

105TH CONGRESS
1ST SESSION

H. R. 2536

To amend the Higher Education Act of 1965 with respect to improving the administration of the student financial assistance programs under title IV of that Act.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 24, 1997

Mr. McKEON (for himself and Mr. KILDEE) introduced the following bill;
which was referred to the Committee on Education and the Workforce

A BILL

To amend the Higher Education Act of 1965 with respect to improving the administration of the student financial assistance programs under title IV of that Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “21st Century Student
5 Financial Aid System Improvement Act of 1997”.

1 **SEC. 2. PERFORMANCE-BASED ORGANIZATION FOR THE**
 2 **DELIVERY OF FEDERAL STUDENT FINANCIAL**
 3 **ASSISTANCE.**

4 Title XII of the Higher Education Act of 1965 (20
 5 U.S.C. 1141 et seq.) is amended—

6 (1) by striking “TITLE XII—GENERAL
 7 PROVISIONS” and inserting the following:

8 **“TITLE XII—GENERAL AND**
 9 **ADMINISTRATIVE PROVISIONS**

10 **PART A—GENERAL PROVISIONS”;**

11 and

12 (2) by adding at the end the following new part:

13 **“PART B—ADMINISTRATIVE PROVISIONS FOR**
 14 **DELIVERY OF STUDENT FINANCIAL ASSISTANCE**
 15 **“SEC. 1221. PERFORMANCE-BASED ORGANIZATION FOR**
 16 **THE DELIVERY OF FEDERAL STUDENT FI-**
 17 **NANCIAL ASSISTANCE.**

18 **“(a) ESTABLISHMENT AND PURPOSE.—**

19 **“(1) ESTABLISHMENT.—**There is established in
 20 the Department a Performance-Based Organization
 21 (hereafter referred to as the ‘PBO’) which shall be
 22 a discrete management unit responsible for manag-
 23 ing the information systems supporting the pro-
 24 grams authorized under title IV of this Act, as speci-
 25 fied in subsection (b).

1 “(2) PURPOSES.—The purposes of the PBO
2 are—

3 “(A) to improve the level of service to stu-
4 dents and participants in the programs;

5 “(B) to reduce the costs of administering
6 the Federal student financial assistance pro-
7 grams authorized under title IV;

8 “(C) to increase the accountability of the
9 officials responsible for administering the oper-
10 ational aspects of these programs;

11 “(D) to provide greater flexibility in the
12 management of the operational functions of the
13 Federal student financial assistance programs;
14 and

15 “(E) to integrate the information systems
16 supporting the Federal student financial assist-
17 ance programs.

18 “(b) AUTHORITY.—

19 “(1) AUTHORITY OF SECRETARY.—Notwith-
20 standing any other provision of this Act, the Sec-
21 retary shall maintain responsibility for the develop-
22 ment and promulgation of policy relating to the pro-
23 grams of student financial assistance under title IV.
24 In the exercise of its functions, the PBO shall be

1 subject to the direction of the Secretary. The Sec-
2 retary shall—

3 “(A) request the advice of, and work in co-
4 operation with, the Chief Operating Officer in
5 developing regulations, policies, administrative
6 guidance, or procedures affecting the informa-
7 tion systems administered by the PBO, and
8 other functions performed by the PBO;

9 “(B) request cost estimates from the Chief
10 Operating Officer for system changes required
11 by specific policies proposed by the Secretary;

12 “(C) consider the Chief Operating Officer’s
13 comments and estimates prior to finalizing such
14 regulations, policies, administrative guidance, or
15 procedures; and

16 “(D) if necessary, arrange for additional
17 funding to ensure that the PBO can efficiently
18 perform its functions.

19 “(2) FUNCTIONS.—The PBO shall carry out
20 the following functions:

21 “(A) All aspects of contracting for the data
22 and information systems supporting student fi-
23 nancial assistance under title IV, including the
24 operational administration of the William D.
25 Ford Federal Direct Loan Program, but not in-

1 including the development of policy relating to
2 such programs.

3 “(B) The administrative, accounting, and
4 financial management functions of the delivery
5 system for Federal student assistance, includ-
6 ing—

7 “(i) the collection, processing and
8 transmission of applicant data to students,
9 institutions and authorized third parties,
10 as provided for in section 483;

11 “(ii) technical specifications for soft-
12 ware development and systems supporting
13 the delivery of student financial assistance
14 under title IV;

15 “(iii) information technology and sys-
16 tems infrastructure related to the delivery
17 and management of student financial as-
18 sistance under title IV;

19 “(iv) all software and hardware acqui-
20 sitions and all information technology con-
21 tracts related to the delivery and manage-
22 ment of student financial assistance under
23 title IV; and

1 “(v) all customer service, training and
2 user support related to the functions de-
3 scribed in clauses (i) through (iv).

4 “(C) Annual development of a budget for
5 the operations and services of the PBO, in con-
6 sultation with the Secretary, and for consider-
7 ation and inclusion in the Department’s annual
8 budget submission.

9 “(D) Other functions proposed by the Sec-
10 retary, and agreed to by the Chief Operating
11 Officer as are not inconsistent with the func-
12 tions of the PBO.

13 “(3) INDEPENDENCE.—In carrying out its
14 functions, the PBO shall exercise independent con-
15 trol of its budget allocations and expenditures, per-
16 sonnel decisions and processes, procurements, and
17 other administrative and management functions.

18 “(4) REVIEW OF PBO.—The PBO shall be sub-
19 ject to the usual and customary Federal audit proce-
20 dures, and be subject to review by the Inspector
21 General of the Department.

22 “(c) AUTHORIZATION OF APPROPRIATIONS.—For the
23 purpose of funding the administrative costs incurred by
24 the PBO in administering systems supporting programs
25 under this part, there are authorized to be appropriated

1 such sums as may be necessary for fiscal year 1999 and
2 each of the 4 succeeding fiscal years, except that funds
3 authorized under section 458 shall be made available to
4 the PBO by the Secretary for administrative costs author-
5 ized to be funded under that section.

6 “(d) ORGANIZATIONAL REPORTS.—

7 “(1) PERFORMANCE PLAN.—Within 6 months
8 of the hiring of the Chief Operating Officer, and
9 every 12 months thereafter, the Secretary and the
10 Chief Operating Officer of the Department shall de-
11 velop a performance plan for the PBO that estab-
12 lishes measurable goals and objectives for the orga-
13 nization. In developing this performance plan, the
14 Secretary and the Chief Operating Officer shall con-
15 sult with the Committee on Education and the
16 Workforce of the House of Representatives, the
17 Committee on Labor and Human Resources of the
18 Senate, and the Advisory Committee on Student Fi-
19 nancial Assistance.

20 “(2) ANNUAL ACCOUNTABILITY REPORT.—The
21 Chief Operating Officer shall prepare and submit an
22 annual accountability report to the Secretary and
23 the Committee on Education and the Workforce of
24 the House of Representatives and the Committee on

1 Labor and Human Resources of the Senate. The ac-
2 countability report shall include—

3 “(A) an independent financial audit of the
4 expenditures of both the PBO and programs
5 administered by it;

6 “(B) financial and performance require-
7 ments applicable to the PBO under the Chief
8 Financial Officer Act of 1990 and the Govern-
9 ment Performance and Results Act of 1993;

10 “(C) the results achieved by the PBO dur-
11 ing the year relative to the goals established in
12 the organization’s performance plan;

13 “(D) the results of the evaluations of per-
14 formance of the Chief Operating Officer and
15 senior managers under subsections (e)(2) and
16 (f)(2), including the amounts of bonus com-
17 pensation awarded to these individuals;

18 “(E) a discussion of the effectiveness of co-
19 ordination between the PBO and the Secretary;

20 “(F) recommendations for legislative and
21 regulatory changes to improve service to stu-
22 dents and their families, and to or improve pro-
23 gram efficiency and integrity; and

24 “(G) other such information as the Direc-
25 tor of the Office of Management and Budget

1 shall prescribe for performance based organiza-
2 tions.

3 “(e) CHIEF OPERATING OFFICER.—

4 “(1) IN GENERAL.—The management of the
5 PBO shall be vested in a Chief Operating Officer
6 who shall be appointed by the Secretary to a 5-year
7 term and compensated without regard to chapters
8 33, 51, and 53 of title 5, United States Code. The
9 Secretary shall appoint the Chief Operating Officer
10 within 6 months of the date of enactment of this
11 part. The Secretary shall consult with the Chairmen
12 of the Committee on Education and the Workforce
13 of the House of Representatives and the Committee
14 on Labor and Human Resources of the Senate prior
15 to making an appointment. The appointment shall
16 be made on the basis of demonstrated management
17 ability and expertise in information technology, in-
18 cluding extensive experience in the financial services
19 industry, and without regard to political affiliation
20 or activity. The Secretary may reappoint the Chief
21 Operating Officer to subsequent terms so long as the
22 performance of the Chief Operating Officer, as set
23 forth in the performance agreement, is satisfactory
24 or better. The Chief Operating Officer may be re-
25 moved by—

1 “(A) the President; or

2 “(B) the Secretary, for misconduct or fail-
3 ure to meet performance goals set forth in the
4 performance agreement in paragraph (2).

5 The President or Secretary shall communicate the
6 reasons for any such removal to the appropriate
7 committees of Congress.

8 “(2) PERFORMANCE AGREEMENT.—The Sec-
9 retary and the Chief Operating Officer shall enter
10 into an annual performance agreement which shall
11 set forth measurable organization and individual
12 goals for the Chief Operating Officer in key oper-
13 ational areas. The agreement shall be subject to re-
14 view and renegotiation at the end of each term. The
15 final agreement shall be transmitted to the Commit-
16 tee on Education and the Workforce of the House
17 of Representatives and the Committee on Labor and
18 Human Resources of the Senate, and made publicly
19 available.

20 “(3) COMPENSATION.—The Chief Operating
21 Officer is authorized to be paid at an annual rate of
22 basic pay not to exceed the maximum rate of basic
23 pay for the Senior Executive Service under section
24 5382 of title 5, United States Code, including any
25 applicable locality-based comparability payment that

1 may be authorized under section 5304(h)(2)(B) of
2 such title 5. In addition, the Chief Operating Officer
3 may receive a bonus in an amount up to, but not in
4 excess of, 50 percent of such annual rate of basic
5 pay, based upon the Secretary's evaluation of the
6 Chief Operating Officer's performance in relation to
7 the performance goals set forth in the performance
8 agreement described in paragraph (2). Payment of a
9 bonus under this paragraph may be made to the
10 Chief Operating Officer only to the extent that such
11 payment does not cause the Chief Operating Offi-
12 cer's total aggregate compensation in a calendar
13 year to equal or exceed the amount of the Presi-
14 dent's salary under section 102 of title 3, United
15 States Code.

16 “(f) SENIOR MANAGEMENT.—

17 “(1) IN GENERAL.—The Chief Operating Offi-
18 cer may appoint up to 5 senior managers as may be
19 necessary without regard to the provisions of title 5,
20 United States Code, governing appointments in the
21 competitive service, and who may be paid without re-
22 gard to the provisions of chapter 51 and subchapter
23 III of chapter 53 of such title relating to classifica-
24 tion and General Schedule pay rates.

1 “(2) PERFORMANCE AGREEMENT.—The Chief
2 Operating Officer shall enter into an annual per-
3 formance agreement with each senior manager ap-
4 pointed under this subsection which shall set forth
5 measurable organization and individual goals in key
6 operational areas. The agreement shall be subject to
7 review and renegotiation at the end of each term.

8 “(3) COMPENSATION.—The Chief Operating
9 Officer is authorized to pay senior managers at an
10 annual rate of basic pay not to exceed 75 percent of
11 the maximum rate of basic pay for the Senior Exec-
12 utive Service under section 5382 of title 5, United
13 States Code, including any applicable locality-based
14 comparability payment that may be authorized
15 under section 5304(h)(2)(C) of such title 5. In addi-
16 tion, a senior manager may receive a bonus in an
17 amount up to, but not in excess of, 50 percent of
18 such annual rate of basic pay, based upon the Chief
19 Operating Officer’s evaluation of the manager’s per-
20 formance in relation to the performance goals set
21 forth in the performance agreement described in
22 paragraph (2).

23 “(g) PERSONNEL FLEXIBILITY.—

1 “(1) PERSONNEL CEILINGS.—The PBO shall
2 not be subject to any ceiling relating to the number
3 or grade of employees.

4 “(2) ADMINISTRATIVE FLEXIBILITY.—The
5 Chief Operating Officer shall work with the Office of
6 Personnel Management to develop and implement
7 personnel flexibilities in staffing, classification, and
8 pay that meet the needs of the PBO and are consist-
9 ent with title 5, United States Code.

10 “(h) PERFORMANCE MANAGEMENT SYSTEM.—

11 “(1) ESTABLISHMENT OF A FAIR AND EQUI-
12 TABLE SYSTEM FOR MEASURING STAFF PERFORM-
13 ANCE.—The PBO shall establish an annual perform-
14 ance management system, consistent with applicable
15 provisions of law and regulations, which—

16 “(A) maintains individual accountability;
17 and

18 “(B) strengthens the organizational effec-
19 tiveness of the PBO by providing for—

20 “(i) establishing goals or objectives for
21 individual, group, or organizational per-
22 formance (or any combination thereof),
23 consistent with the performance plan of
24 the PBO and its performance planning
25 procedures, including those established

1 under the Government Performance and
2 Results Act of 1993, and communicating
3 such goals or objectives to employees; and
4 “(ii) using performance assessments
5 as a basis for granting employee awards,
6 adjusting an employee’s rate of basic pay,
7 and other appropriate personnel actions, in
8 accordance with applicable provisions of
9 law and regulation.

10 “(i) PROCUREMENT FLEXIBILITY.—

11 “(1) IN GENERAL.—Except as provided in this
12 subsection, the PBO shall abide by all applicable
13 Federal procurement laws and regulations when pro-
14 curing property and services. The PBO shall—

15 “(A) enter into contracts for information
16 systems supporting the programs authorized
17 under title IV to carry out the functions set
18 forth in subsection (b)(2); and

19 “(B) obtain the services of experts and
20 consultants without regard to section 3109 of
21 title 5, United States Code and set pay in ac-
22 cordance with such section.

23 “(2) PERFORMANCE BASED SERVICING CON-
24 TRACTS.—The Chief Operating Officer shall, to the
25 extent practicable, maximize the use of performance

1 based servicing contracts, consistent with guidelines
2 for such contracts published by the Office of Federal
3 Procurement Policy, to achieve cost savings and im-
4 prove service.

5 “(3) FEE FOR SERVICE ARRANGEMENTS.—The
6 Chief Operating Officer shall, to the extent prac-
7 ticable and consistent with the purpose of the PBO,
8 utilize services available outside of the Federal Gov-
9 ernment in the delivery of Federal student financial
10 assistance. To achieve this purpose, the PBO is au-
11 thorized to pay fees to an organization that are
12 equivalent to those paid by other entities for such
13 services, if the Chief Operating Officer determines
14 that such organization currently provides an infor-
15 mation system or service that meets the require-
16 ments of the PBO.

17 “(j) FOCUS GROUPS.—To facilitate information shar-
18 ing and customer involvement, the Chief Operating Officer
19 may establish focus groups composed of students, institu-
20 tions, and other participants in the programs authorized
21 by title IV to provide advice on student aid delivery mat-
22 ters.

1 **“SEC. 1222. ADMINISTRATIVE SIMPLIFICATION OF STU-**
2 **DENT AID DELIVERY.**

3 “(a) IN GENERAL.—The Secretary, and the Chief
4 Operating Officer shall improve the efficiency and effec-
5 tiveness of the student aid delivery system by encouraging
6 and participating in the establishment of voluntary con-
7 sensus standards and requirements for the electronic
8 transmission of information necessary for the administra-
9 tion of programs under title IV.

10 “(b) ADOPTION OF VOLUNTARY CONSENSUS STAND-
11 ARDS.—Except with respect to the common financial re-
12 porting form under section 483(a), the Secretary shall
13 adopt voluntary consensus standards for transactions re-
14 quired under title IV, and common data elements for such
15 transactions, to enable information to be exchanged elec-
16 tronically between systems administered by the Depart-
17 ment and among participants in the Federal student aid
18 delivery system.

19 “(c) REQUIREMENTS FOR ADOPTION OF VOLUNTARY
20 CONSENSUS STANDARDS.—Any voluntary consensus
21 standard adopted under this section shall—

22 “(1) be a standard that has been developed,
23 adopted, or modified by a standard setting organiza-
24 tion that is open to the participation of the various
25 entities engaged in the delivery of Federal student
26 financial assistance; and

1 “(2) be consistent with the objective of reducing
2 the administrative costs of delivering student finan-
3 cial assistance under title IV.

4 “(d) PARTICIPATION IN STANDARD SETTING ORGA-
5 NIZATIONS.—

6 “(1) The Chief Operating Officer shall partici-
7 pate in the activities of standard setting organiza-
8 tions in carrying out the provisions of this section.

9 “(2) The Chief Operating Officer shall encour-
10 age higher education groups seeking to develop com-
11 mon forms, standards, and procedures in support of
12 the delivery of Federal student financial assistance
13 to conduct these activities within a standard setting
14 organization.

15 “(e) PROCEDURES FOR ADOPTION AND IMPLEMEN-
16 TATION OF VOLUNTARY CONSENSUS STANDARDS.—In
17 adopting voluntary consensus standards and implementa-
18 tion timetables under this section, including modifications
19 of existing standards, the Secretary shall follow the proce-
20 dures for negotiated rulemaking in section 492.

21 “(f) INITIAL VOLUNTARY CONSENSUS STANDARDS
22 TO BE ADOPTED.—Through coordinated participation be-
23 tween the Chief Operating Officer and standard setting
24 organizations, the initial standards adopted by the Sec-
25 retary shall include the following:

1 “(1) ELECTRONIC PERSONAL IDENTIFIER NUM-
2 BER.—The Secretary shall adopt standards for a
3 single electronic personal identifier number for stu-
4 dents receiving assistance under title IV.

5 “(2) ELECTRONIC SIGNATURE.—The Secretary,
6 in coordination with the Secretary of Commerce,
7 shall adopt standards specifying procedures for the
8 electronic transmission and authentication of signa-
9 tures with respect to transactions requiring a signa-
10 ture under title IV.

11 “(3) SINGLE INSTITUTIONAL IDENTIFIER.—The
12 Secretary shall adopt standards for a single identi-
13 fier for eligible institutions under title IV.

14 “(g) USE OF CLEARINGHOUSES.—Nothing in this
15 section shall restrict the ability of participating institu-
16 tions and lenders from using a clearinghouse to comply
17 with the standards for the exchange of information estab-
18 lished under this section.

19 “(h) APPLICABILITY TO CURRENT SYSTEMS.—

20 “(1) GENERAL RULE.—Except as provided in
21 paragraphs (2) and (3), this section shall apply to
22 all Department of Education information systems
23 supporting the delivery of programs under title IV
24 no later than 12 months from the date of enactment
25 of this part.

1 “(2) NATIONAL STUDENT LOAN DATA SYS-
2 TEM.—This section shall apply to sections 485B (e)
3 and (f) no later than 18 months after the date of
4 enactment of this part.

5 “(3) INTEGRATED POSTSECONDARY EDUCATION
6 DATA SYSTEM.—The Secretary shall coordinate the
7 adoption of voluntary consensus standards under
8 this section to ensure that standards are compatible
9 with the integrated postsecondary education data
10 system (IPEDS).

11 “(i) DATA SECURITY.—Any entity that maintains or
12 transmits information under a transaction covered by this
13 section shall maintain reasonable and appropriate admin-
14 istrative, technical, and physical safeguards—

15 “(1) to ensure the integrity and confidentiality
16 of the information; and

17 “(2) to protect against any reasonably antici-
18 pated security threats, or unauthorized uses or dis-
19 closures of the information.

20 “(j) AUTHORIZATION OF APPROPRIATIONS.—There
21 are authorized to be appropriated in any fiscal year or
22 made available from funds appropriated to carry out ac-
23 tivities in this section in any fiscal year such sums as may
24 be necessary to carry out the provisions of this section,
25 except that if no funds are appropriated pursuant to this

1 subsection, the Secretary shall make funds available to
2 carry out this section from amounts appropriated for the
3 operations and expenses of the Department of Education.

4 “(k) DEFINITIONS.—For purposes of this section:

5 “(1) The term ‘voluntary consensus standard’
6 means a standard developed or used by a standard
7 setting organization accredited by the American Na-
8 tional Standards Institute.

9 “(2) The term ‘standard setting organization’
10 means a standard setting organization accredited by
11 the American National Standards Institute that de-
12 velops standards for information transactions, data
13 elements, or any other standard that is necessary to,
14 or will facilitate, the implementation of this section.

15 “(3) For purposes of this section, the term
16 ‘clearinghouse’ means a public or private entity that
17 processes or facilitates the processing of non-
18 standard data elements into data elements conform-
19 ing to standards adopted under this section.”.

○