of these students.⁹ This suggests that many institutions have reoriented their missions and programs away from students who are most in need of assistance—the very students the Title IV aid programs are designed to serve in order to promote access to higher education. In this critical way, therefore, the 90–10 rule is inconsistent with, and defeats the purpose of, promoting access and the public policy goals of the Higher Education Act.

The 90–10 rule also undercuts the aim of improving the affordability of higher education. Very simply, the rule creates incentives for institutions to seek funds that are not covered by financial assistance under Title IV. Since Title IV aid is limited under the HEA, principally by statutorily prescribed loan limits and authorizations for Pell Grants, an institution can obtain additional non–Title IV revenue by raising its tuition and fees. This, of course, cuts completely against a solution to what has rightly been described as a crisis in college costs.¹⁰ The 90–10 rule, however, creates just such an incentive.¹¹ Moreover, raising tuition and fees in order to achieve 90–10 compliance exacerbates the problem that I previously noted, i.e., that the 90–10 rule pushes institutions away from serving economically disadvantaged student populations.

In sum, the 90–10 rule has an unproven and dubious premise. Its implementation has created regulatory complexity and anomalous interpretations. And, most importantly, the 90–10 rule has created incentives that undercut the goals of access and affordability that underpin the student financial assistance programs and the goals rightly articulated by Chairman Boehner for this reauthorization. The time has come to end this wrong-headed experiment in public policy and to eliminate the 90–10 rule from the HEA.

III. Distance Education

The Expanding Opportunities Act takes another crucial step to expand access to higher education by reforming outdated and outmoded provisions of the HEA that restrict the availability of financial assistance to students enrolled in online courses of study. The bill would sever the link that has allowed restrictions on correspondence education—the “50 percent rules”—to be applied to educational programs delivered by telecommunications. It would create an accreditation-based system for assessing the quality of online educational programs in order to make them eligible to participate in the Title IV programs. And, it would remove restrictions that have disadvantaged non-degree certificate and diploma programs of study. We support all of these reform measures. They are timely, well-founded, and carefully constructed to balance expansion of access with protections of the integrity of the student financial assistance programs.

The need for the reforms contained in the Expanding Opportunities Act is now beyond question. The case for such reforms was made by this Subcommittee and the Committee on Education and the Workforce two years ago when, based upon the findings of the Web–Based Education Commission, the Internet Equity and Education Act of 2001 was passed.¹² We commend Vice Chairman Isakson for his leadership on this issue.

As the Web–Based Commission found, online learning is one of the most promising developments to have occurred in higher education over the past decade. It

⁸American Economics Group, *The 90–10 Rule: Impact on Career Colleges* 14, 16 (September 2003).

⁹*Id.* at 9, 15.

¹⁰The College Cost Crisis, *A Congressional Analysis of College Costs and Implications for America's Higher Education System*.

¹¹*Id.* at 3.

¹²H.R. 1992; *Internet Equity and Education Act of 2001*, H. Rep. No. 107–225, 107th Cong. 1st Sess. (2001) citing *The Power of the Internet for Learning*, Report of the Web–Based Education Commission (2000).

leverages the power of technology to enrich learning and create new educational opportunities. A substantial and growing body of research demonstrates that online instruction produces quality learning outcomes comparable to, and perhaps even better than, traditional education programs. Literally millions of students, especially working adults, will have higher education opened to them.¹³

Since the House of Representatives passed H.R. 1992, other developments have confirmed that the time is ripe for changes to the HEA to foster online education. Senator Michael Enzi (R-WY) chaired a hearing a year ago in which, among other things, the General Accounting Office (GAO) presented testimony on the growth of distance education, its expansion of access to older students in the workforce, the important role that accrediting agencies play in reviewing distance education programs, and the need to modify restrictions that limit eligibility for student aid.¹⁴ Senator Enzi, Senator Bingaman and other co-sponsors have now introduced S. 1203, which would use an accreditation-based approach to make online education programs Title IV—eligible.¹⁵ Corinthian and other institutions with an interest in online education supported this bill as well as a similar bill, H.R. 2913, introduced by Congressmen Kildee and Andrews on July 25, 2003.

In July of 2003, the Department of Education released its Second Report to Congress on the Distance Education Demonstration Program.¹⁶ Significantly, the Department reported that it had uncovered no evidence that waiving the current restrictions in the HEA and the Department's regulations that impede distance education had negative consequences. On the contrary, the Department stated that "[b]ased upon the experience gained to date through the demonstration program, and the trends that are evident in the development of distance education generally, the Department recognizes the need to amend the laws and regulations governing Title IV student financial assistance in order to expand distance education opportunities."¹⁷ The Department's report also notes that it has become evident that there is "a great deal of confusion" about how to interpret the existing restrictions, especially the interplay between institutional and student eligibility.¹⁸

As to policy direction, the Department stated that there is a growing consensus that the 50 percent rules need to be revised or eliminated, and that the quality of distance education programs should be assessed through the same accreditation process that governs on-campus programs.¹⁹ In fact, accrediting agencies, such as those that accredit Corinthian's schools, have developed standards and procedures that address the special issues raised by distance education and that are even more rigorous than the bill would require.²⁰ The Department's conclusions are supported by the findings of a recent survey conducted by Babson College and the Sloan Consortium which found that most chief academic officers and university presidents believe that Internet-based courses are already at least equivalent to lecture hall courses in educational quality. This survey also found a substantial increase in the number of online students to more than 1.6 million—11 percent of those enrolled in postsecondary institutions. Public and for-profit institutions are particularly seizing the opportunities presented by online education.²¹

These developments amply support the reforms on distance education in the Expanding Opportunities Act. The bill appropriately severs the linkage between telecommunication courses and correspondence courses, and focuses the 50 percent restrictions where they were originally intended—on correspondence education. The heart of the bill's approach to distance education is in section 102. This would make a distance education program eligible for the Title IV programs if it is offered by an institution that has been evaluated and determined to have the capability to effectively deliver distance education programs by an accrediting agency which is recognized by the Secretary and has evaluation of distance education within the scope of its recognition. The accrediting agency would achieve such recognition by demonstrating that it has standards appropriate to the evaluation of distance education. In particular, the accrediting agency would have to assess measures of student achievement specific to programs offered through distance education. It is now well-recognized, based upon the developments that I have described, that the key consid-

¹³ *Id.* at 1–13.

¹⁴ GAO, Distance Education, GAO-02-1125T (September 26, 2002).

¹⁵ 149 Cong. Rec. S. 7494 (June 5, 2003).

¹⁶ Second Report to Congress on the Distance Education Demonstration Program (July 2003).

¹⁷ *Id.* at iv.

¹⁸ *Id.* at 5.

¹⁹ *Id.* at 20.

²⁰ Accrediting Commission of Career Schools and Colleges of Technology, Standards of Accreditation, Section XI; Accreditation Reviews, Distance Education Programs.

²¹ Seizing the Opportunity, The Quality and Extent of Online Education in the United States, 2002 and 2003.

eration relevant to distance education is quality assessment, and that accrediting agencies are the appropriate entities to make those assessments. Thus, the accreditation-based approach of the Expanding Opportunities Act provides the right solution with appropriate safeguards to ensure that accrediting agencies effectively serve as the gatekeepers to expanding access through this mode of educational delivery.

Finally, the bill addresses section 484(l) of the Higher Education Act to remove unwarranted disadvantages applicable to certificate and diploma programs. Using additional 50 percent rules, section 484(l) currently equates these programs to correspondence education and thus prevents student eligibility even if an institution is eligible to offer online programs.²² As the Department stated in its most recent report, these additional restrictions have created confusion. More fundamentally, there is no reason why an online certificate or diploma course of study is like a correspondence program when a degree program delivered online is not. Indeed, certificate and diploma programs hold special promise for working adults who wish to pursue new competencies and credentials so that they may advance their careers with current and future employers. Thus, removing the linkage of online certificate and diploma programs to correspondence is also a beneficial feature of the Expanding Opportunities Act.

IV. Conclusion

The Expanding Opportunities Act would take many other positive steps. For example, the proposals for financial aid simplification—the study of the feasibility of simplifying the needs analysis methodology and the simplified needs test improvements—are valuable and should lead to the more efficient delivery of aid to students. However, the proposals on the single definition of an institution of higher education, elimination of the 90–10 rule and reform of the HEA provisions that impede online education are particularly critical, in our view, and we urge their adoption.

Chairman MCKEON. Thank you very much.

Mr. Moore, in your testimony, you talked about the 90/10 rule. How do you respond to those who say the changes in this bill specific to distance education, 90/10, and the institutional definition combination will lead to an increase in fraud and abuse in the student aid programs?

Mr. MOORE. Fraud and abuse is a legal issue, and those who lie, cheat, and steal should be prosecuted and dealt with. The last thing that any of us want in this industry is any excuse to abuse the Federal financial aid or use of those funds.

We fully support and will continue to support any measures that will reduce fraud and abuse. However, our point is that we need to be focused on measures that are actually doing that, not circumstantial evidence that really has nothing to do with fraud and abuse.

The IG and the state laws have adequate mechanisms in place to discover fraud and abuse, and in the case of the institutions within our corporation, we have 13 full time internal auditors that do nothing but program reviews, similar to the Department of Education. We have an SFA audit that is completed by an independent outside auditor. We have a big four auditing firm that looks at our financial aid.

The state audits us. The guarantee agencies audit us, and from time to time, the Department of Education audits us.

It is hard to believe that with all that auditing, there is much opportunity for fraud and abuse. There is an opportunity for mistakes, however. If you look at the stack of bureaucracy that we have to work through every year to administer the financial aid

²² HEA §484(l)(1).

program, you understand why 30 cents on every dollar of Federal financial aid goes just to the administration and protection of those funds.

We whole-heartedly support trying to reduce the paperwork support, but I do not see any correlation at all between the changes that are being proposed here and an opportunity for the growth of fraud and abuse.

Chairman MCKEON. With regard to changing of the definitions to include all schools under one definition, I visited some propriety schools in New York, some of them have been in the family business for 100 years. Yet, they are denied the opportunity to compete for certain funds, just because of these definitions.

Why would we exclude schools like that? Why do you see that in combining these definitions? How would you see that as a move forward?

Mr. MOORE. Actually, there are two pieces of that issue. One is an administrative issue that really has more to do with you folks than with us. Today, every time you make a change to some piece of the Higher Education Act, your staff has to go back through all the pieces of legislation and find the individual references to proprietary schools versus traditional schools, and make those corrections.

History has shown that is a human endeavor, and with it comes a lot of error. From time to time, pieces get left out. In the last legislation, there were a number of times when the Committees had to go back at the last minute and try to find pieces of the legislation that inadvertently got left out. The single definition will relieve that issue.

Second, we are dealing with students, not with institutions. The purpose of these funds is to provide an opportunity for students to go to school. There should be no difference between a student who is attending one of my schools in Florida, Metropolitan University in Tampa, and a student that is going to a Florida State school across the street. They are both capable of going to school and are both tax paying citizens. They should not be prejudiced against simply because one is going to one institution versus the other.

There has been a fair amount of hyperbole about our reading of the special set-asides that have been put in place over the years to protect a certain class of students.

The fact is that all of those programs are grants that have to be applied for. There are no entitlements in any of those funds. The likelihood that we have schools who meet the basic eligibility for most of those grant funds is slim. On the other hand, should one of our schools meet those requirements and successfully get through the grant application process, I do not find any justification to support denying that student access to those funds simply because of the school they are attending. That is a pretty fundamental issue in this country in terms of providing access and not discriminating against citizens who are seeking any number of activities, certainly to include higher education.

Chairman MCKEON. Thank you very much. Mr. Kildee?

Mr. KILDEE. Thank you, Mr. Chairman. I appreciate the testimony of all our witnesses here.

We seem to have three areas where we are going to have to make some decisions here. One is the single definition, the 90/10, and the 50 percent. I think probably we will have greater success or maybe more immediate success on the 90/10 and the 50 percent.

The 90/10 came in because we had some outrageous things happening out there, and this is one of the remedies, and maybe most of those institutions that were outrageous have gone by the wayside by now. I am willing to look at the 90/10.

I think we have to recognize new technology, too. Distance learning is probably going to be a very growing thing and a very effective way of educating.

David, if you and maybe if we have time, Dr. Heller, could respond to how you feel modification or elimination of the 90/10 and modification of the 50 percent distance learning will help you better serve your students.

Mr. MOORE. Let me start with the 90/10 rule first. At the present time, legislation requires that any student that is eligible for Federal financial aid has to be granted to them.

We concentrate on providing diploma level schools in the inner city. That is the bread and butter of what our corporation is doing. At the present time, if a typical 24 year old minority female, head of household, appears at our door step to go to school, chances are she will be eligible for 100 percent of her tuition and fees and some living expenses through Federal programs. However we are being told that because of the 90/10 rule, we either cannot enroll her since she cannot pay the 10 percent, or we are in jeopardy of having to close the institution because we have enrolled a student who is the most needy of students, because they cannot come up with the 10 percent of their tuition.

Today, we require every student who attends school to pay at least \$25 a month while they are there. That may not seem like much to us, but for some families, that is an awful lot of money. That still does not meet their 10 percent rule.

We are continuously faced with how to serve the population for which we have created this school to serve. We are in the inner cities and we believe we can make a difference there. However, we end up with the contradictory nature of the legislation on the one hand that says you must give that student everything they are entitled to. On the other hand, if we do it, the Federal Government is going to close your school.

That is a classic case of unintended consequences. I do not believe that was Congress' intent when the 90/10 rule was put in place.

Today, it serves no purpose. I would argue that the premise of it was dubious to begin with. If in fact the purpose was to nail the fly by night's and the bad actors, I think there were other ways to do that. I do not think the 90/10 rule had any effect on them.

The fact is that any well run institution can avoid the 90/10 rule, but what we end up doing is penalizing the students to do that. From an effective point of closing down bad schools, it is not going to have an effect. It certainly is not going to catch fraud and abuse, but what it does do is make it more difficult for companies who are in the inner city to try to provide those services to poor students.

Mr. KILDEE. The 50 percent rule, you just feel this is a means to really better educate students, it's a new technology—

Mr. MOORE. Let me talk about on-line programs just in general for a moment, if I could, philosophically. On line learning will always be second choice. A student always learns better sitting in a classroom with an instructor. It is no different than what is going on right here. This could have been done by teleconference. It could have been done by telephone, but the Members of Congress are going to learn more about the issues looking at us and watching us, watching how we avoid your pointed questions, whatever the point may be, none of which will happen through distance education.

The point is, however, for a lot of students, second choice is their only choice, and there are hundreds of thousands of students out of that 75 million adults that have never been to college, who have never had any postsecondary training, that's the only way they will ever get access to it.

To deny those students access to Title IV when their brethren can get to an actual campus and go to school without restrictions seems counter-intuitive, once again, to everything we are trying to do with education in this country.

We do not have a lot of students that are doing on line. We use it as a hybrid program for the most part in my corporation, although we have totally on line, but the students that are enrolling in the totally on line program are people that are in circumstances that they cannot get to a campus to take classes.

There is no justification to deny that person access to a quality education, and I believe that is the point and that is the concern we all have, whether we are up there with you or down here where we are, to ensure that on line program is the same quality that the on the ground program is.

In our case, they are absolutely interchangeable. Same faculty. Same classes. Same curriculum. Same textbooks. We encourage every student to take some of their program on line. A student may take, when they do their own triage, they take what they think is simple on line. They take the hard stuff in the classroom. Eventually, they are going to sit back in a classroom, and if they did not get the basic skills on line, they are not going to make it through.

We cannot afford to enroll and have a student that we do not believe we can graduate and most importantly, put to work at the end of the day, because that is the business we are in. We are in the business of jobs, of putting America to work, and particularly those Americans who for whatever reason do not have access to traditional schools.

Mr. KILDEE. Thank you very much. I appreciate your clarity. I will just make a comment because my time has run out. My main concern about the single definition is the effect it may have upon the minority serving institutions, which we have tried to give special care and concern to, and that is my main concern on the single definition.

My time has expired. Thank you. Thank you, Mr. Chairman.

Chairman MCKEON. Thank you. Mr. Osborne?

Mr. OSBORNE. Thank you, Mr. Chairman. Thank you all for being here today.

I must admit to a little confusion here on two issues, the common definition and the 90/10 rule, that Dr. Heller and Mr. Moore somewhat diametrically oppose, and I understand Dr. Heller's concerns, I guess, on the common definition. I guess you are fearing dilution of funds? Is that primarily it? Mr. Moore, could you tell me quickly why you favor common definition? I know you mentioned it, but it did not process real well with me.

Mr. MOORE. Sure. Let me see if I can be a little more succinct. The principal reason for the common definition is to clear up and make simpler your legislative process. Right now, if you make a change in legislation concerning higher education or postsecondary education, your staff has to go through a long stack of existing legislation to find all the references and make those changes, and that often does not get done, and unintentionally, things get left behind. That is point No. 1.

Point No. 2 is in those rare cases, and right now, out of over 4,000 proprietary schools, we can only identify 31 that even meet the minimum requirements to be eligible for these special programs. Should in fact a school be able to meet all of those requirements and successfully get through the grant process, I think we would argue those students should not be denied access to those funds.

On the other hand, this is about students. This is not about a money grab. This is not about an attempt to open up Title III funds to our schools. In fact, it came as a surprise to me that the single definition would open up Title III, because we never considered using those funds, and I seriously doubt that we would.

Mr. OSBORNE. Thank you. Dr. Heller, on the 90/10 rule, I think I understand Mr. Moore's arguments for supporting it might raise tuition. Could you again review for me why you oppose the 90/10 rule?

Dr. HELLER. Certainly, Congressman Osborne. I think the primary concern I have is over the issue of accountability. As I said in my testimony and went into more detail in my written testimony, the nation's public and private not for profit institutions are held to a number of accountability standards that for profit institutions are not held to today.

Let me give you a few examples of these. I know accountability is certainly an issue that this Committee is concerned with, but the standards I am going to be talking about are standards that are already in place and have nothing to do with Federal regulations.

For example, most public higher education institutions are held to reporting accountability standards by state higher education governing and coordinating boards that go well beyond the minimum thresholds for reporting that are required of all licensed postsecondary institutions in the state, including for profit institutions.

Private not for profit institutions have a public service mission and are accountable to the public in ways that for profit corporations simply are not.

I will give you an example. You can go to a web site and get the IRS Form 990 on private not for profit organizations, including colleges and universities, and you simply cannot get that level of in-

formation, financial and other information, about for profit corporations, particularly if they are publicly held.

The accountability issue is my main concern about 90/10.

Mr. OSBORNE. Thank you. Dr. Flores, you mentioned funding and weak Federal support for HSIs, I think, in your testimony, and yet in 1996, I think \$10.8 million was available for these funds, and in 2004, it is \$93.5 million. That is a 766 percent increase. I notice that you are requesting \$465 million, which is almost five times as much as now being appropriated.

Can you explain the reason for this disparity and why you are saying this is a weak Federal commitment, and why you feel this increase would be desirable?

Dr. FLORES. Sure. Thank you, Mr. Osborne.

I would like to just point out a few important facts that create a context for my response. First of all, Hispanic serving institutions currently receive only about 50 cents for every dollar per student then the rest of the higher education institutions in the country get from all the Federal sources combined.

In terms of Title V funding itself, at the present time, less than one-half of all the eligible institutions for participation in the Title V grant program receive any funding because there is not enough money to provide grants to every one of them.

In addition, we already have reviewed data that indicates that within the next 5 years, non-profit HSIs will increase by no less than 100 more HSIs serving the students throughout the country.

Of course, when you add up all those facts, then we have a picture very clearly of very severe under funding of our institutions. When we compute what is needed to bring about parity for those institutions as they continue to grow and serve rapidly growing numbers of students, that is what we calculated would be minimally required to bring about equity for those institutions at this time.

Those were the kinds of numbers that we used to compute that was the correct amount to request from Congress.

Mr. OSBORNE. Thank you. My time has expired. Mr. Chairman, thank you.

Chairman MCKEON. Ms. McCollum?

Ms. MCCOLLUM. Thank you, Mr. Chair.

I have been listening carefully to the testimony as well as reviewing it. I think some of the language that is being used here is rather interesting. In terms of industry versus institution.

When I think of an industry, I think of a creation of something that is trying to create a profit. I think what Mr. Moore is describing is a profit for the business, and it is also something that is going to be profitable and worth something to the student.

When I hear the word "institution," I hear something that is created not only to better enrich the individual's life, but something that creates a legacy, something that is part of a community that builds up public character, not only for today, but for tomorrow. It becomes a tradition, it is embedded. It is a value. It is a goal. It is part of its mission.

I am concerned that if we are to change this, we look at what we are doing very carefully. I have many institutions in my district. They have very specified missions as to what they are trying

to accomplish just from their presence, as well as the mission and the goal that they would like to see the students who graduate know the direction.

I think it is easiest to stay with what you know. I will use a women's college, which we are not talking about, the College of St. Catherine. Its goal and its mission is to create hope and opportunity not only for the community at large, but to instill that as part of a mission that a student takes forward.

I trust that my friends and colleagues here will correct me if I am wrong, but the tribal college that I am familiar with in my district instills as part of its mission hope and opportunity for the community at large, as well as for that individual to be successful and achieve the American dream, something which many minorities in our country feel is a struggle to attain.

When we talk about changing the 90/10 rule, I look at how will that affect that hope and opportunity, that justice, that quite often minorities in our country find very difficult to achieve.

These colleges came to be for a reason. These institutions came to be for a reason, and that is because mainstream America was not offering that, and I do not know if we are at that level of color blindness yet, that our institutions know on a large scale quite often how to reach out to minority students.

The other reason why I am very concerned about changing the rule on this is there were a couple of rules that were changed that had to do with the way grants are issued, many grants which come out of the oversight of this Committee, and I am going to give you two examples.

We had grants that had been going to the Urban League to reach seniors, particularly minority seniors, whether they were African American, Hispanic, Latino, Somali, working with those seniors. Proven track record. Letters of accommodation.

We had another group called Clues, and they work with mental health issues, especially with the Hispanic community in my district. Huge successes. Letters of accommodation. You're doing a great job.

Well, as we went forward with faith-based education, the Urban League saw its senior program totally eliminated. Clues has seen their mental health reach totally being disrupted because of cuts in funding.

With Dr. Heller's point and to Dr. Flores' point, I would like to ask you gentlemen, if there is no guarantee that the basic level of funding is in place for these institutions, what harm do we do by diluting a few dollars that are out there?

I am out of time, Mr. Chair, so you can submit it to me in writing, gentlemen, and I will get it in the record. Thank you.

Chairman MCKEON. Thank you. Now the author of the bill, Mr. Cole.

Mr. COLE. Thank you very much, Mr. Chairman.

I am going to start with you, if I may, Dr. Heller, because I would really like to probe a little bit into your concerns about the definition.

In your response to Congressman Osborne, and you did not get a chance to elaborate, so that is what I want to do here, it appeared to me—and in your comments, your main concern was sim-

ply it is going to dilute—open up, frankly, to more competition for a very limited pool of funds. I think that is a very legitimate point.

On the other hand, is that the thrust of your opposition, we simply are going to spread what we would say is too small an amount of money over too great an area, or are there other specific things that concern you?

Dr. HELLER. It is a few issues, the issues of dilution of the funds, as you point out. It is the issue of accountability and differences in accountability among different types of institutions in the nation, and it is also the point that Representative McCollum just brought up about the differences in missions among postsecondary institutions in this country. It is those three areas that I have concerns about going to a single definition.

Mr. COLE. Go with me a little bit further in this. I would turn around and say if we are trying to help students that are the neediest students, the ones that are most disadvantaged, we want to maximize the choices that they have available to them so they can pick an area that they think or an institution that they think meets their needs, and would we want to empower as many institutions as possible to pursue that type of student?

Dr. HELLER. I would argue, Mr. Cole, that right now we have a great deal of competition in postsecondary education markets in this country, and I think a lot of people who argue that the United States has the world's best system of higher education would say it is precisely because we have that kind of competition. In many other countries, students graduate from high school and a very small percentage are chosen for college and they are told where they are going to go and what they are going to study.

In this nation, students have over 6,000 Title IV eligible institutions to choose from, and most students, other than those in perhaps the most rural areas, have a great number of institutions to choose from already, no matter what it is they want to study, and now with the explosion of distance education, even students in rural areas have an opportunity to choose from a broad range of institutions.

That is why I don't think that changing the current law and going to a single definition will really help in terms of access and participation in college for the neediest students. I think that aspect of higher education is there. The competition is there. I think there are other barriers facing needy students right now.

Mr. COLE. Wouldn't that be a decision for the student to make, not for us to make for the student?

Dr. HELLER. Well, the reality is that this Committee and the Congress has a lot of responsibility and a lot of authority to make decisions about funding, both in the Title IV programs in funding for students, and in the Title III and V programs in funding for institutions. I think Congress has to maintain that authority, and there are decisions that have to be made, and I would be very cautious about opening up the regulations, going to a single definition and returning us to an era where perhaps these funds were not spent as efficiently and effectively as they were and are being spent, I think.

Mr. COLE. I am going to ask you a question on another aspect of your testimony, and I would like you to elaborate a little bit. You

were sort of cautious about the 50 percent rule, but obviously, willing to entertain the idea of perhaps a modification.

Could you elaborate, tell me what kind of modification you were really thinking about there that might still satisfy your concerns and yet move us into a more flexible and open situation?

Dr. HELLER. My main concern about going somewhat cautiously and easing the 50 percent rule is the demonstration project, as I said, has had about 100 institutions in it, and it has been a very well operated program.

There are a couple of aspects of that that we need to keep in mind. Those 100 institutions are very carefully hand chosen by the Secretary for participation in that program. I would be very cautious about extrapolating from the experiences of 100 institutions and just eliminating the rule and opening up distance education—funding for students in distance education in institutions that have more than 50 percent of students who are in distance education, to all 6,000 Title IV eligible—

Mr. COLE. Do you have a specific change? You are clearly willing to entertain the idea of some change. What kind of change would you entertain?

Dr. HELLER. Well, I think perhaps the best way to go is to have the Secretary—give the Secretary the responsibility and authority to allow institutions to apply and then to choose institutions for participation in the program, and rather than going to the extreme of just opening it up and saying anybody—any institution that right now is Title IV eligible—

Mr. COLE. You would feel comfortable giving the Secretary the flexibility—giving the authority to review and make those decisions?

Dr. HELLER. Yes, with appropriate oversight; absolutely.

Mr. COLE. Sure. I know I do not have too much time left. Mr. Moore, let me ask you, since you guys are sort of on opposite points of this view.

In your institution, are there a large number of students currently that you think don't have access to you because of things like the definition difference that we have?

Mr. MOORE. Yes, sir; absolutely. Again, there are 75 million adults that have no postsecondary training, 35 million that have not completed a bachelor's degree, we have over 100 million adults in this country that require postsecondary training that do not have access to traditional institutions, and through a combination of the traditional role of traditional schools, traditionally doing what they have traditionally done, they need to be traditionally encouraged to traditionally continue to do that.

That is going to take care of about 20 percent of the adult population. That is where the bulk of the funding goes. Almost 95 percent of all Federal funding goes to serve that 20 percent of the population.

It is the other 80 percent of the population that somebody must step up and serve. That is what we are particularly attuned to. I am not suggesting that traditional schools should change their mission or change what they are doing. I am not particularly suggesting that you change and give us any particular advantage. We are not asking for additional funds. We are not asking for different

funds. We are not asking to be treated any differently than anybody else.

All we are asking is that we not be treated any differently than anybody else is, simply because of the student body we serve, which is the overwhelming majority of the American citizens.

Mr. COLE. I believe my time is up. I yield back, Mr. Chairman. Thank you.

Chairman MCKEON. Thank you. Mr. Hinojosa?

Mr. HINOJOSA. Thank you, Mr. Chairman.

Chairman McKeon, I would like to thank you and Ranking Member Kildee for holding this important hearing today.

The Higher Education Act is all about expanding opportunities. I would also like to thank all the witnesses for joining us this morning. I especially appreciate Dr. Flores' testimony on behalf of Hispanic serving institutions.

I would like to echo his encouragement that we include a long overdue graduate program for Hispanic serving institutions in the bill that we eventually report out of Committee.

I hope, Mr. Chairman, that we can continue to move forward in a bipartisan manner on this issue.

I would also like to commend Congressman Cole and Chairman McKeon for making many of the needed improvements to several of the exemplary programs, such as HSI Title V, Part A, to HEP and GEAR-UP and also to TRIO.

Many of these changes have been advocated by the Hispanic Education Coalition and others. They are certainly a step in the right direction.

However, I share many of the witnesses' reservations, concerns about the unified definition of an "institution of higher education," and I share their concerns of the proposed elimination of the 90/10 rule.

I remember only too vividly the abuses of the proprietary sector nearing the late 1970's and the early 1980's, when I was on the Texas State Board of Education, and we wound up in Texas eliminating at least 60 percent of the proprietary schools because of the fraud and what they were doing to education and especially to our students.

Many of the victims of the fraud and abuse in the student aid programs were Hispanics. They were not provided access to higher education, but rather access to debt without a means to pay for it.

I would hope that we could continue to discuss whether for profit businesses should receive Federal institutional development dollars.

The witnesses have pointed out the under funding of institutions of higher education such as HBCUs, HSIs, tribally controlled colleges and universities, and many others who are the ones who are recruiting and helping get minorities into higher education.

How can we ensure that we never return to proprietary school abuses of those periods of the 1970's and 1980's?

Finally, I would like to ask Dr. Flores to share with the Subcommittee why HACU and our nation's Hispanic communities believe it is critical that we establish a post-baccalaureate program for HSIs. Also, why we cannot afford to wait another 6 years until the next reauthorization of higher education in 2009.

Dr. FLORES. Thank you, Mr. Hinojosa.

We reported in our written testimony that less than 5 percent of all the graduate degrees earned in the country are earned by Hispanics. We have a tremendous deficit with respect to graduate education opportunities for our young students and adults.

At the same time, our HSIs need to expand their capacity to create or develop new programs for graduate education, because this is where the overwhelming majority of our students are concentrated. More than 60 percent of all the students attending higher education today attend an HSI, and yet, many of those HSIs don't have graduate programs or have very limited graduate programs.

There is obviously a national deficit involved in expanding opportunities for young people and adults to go into graduate programs because the institutions themselves need to be enhanced, and for most faculty appointments and high level appointments and administrative positions in higher education, people need to have Ph.D's or graduate degrees, as credentials for admission to those jobs. They also, of course, need to go into the corporate community and serve in leadership positions that require MBAs and other kinds of graduate and professional degrees.

The nation as a whole is in tremendous need of improving opportunities for graduate education and to wait another 6 years would seem to prolong the agony of our community.

Mr. HINOJOSA. If the Chairman will yield, yesterday, we heard testimony in the Select Education Committee about the need for teachers and professors at the university level because we are expecting another 2.5 million students to get into colleges and universities, and without professors, we cannot handle that demand, and naturally, it seems to me that we have to address the shortage of the professors and they have to get into the Master's and Ph.D. programs in order to teach in colleges.

I thank you for your response.

Dr. FLORES. Thank you.

Chairman MCKEON. Thank you. Mr. Keller?

Mr. KELLER. Thank you, Mr. Chairman. Mr. Chairman, let me ask you some questions regarding the student work penalty. I read your written testimony, and you thought that was something that was worthy of being studied.

I put language in this bill to have the Advisory Committee on Student Financial Assistance study it, and for those folks not familiar with this issue, I may briefly describe it, and then ask you for your opinions.

The University of Central Florida in my area costs about \$12,000 to go to. If we provide a student with a \$4,000 Pell grant, a low income student, that is enough to pay for his tuition, books and fees, but he has to come up with the other \$8,000. If he's an ambitious kid, and he gets a part time job, and he makes \$8,000, guess what, he has just lost his Pell grant.

His choices, go take out a loan for \$8,000, and when you graduate from college 4 years later, you have \$32,000 in student debt, as our Chairman likes to say, you have a mortgage without a house.

My first question to you is as someone who is in the financial aid arena, do you believe the student work penalty is a problem that needs to be addressed?

Mr. CHIN. I might not characterize it—I think it is an issue that needs to be reviewed and looked at in terms of—I hesitate to use the word “tax,” but I mean, how much of a student’s earnings is to be directed to their expected contribution toward college?

The current process takes an offset of \$2,500-\$2,600 out of the wages, and then we subtract out income taxes and Social Security taxes, and then we assess half of the remaining income that is left over as part of the expected contribution.

This falls back into the need analysis in the sense that we look at prior income as a snapshot of the student’s or the family’s ability to pay. You tend to look at that as kind of the snapshot is something that would be ongoing, and you say that is what the student can earn or the family will earn, and you expect a certain piece of it.

Mr. KELLER. Let me stop you before you go too far down the line. I just gave you a real life scenario. You would not characterize that as a problem?

Mr. CHIN. It’s a problem with how you treat earnings. If you look at the current process, when you look at a student’s wages, we exclude—back out the need based wages they make, because we say we gave that to the student to earn toward their course of attendance. On need based aid, we do back those wages back out.

Mr. KELLER. I think we back out about \$2,400.

Mr. CHIN. We back out \$2,400 as an initial offset against any non-need based wages before we begin to go through the rest of the process, but on the FAFSA form itself, there is an exclusion—say we happen to give the student a work study job for \$8,000.

Mr. KELLER. Right.

Mr. CHIN. To fill that need, assuming the student had \$8,000 worth of need. When he files the form the following year, your tax return says you earned \$8,000, but we know \$8,000 of it was a need based set of earnings, so on the FAFSA form, they take that back out so that for need analysis purposes, the net income from that \$8,000 work study job is zero.

It doesn’t impact their Pell grant eligibility because the wages have been netted down to zero as a function of netting that excluded set of wages out.

The issue is the difference in how we treat need based earnings that we have awarded to the student versus wages the student may have earned on their own, and I think that is kind of a conceptual thing that needs to be resolved in this comprehensive review of the analysis and how wages, whether they are need based or non-need based, get handled in the process.

One of the tough things about building models is reading the intent. In some cases, we can read the intent pretty well and say, yes, the student intended to use that for education, and in other cases, it may not be. That is what makes the process—

Mr. KELLER. Let me ask you this, because I am getting real short on time. One of the proposals is instead of giving him credit for \$2,400 that they can earn without having it count against them,

give them say credit for \$5,000 they can earn without having it count against them.

Some think that is a good idea. The down side of that is it costs \$460 million extra. What are your thoughts on that proposal?

Mr. CHIN. I think our fundamental thought about this is in this review of need analysis, we have to go through and find a sound economic rationale for some of these allowances, and whether it is \$2,500 or \$5,000, right now it is probably someone's estimate with updated inflation over the years, and I think when Congress gets through this, what they probably need to go through is say, all right, what is the cost of working, what is the cost of ancillary expenses associated with working, that clearly are not available to students, what part of their wages they earn may be attributed to a period of non-enrollment, and you might net that out.

I think there is a thought process to go through to establish what the appropriate level is, but it fits into our general picture that those are the things that need to be reviewed, and they are not easy.

Mr. KELLER. Thanks.

Chairman MCKEON. Thank you. Mr. Tierney?

Mr. TIERNEY. Thank you, Mr. Chairman. I thank the witnesses for their testimony today.

Dr. Heller, you mentioned during your testimony the idea of earlier in the process determining for students in junior high school or high school their eligibility and giving them some notice and promise on that.

Would you expand on that for us?

Dr. HELLER. Certainly, Congressman Tierney.

Let me give you the example that I didn't have time to talk about in my oral testimony.

The State of Indiana has a program called the Indiana 21st Century Scholars Program, and I have summarized this in my written testimony. This program is targeted at low income youth. I believe the standard is families with children about 150 percent of the poverty level and below. It is certainly below the maximum Pell grant income eligibility.

What the State of Indiana has done has been to make a commitment to these students when they are in seventh or eighth grade, that they will fund the full cost of their college tuition at any public institution in Indiana, or a private institution, in an equivalent amount of what the public institution is, for 4 years, if these students agree to do the following: they have to graduate from an Indiana high school with a GPA of at least 2.0 or a C average, which is a very reasonable merit standard, we can all agree.

They have to agree to not use illegal drugs or alcohol. They have to apply for admission to a college in Indiana, and they have to apply for state and Federal aid.

If the students take all those steps, the State has committed and will commit to them as early as when they are 14 or 15 years old, to pay their tuition for 4 years.

The legislature in Indiana did this recognizing that is a long term commitment of an entitlement, and yet the State has done that, and I think the most important thing we know about this program is that independent research has shown it has been a signifi-

cant contributor in improving the low income student college access and success rate in the State.

I recognize that it is a little bit of a radical program for some here in Washington perhaps, because of that early commitment, but I think there are lessons that could be learned about not just making a commitment to students of aid, but at least starting with what this legislation calls for, which is getting the information out there about eligibility sooner.

As I said in my testimony, I would encourage Congress to think perhaps a little outside the box about making the kind of commitments with Federal Pell grants that the State of Indiana has made with its state money.

Mr. TIERNEY. Thank you very much. Mr. Chin, what are your feelings about the administration's recent change in disallowing state and local tax setoffs in the financial aid process? Do you think that is a wise thing?

Mr. CHIN. I think it was something they were clearly authorized by statute to update and they did update them, and the outcome was that for the most part, the individual rates in the table got reduced, but I think, as I mentioned before, this is one of those issues that probably falls into a comprehensive review that the Advisory Committee will do, and what is an appropriate means of determining that offset.

I think the current statute directs the Department to use data from the Internal Revenue Service, and at least in my mind, that data understates the local tax burden for students.

I think the Department followed the rules they were supposed to follow in updating it. I think they were just put in a position where they were directed to use data that was not necessarily the best set of data for making that determination.

I think if the Advisory Committee goes through its analysis and finds a better means, a better basis for determining that state and local tax burden for the purpose of the need analysis, then the Committee can go forth and make that modification in the law, and maybe we will end up with a better set of tables.

For the moment, given that we know that the data probably understates the state and local tax burden, I think it may be a good idea to kind of suspend that update until we get a better handle on it.

Mr. TIERNEY. Thank you very much. Dr. Heller, with respect to the 50 percent rule, should we not think about doing something more in the accreditation so that is a factor? I liked your idea about giving the Secretary some discretion about which programs would qualify or not, but do we have enough in terms of standards of what would qualify or not? Are we doing enough in the area of accreditation of those distance learning programs?

Dr. HELLER. Because of the nature of distance education and some of the history we have had in this country with problems with institutions that were purely in distance education, we used to call them correspondence schools, business, I would be a little bit reluctant to rely only on the accreditation process, and that is why I recommended and suggested having some kind of special process for institutions to apply and for review by the Department and the Secretary would provide an extra assurance that we have the right

institutions in these programs and serving students in an appropriate manner.

Mr. TIERNEY. What criteria would the Secretary use if not accreditation?

Dr. HELLER. I think there would probably be additional information. Right now, the accreditation process, as I understand it, is a fairly high level process in terms of institutional review, and especially with the growth of distance education programs, accreditation is only now starting to deal with some of the details of distance education, particularly technology based distance education, and I think perhaps we ought to suggest that the Secretary get out ahead a little bit of the accreditation process and try to come up with criteria and sets of standards that would provide the assurances that the money is being used efficiently and effectively.

Mr. TIERNEY. Thank you.

Chairman MCKEON. Thank you. Mr. Carter?

Mr. CARTER. Thank you, Mr. Chairman. Dr. Heller, on the 50 percent rule that we are talking about in this Internet and for those of us like at my age, it used to be correspondence that we were talking about, most of the universities that I am acquainted with, and I graduated from two, and my children are either out or going to an university right now, most major universities have rules that the last 30 hours have to be in the school, in the university, where they are going to graduate from.

Take the University of Texas, without firing any shots at them, but I think it pretty well pertains to most of the major universities, they do not offer very many classes at night at all, if any.

Therefore, a student who for some financial reason might have to either transfer to a different school, have a job so they can pay for it to finish school, they are not able to finish at the school that they might have wanted to finish from because there is no distance education they can use to get that last 30 hours at the school they were enrolled in, they had to move to a new school.

Most of them will have additional hours, and generally, these last 30 hours, there is only one or two classes per section that they have to have to meet their requirements to graduate, so you are generally adding probably two and in some instances three more years of going to school and working in order for them to receive that degree.

This is something that I have experienced in my family, and I know many families who have experienced that. Wouldn't each of the universities almost have an obligation to expand the distance education to provide a means for a savings, both by the folks who are having to borrow the money from the United States government and the kids who are having to put out their own money to get through school? Isn't that the kind of accommodation we ought to be making for our students? And how does that fit in your view of some reluctance on expanding the 50 percent rule?

Dr. HELLER. I agree, Representative Carter, that students today, and I think Mr. Moore said this earlier, are very different than students when we first passed the Higher Education Act almost 40 years ago. We have many more working adults. We have many more students who attend multiple institutions and run into the kinds of problems that you talked about.

I think distance education does hold great promise for being able to reach students who because of time constraints, geographic constraints, family constraints, can't attend a traditional class that often meets during the day, during what are typically working hours. And I think there are many institutions out there—Penn State has, I think, one of the most well-respected distance education programs on its campus that allows students to take courses at pretty much any time they want; they're not bound by a traditional semester schedule, often they're self-paced, and exactly to meet the needs of those kinds of students we were talking about.

Having said that, I would be reluctant to suggest that Congress should get into the business of telling colleges and universities and dictating to colleges and universities requirements about how many hours a student has to attend that institution to be able to qualify for a degree.

So if you are suggesting that Congress ought to take a look at finding ways for institutions to ease up on this rule of having to attend the last 30 hours or 25 hours, whatever it may be, I would be reluctant to have Congress get into that business. I think that Congress historically has given a lot of autonomy to institutions to make decisions about academic issues, and in my mind that's clearly an academic issue, and I would not want to see Congress getting involved in that.

I think the marketplace, the higher education marketplace, is responding very well—for profit institutions, not-for-profit privates, and public institutions are responding to the needs of these students, and I don't think that Congress needs to look at putting in regulations that will stifle that kind of competition and innovation that I think is going on right now.

Mr. CARTER. I actually was not speaking to regulating—I'm not somebody that believes Washington ought to regulate anything in the level of work on what you do and running your schools. But I think they do have an obligation, the schools have an obligation, to offer an alternative to this basically onerous procedure if a student if a student is forced to leave school and they lack 28 hours to graduate, they're not able to graduate, they have to start over at another institution closer to home so they can finish, and add two or three more years to their cost.

I think schools have an obligation to have long distance methods where they can finish school at the school of their choice.

Dr. HELLER. Yes, I agree. I think that is an obligation on the parts of colleges and universities. And I think most are trying to respond to that.

Mr. CARTER. Mr. Moore, if you don't mind, one of the questions I would like to ask you is I run into—I used to teach Sunday school for 20 years, and I know lots of kids that are college-age kids over the last 20 years, and higher education gives—one of the problems that I saw some for-profit institutions like you represent was some of the kids were put in the programs, they signed up, they paid a big chunk of money to get in—most of it borrowed, if not all of it borrowed—to get into a program that they were not well-advised to get into, didn't have a possibility of completing. They worked at it for usually about four to 6 months and quit and lost every dime that they put into the programs. And they owed the money.

I've seen that on more than one occasion. What's going on in your industry to prevent that from happening and to refund those monies when children are ill-placed in schools where they ought not be?

Mr. MOORE. Thank you, sir. Let me address that from two points of view. First, a national statistic. Fifty percent of all students who enter traditional colleges drop out in their first year. So if we're concerned about large payments being made to institutions and the money being lost, my suggestion is we start with the traditional schools first. Because that's where the greatest losses take place. Ten years later, those drop-outs show up on our doorstep as a 28-year-old trying to finish school.

Now let me address what we're doing. We're in the business of putting America to work. I don't want to enroll a student that I'm not convinced will complete the program and we can put to work. We provide admissions tests up front to make certain they're smart enough to get through the program, we put the students through an intensive counseling program before we enroll the student to make certain they understand what they're getting into, and to make certain that they really understand the career that they're going to go to.

The programs you're talking about were some 1200 schools that were put out of business 15 years ago, rightfully so. I would hope that you don't have any evidence of that kind of behavior in the last few years, at least, and certainly not in any of our schools.

Mr. CARTER. I have heard stories, but that—thank you.

Mr. MOORE. We'd love to have the evidence of those stories, because we'll deal with them.

Mr. CARTER. Thank you. My time has expired. Thank you.

Chairman MCKEON. Thank you. Mr. Owens.

Mr. OWENS. Yes. Gentlemen, as you are leaders in the area of higher education, I hope you will bear in mind that we have a war against terrorism going, which is going to absorb tremendous amounts of taxpayers' money. And that war against terrorism makes assumptions that higher education plays no insignificant role.

Our Homeland Security Department has very little—pays very little attention to higher education. It's another example of gross mismanagement in our war against terrorism not to understand that the first and most important weapon in the fight against terrorism is an educated populace. An educated populace in the general sense that people can make decisions in a complex world that will contribute to our effort to fight terrorism.

But in a more specific sense, we need lots and lots of educated people at every level. The anthrax technician has not been created yet. So a few envelopes of anthrax shut down this capital, you know, for three or 4 weeks and shut down our Senate building for 4 months, because there are a limited number of anthrax technicians who know how to clean it up. God forbid we should have a major anthrax attack of ten envelopes sent somewhere. I mean, it's bad for first responders, we depend on police and fire to do all the first responding, and in a biological attack, what do police and firemen know about rebuffing a biological terrorist attack? You need specially trained people to do that. Maybe they should be connected

to hospitals, but the nurses can't do it and doctors can't do it; you need another category of people.

We had a big blackout in the Northeast recently, and they said it's not just the equipment and the supplies and the physical infrastructure, but the people are wearing out, the kind of people who can deal with that.

So at every level we need more educated people. There's room for proprietary schools as well as other schools, the traditional schools, and I'd like to see them all prosper and all be able to make a maximum contribution. However, we are forced, given the limited amount of funds and the fact that instead of going forward and increasing the amount of money we're investing in our education, we are actually decreasing the amount. It's a blunder that we hope we can get corrected, but until then, we have to make these gradations in terms of where are people seeking an education, higher education, where can they get the best quality, best value.

And I'm not the one who is going to say the proprietary schools of America don't give a lot; I know a proprietary school which is an excellent school, opening great opportunities to minorities and low income students, with a 1 percent default rate. So they're doing very well.

On the other hand, I know of another school or set of schools that's built an empire on swindling minority and low income students. What my previous colleague mentioned, get them to enroll, get a big loan, pay a down—have no intention of giving them a decent education, and swindling them.

We had a big investigation some time ago and we got rid of a lot of them, but there are some still around. And my question is—mainly to you, I guess, Mr. Moore—given the fact you don't have accreditation and a number of other things that traditional non-profit schools have, what are you willing to do to make certain that we have a better way to evaluate the good proprietary schools versus those that still tend to swindle students? How much transparency do you think your association and your colleagues are willing to submit to? Let us see your statements; you don't have to follow them in the same way as a non-profit institution, but we ought to be able to go somewhere and check to see your financial status, the quality of your faculty, and—how much are you willing to put on the screen so everybody can have a look at it when they're evaluating whether or not this proprietary schools is really a good one?

Mr. MOORE. Thank you, and thank you for the opportunity to try to correct some of the facts.

First off, all of our schools are accredited. Most of them are accredited by national accrediting agencies. And even the Department of Education agrees that the national accrediting agencies are far more strict and instill far higher levels of discipline in terms of the school operation than the regionals do—the regional accrediting agencies that my colleague is talking about.

So it's simply not true that the proprietary schools do not have the level of oversight that traditional schools do. I think anyone familiar with the operation of both—and I've been both places, I've run a public community college and I'm now running a—

Mr. OWENS. Well, you, yourself, said before there were some scandals 10 or 15 years ago.

Mr. MOORE. That's correct.

Mr. OWENS. Massive scandals. Since then you've started doing something different?

Mr. MOORE. Well, those schools have been put out of business, those people have been put in jail. Keep in mind that when the Congress throws gold in the streets, bad people are going to pick it up and run with it. And that's what happened in the '80's. There was so much effort to try to get student financial aid out that the money was put out without the oversight mechanisms in place. And a lot of bad people picked it up.

The same thing is going on at traditional schools. Every quarter, there's a large list of traditional colleges and universities that are sanctioned by the NCAA because fraud and cheating is going on in their athletic programs.

Now in our schools, if that level of fraud and cheating went on, we'd be putting somebody in jail and closing the school.

So I think it's unfair to assume that there's a different level of accountability that's being held for proprietary schools versus traditional schools.

Mr. OWENS. Are you willing to submit to greater transparency in terms of your finances and—

Mr. MOORE. Well, I don't know how you could be more transparent than we are. Every quarter, we have to publicly announce where every penny that we spent went. We're subject to SEC accountability. We're now subject to Sarbanes-Oxley—a \$3 million-plus project—just to get the accountability. I will submit to any transparency that you submit to traditional schools, too.

Mr. OWENS. So regional accreditation, you would submit to that, too.

Mr. MOORE. Our standards are far beyond regional accreditation. In fact, we're trying to move a group of nine university schools in Florida to regional accreditation because the accreditation standards are easier than they are for the national accreditation.

Mr. OWENS. Now you speak for Corinthian Colleges here, or you speak for proprietary schools in general?

Mr. MOORE. Well, I can certainly speak for myself, and I think I can speak for any proprietary school that's in the same situation we're in.

Mr. OWENS. Well, I hope that you will find some way to provide some leadership within your higher education community to address the issue that I raised at the beginning. We need more money.

Mr. MOORE. That's why I'm here, sir.

Mr. OWENS. Greater realization that all higher education institutions are very much needed, and we need to open the eyes of the administration to the fact that even something as basic as a fight against terrorism requires that we have more people coming out of our higher education institutions.

Mr. MOORE. You'll be pleased to know that we were the first homeland defense degree program offered in the United States—was offered through our schools.

Mr. OWENS. Thank you,

Chairman MCKEON. Thank you. I want to thank the witnesses for being here today, for your testimony. As we move forward in

this process, I'm sure we'll be reaching out to you and asking for your input, and if you'll continue to give us that, it will help us as we move forward to try to reauthorize the Higher Education Act.

There being no further business now, the Committee stands adjourned.

[Whereupon, at 11:23 a.m., the Subcommittee was adjourned.]

