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108TH CONGRESS *2nd Session*	COMMITTEE PRINT	WMCP: 108–11

SUBCOMMITTEE ON OVERSIGHT

OF THE

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

WRITTEN COMMENTS

ON

LEGISLATION TO STREAMLINE THE STUDENT AID APPROVAL PROCESS

JANUARY 23, 2004

Printed for the use of the Committee on Ways and Means

U.S. GOVERNMENT PRINTING OFFICE
91–965 DTP WASHINGTON : 2004

For sale by the Superintendent of Documents, U.S. Government Printing Office
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ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON OVERSIGHT

FOR IMMEDIATE RELEASE
November 25, 2003
OV–9

CONTACT: (202) 225–1721

Houghton Announces Request for Written Comments on Legislation to Streamline the Student Aid Approval Process

Congressman Amo Houghton (R–NY), Chairman, Subcommittee on Oversight of the Committee on Ways and Means, today announced that the Subcommittee is requesting written comments on H.R. 3613, the "Student Aid Streamlined Disclosure Act of 2003."

BACKGROUND:

The U.S. Department of Education and its contractors process more than 13 million applications for over $50 billion in student aid every year. The Department of Education has estimated, based on a study that matched Education data and Internal Revenue Service (IRS) data, that it overpaid $602 million in Pell Grants during fiscal years 2001 and 2002 because of its inability to compare tax-related information provided by students with information on file with the IRS. A study by the U.S. General Accounting Office released in July 2003 confirmed that allowing data sharing between the IRS and the Department of Education could result in substantial savings, and Congress has authorized the Secretary of Education to match data with the IRS in section 484(q) of the Higher Education Act (HEA), as amended by the Higher Education Amendments 1998 (P.L. 105–244).

Representative Sam Johnson (R–TX) has introduced legislation, the Student Aid Streamlined Disclosure Act of 2003 to improve the process of verifying income information provided by student aid applicants and to better protect taxpayer privacy. This legislation would implement the Bush Administration's proposal to allow matching of IRS data, and it has been drafted in consultation with three Federal agencies. The Committee on Education and the Workforce endorsed the Administration's proposal as a means of reducing waste, fraud, and abuse in programs administered by the Department of Education, and the legislation is cosponsored by Chairman John Boehner (R–OH). The Bush Administration has estimated that the proposal has the potential to eliminate as much as $1 billion in overawards of student aid within 5 years of enactment.

Under existing law and practice, an individual who applies for a student loan or grant and, in many cases, the applicant's parent, guardian, or spouse is required to provide detailed tax return information. This information is used to establish the amount and type of aid that may be granted to the student under the HEA.

In order to verify tax return information supplied by students, 30 percent of student loan applicants (nearly 4 million) are flagged for verification. Schools are re-

quired to obtain copies of relevant Forms 1040 from the applicant. In addition, a smaller number of individuals who apply for income-contingent loans are required to consent to full disclosure of tax information from the IRS. In contrast to the privacy safeguards that apply when tax return information is obtained from the IRS, there are few safeguards against unauthorized disclosure of information obtained during the verification process.

The verification process not only requires broader disclosure than necessary to determine the proper amount of student aid, but it is ineffective as well. Many of student aid applications that are not verified may contain inaccurate estimates of income. Applicants often prepare their applications in January or February, before their tax returns are filed. Even the applications that are verified may be misleading. For example, the information reflected on Forms 1040 submitted for verification may not be the same as information on file with the IRS due to an adjustment that occurs after Form 1040 is filed.

Under the Student Aid Streamlined Disclosure Act of 2003, students and their parents or guardians will no longer be required to provide copies of Form 1040 or blanket waivers of tax confidentiality in order to obtain a student loan or grant. In announcing the request for written comments Chairman Houghton stated, "The current process for checking student aid applications is not right. It leaves taxpayers open to substantial violations of their privacy. It is far less effective than it could be, so I'm happy to work with my colleague Representative Sam Johnson (R–TX) and the Bush Administration to streamline the application process. It must assure us that student aid goes to individuals who most need it and to protect better taxpayer privacy."

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Please Note: Due to the change in House mail policy, any person or organization wishing to submit a written statement for the printed record should send it electronically to hearingclerks.waysandmeans@mail.house.gov, along with a fax copy to (202) 225–2610, by the close of business, Friday, January 23, 2004. **Please Note:** Due to the change in House mail policy, the U.S. Capitol Police will refuse sealed-packaged deliveries to all House Office Buildings.

FORMATTING REQUIREMENTS:

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. Due to the change in House mail policy, all statements and any accompanying exhibits for printing must be submitted electronically to hearingclerks.waysandmeans@mail.house.gov, along with a fax copy to 202/225–2610, in WordPerfect or MS Word format and MUST NOT exceed a total of 10 pages including attachments. Witnesses are advised that the Committee will rely on electronic submissions for printing the official hearing record.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. Any statements must include a list of all clients, persons, or organizations on whose behalf the witness appears. A supplemental sheet must accompany each statement listing the name, company, address, telephone and fax numbers of each witness.

Statement of Kirk A. Johnson, Ph.D., Heritage Foundation

Reducing Fraud in the Pell Grant Program

Written comments on H.R. 3613, the "Student Aid Streamlined Disclosure Act of 2003" given to the Committee on Ways and Means, Subcommittee on Oversight, U.S. House of Representatives.[1]

Next year's Higher Education Act reauthorization and other recently introduced legislation provide Congress and the Bush Administration with an excellent opportunity to cut waste and fraud in the U.S. Department of Education's Pell Grant program. By changing how financial information is verified, Congress could save between $300 million and $600 million per year at a time when the Pell Grant program is becoming increasingly expensive to operate.

Curtailing waste and fraud is of special importance to the 108th Congress, as the 2004 Congressional Budget Resolution mandates that each Congressional Committee cut 1 percent of its discretionary budget items by eliminating waste.[2] One proposal—the Student Aid Streamlined Disclosure Act of 2003 (H.R. 3613), introduced by Representative Sam Johnson (R–TX)—would accomplish this by using data sharing to reduce fraud and waste in the Pell Grant program.

Reducing fraud and waste in the Pell Grant program would yield substantial budgetary savings:

Reduced fraud

A recent U.S. General Accounting Office (GAO) report found that fraud accounted for more than $600 million in Pell Grants from fiscal year (FY) 2001 to FY 2002, or just over 3 percent of the program dollars per year.[3] Eliminating this fraud would free roughly $300 million per year for grants to low-income college students—enough money to fund $4,000 Pell Grants to 75,000 needy students who might otherwise be turned away.

Reduced waste

The Office of Management and Budget estimates that if the Internal Revenue Service (IRS) and the Department of Education shared and verified income information of student aid applicants, total savings (both in terms of fraud and in terms of program administration) might be as high as $638 million per year.[4]

What Is the Pell Grant Program?

The Pell Grant program is the largest federal aid program for postsecondary students, with a budget of nearly $11.4 billion for FY 2003 (representing almost half of all federal postsecondary aid administered by the Department of Education).[5] Pell Grants are awarded to undergraduate students according to a need-based formula established by Congress,[6] which uses the student's and (usually) the parents' incomes and assets to gauge eligibility.

To apply, students must fill out a Free Application for Federal Student Aid (FAFSA), which asks for income and asset information. From this information, the Department of Education calculates the expected family contribution (EFC) toward the student's college expenses, which is a portion of family income and assets. The poorest undergraduate students have an EFC of $0, which generally qualifies them for the maximum Pell Grant of $4,050 for the 2003–2004 academic year. Smaller

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[1] This comment is based largely on a previously published Heritage Foundation *Backgrounder*. See Kirk A. Johnson, "Data Sharing Can Reduce Fraud in the Pell Grant Program," Heritage *Backgrounder* No. 1714, December 17, 2003, at www.heritage.org/education/bg1714.cfm.

[2] See Brian M. Reidl, "How Congress Can Achieve Savings of 1 Percent by Targeting Waste, Fraud, and Abuse," Heritage Foundation Backgrounder No. 1681, August 28, 2003, at www.heritage.org/research/budget/bg1681.cfm.

[3] U.S. General Accounting Office, "Taxpayer Information: Increased Sharing and Verifying of Information Could Improve Education's Award Decisions," GAO–03–821, July 2003, at www.gao.gov/new.items/d03821.pdf.

[4] Office of Management and Budget, "Department of Education," in Budget of the U.S. Government, Fiscal Year 2004 (Washington, D.C.: U.S. Government Printing Office, 2003), p. 98, at www.whitehouse.gov/omb/budget/fy2004/pdf/budget/education.pdf.

[5] U.S. Department of Education, "Education Department Budget by Major Program," updated March 5, 2003, at www.ed.gov/about/overview/budget/history/edhistory.pdf (November 4, 2003).

[6] Under very limited circumstances, such as certain post-baccalaureate teacher licensure programs that do not culminate in graduate degrees, Pell Grants are available to graduate students. In the vast majority of cases, however, they are awarded only to undergraduates. For more information, see U.S. Department of Education, "Chapter 1: Student Eligibility," in 2003–04 Federal Student Aid Handbook: Federal Pell Grant Program, Vol. 3, 2003, at ifap.ed.gov/sfahandbooks/attachments/0304Vol3Ch1.pdf.

Pell Grant awards are made until the EFC rises above $3,850, at which point a student is ineligible.

As a verification measure, about 30 percent of students who apply for federal student aid each year are required to provide tax returns or other documents to their school to substantiate the income reported on their FAFSA form.[7] If there is a large discrepancy between tax documents and the FAFSA (generally over $400), the FAFSA information is corrected to match the tax return and the EFC is recalculated. Students who refuse to provide tax documents are denied federal student aid.

The Extent of Pell Grant Fraud

There are two basic problems with the existing system. First, there is a fairly high incentive to cheat the system. At the same time, students can misrepresent their income (or their parents' income) on the FAFSA with only a small chance of discovery. The Department of Justice and the Department of Education's Office of the Inspector General are understandably far more likely to pursue and prosecute large cases of student aid abuse rather than individual ones.

In March 2001, for example, the Inspector General's office charged 18 parents and eight financial aid advisers with fraudulently obtaining $2.6 million in student grants and loans.[8] More than half of the alleged fraud (about $1.4 million) centered on a single financial aid consultant. Many of the indicted parents continued to file accurate tax returns to the IRS while reporting lower incomes to the Department of Education. Many other such large-scale cases have been filed over the past few years.

The second problem is verification. Even if the student is one of the 30 percent who must verify income, these tax returns come directly from the student, not the IRS, so the actual documents could easily be altered or made up out of whole cloth.[9] In the fraud case cited above, the financial adviser allegedly manufactured false tax returns in the event that one or more of the applications submitted were chosen for verification.

Although large-amount cases such as this one attract significant attention from federal prosecutors and the media, individual student small-dollar fraud/overpayments have not been adequately quantified until recently. In July 2003, the GAO reported the results of a Department of Education statistical project designed to estimate how many dollars in Pell Grants are awarded to ineligible students.[10] It found that the Department of Education had made $602 million in Pell Grant overpayments between FY 2001 and FY 2002 ($272 million in FY 2001 and $330 million in FY 2002), representing about 3.3 percent of the program funds allocated for grants. Curtailing this fraud would effectively increase the amount of money available for needy college students by roughly $300 million per year—enough to fund $4,000 Pell Grants to 75,000 needy students.

According to the Office of Management and Budget, data sharing to reduce fraud and administrative costs could save $638 million per year.[11] The Congressional Budget Office estimates potential savings of $2.4 billion over 10 years, or $240 million per year,[12] and the House Committee on Education and the Workforce estimates potential savings of $340 million.[13] Total savings from data sharing, from

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[7] According to the GAO, the Department of Education has verified the income and other information of about 30 percent of postsecondary aid applicants in every year since the mid-1980s. The department focuses on those applicants who, based on past experience, are the most likely to submit applications with errors or may be eligible for grants rather than just loans.

[8] For more on this case, see Office of Management and Budget, "Department of Education," in Budget of the U.S. Government: Fiscal Year 2003 (Washington, D.C.: U.S. Government Printing Office, 2002), p. 113, at www.access.gpo.gov/usbudget/fy2003/pdf/bud13.pdf, and press release, "Financial Aid 'Preparers' and Parents Among 26 Charged in Separate Cases Alleging $2.6 Million in Student Aid Fraud," U.S. Department of Education, Office of Inspector General, March 16, 2001, at www.ed.gov/about/offices/list/oig/invtreports/chi32001.html.

[9] Instead of providing tax returns, students can sign a statement indicating that they (and their parents, if applicable) did not earn enough money to require filing tax returns.

[10] U.S. General Accounting Office, Taxpayer Information: Increased Sharing and Verifying of Information Could Improve Education's Award Decisions.

[11] Office of Management and Budget, "Department of Education," in Budget of the U.S. Government, Fiscal Year 2004, p. 98.

[12] Congressional Budget Office, "An Evaluation of the Budgetary Impact of House Committee Suggestions Submitted for the House Budget Committee Print: Addressing Government Waste, Fraud, and Abuse," November 12, 2003, p. 3, at www.cbo.gov/showdoc.cfm?index=4734&sequence=0. The CBO analysis is unclear on this point, but the cost savings estimate appears to take into consideration only the fraud reduction aspects of the proposal.

[13] Press release, "House Republicans Introduce Bill to Protect Disadvantaged Students & Taxpayers Against Pell Grant Fraud," Committee on Education and the Workforce, U.S. House of Representatives, November 25, 2003.

both reduced fraud and reduced administrative waste, could reasonably be expected to fall in the range of $300 million to $600 million per year.

Possible Solutions for Curbing Fraud

The Bush Administration, the GAO, and other agencies have suggested that data sharing between the Department of Education and the IRS could curb Pell Grant and other student aid abuse, saving taxpayers' money in the process. In November 2003, Representative Johnson introduced the Student Aid Streamlined Disclosure Act of 2003 (H.R. 3613), which would amend section 6103 of the Internal Revenue Code of 1986, authorizing the IRS to share limited taxpayer information with the Department of Education for the narrow purpose of verifying student eligibility for financial aid.

Such data sharing could work in one of two ways. Under the first option, a student (and his or her parents) would sign a release authorizing the IRS to release the tax information to the Department of Education. The student would then not have to provide the tax return information; instead, the IRS would automatically forward the information to the Department of Education, thus lessening the applicant's burden while also reducing administrative costs.

The drawback is that under the current system, a student can apply for student aid as early as the January prior to the academic year for which aid is sought. The IRS typically will not process the returns and have them ready until months later. (Indeed, by early January, few families would have the W–2s and other documents needed to begin assembling their returns). This option would unduly delay grant payments to the individual students and colleges.

A second alternative, which H.R. 3613 favors, would still require the student's family to submit the same tax information, but the information would be verified later in the year. Since Pell Grants typically are disbursed in two payments—for the fall and spring semesters—verification could probably be completed before the spring disbursement. If a student provided faulty information to the Department of Education, it would likely be caught during this audit period, and the Federal Government could reduce or eliminate the spring grant payment as needed. In the case of fraudulently obtained grants, the Department of Education could more easily extract repayment or levy civil or criminal penalties, if warranted.

The Higher Education Act of 1998 provided for such increased data sharing, but this could not be fully realized because the Internal Revenue Code was not also amended to allow data sharing.[14] H.R. 3613 would amend section 6103 of the Internal Revenue Code to allow such data sharing between the IRS and the Department of Education. However, even if H.R. 3613 were enacted, next year's reauthorization of the Higher Education Act would still need a provision continuing this kind of data sharing.

Privacy Concerns

Opponents of this kind of data sharing have raised privacy concerns that, generally speaking, center on the government's ability to keep private data, such as tax information, confidential. As the argument contends, opening up IRS data to other agencies increases the chances that confidential tax data will be released to unauthorized individuals.

The IRS already shares tax data on a limited basis with the Department of Education, which appears to have a good track record in maintaining confidentiality. The Income Contingent Repayment (ICR) plan, one of the Federal Direct Student Loan repayment options, already uses data from the IRS to calculate monthly loan payments.[15] This program allows individuals to pay a percentage of their income toward their student loan debt. In most cases, this amount is far less than a traditional 10-year student loan repayment schedule, which especially benefits recent graduates whose incomes remain fairly low. To participate, students must allow the IRS to share their income information with the Department of Education. About 100,000 new individuals sign up to participate each year.[16]

About a year ago, a small-scale pilot program of less than 150 applicants selected into the verification program asked the applicants (and their parents) to allow the

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[14] For commentary on this point, see U.S. General Accounting Office, Taxpayer Information: Increased Sharing and Verifying of Information Could Improve Education's Award Decisions, pp. 2–3.

[15] This data sharing between the IRS and the Department of Education is specifically allowed under the Internal Revenue Code, section 6103(l)(13).

[16] Beyond the Income Contingent Repayment program, the IRS provides the Department of Education with a list of last known addresses for those who default on their student loans. Under this program, known as the Taxpayer Address Request program, the IRS forwards approximately 4.6 million addresses to the Department of Education each year.

IRS to release their tax information directly to the Department of Education. This project was intended to increase the speed and efficiency of the verification process by taking the aid recipient and his or her family out of the process, allowing the Department of Education to receive information directly from the IRS. According to the GAO, initial feedback from students, parents, and the Department of Education was very positive.

Broadening this data sharing to include all federal student aid recipients is a reasonable next step. It would reduce the burden on the 30 percent of aid applicants who are currently selected for verification. This alone would save substantial time and money by reducing fraud, limiting the applicants' burden, and streamlining administrative costs.

Finally, and perhaps most important, restricting data sharing to the narrow purpose of verifying information that student aid applicants provide should ease privacy concerns because the only data the IRS would be sharing with the Department of Education are data that the department already receives directly from applicants under current law.

What Congress Should Do

Data sharing is a viable way to rid the Pell Grant and other student aid programs of waste and abuse. The General Accounting Office, the House Education and the Workforce Committee, and the Office of Management and Budget estimate that data sharing between the IRS and the Department of Education could realize savings of roughly $300 million per year in reduced fraud and total savings of as much as $638 million per year. To achieve this, Congress should:

- Maintain the provision in the 1998 reauthorization of the Higher Education Act that allows increased data sharing between the IRS and the Department of Education.
- Amend section 6103 of the Internal Revenue Code to allow data sharing between the IRS and the Department of Education for the narrow purpose of verifying postsecondary student eligibility for federal aid.
- Continue to penalize students who grossly misrepresent their resources in order to secure higher amounts of federal student aid, forcing repayment and assessing fines as warranted.

These simple measures are an easy way for Congress to reduce fraud, increase the funding available to low-income students, and streamline a large part of America's postsecondary student aid system.

Members of The Heritage Foundation staff testify as individuals discussing their own independent research. The views expressed are their own, and do not reflect an institutional position for The Heritage Foundation or its board of trustees.

Statement of Rachel Brinkley, Maryland Association of Student Financial Aid Administrators, Arnold, Maryland

Internal Revenue Service and Department of Education Data Sharing—Is It a Mis-Match?

Verification, as defined by the U.S. Department of Education's (DOE) Student Financial Aid Handbook is required because ". . . students sometimes make significant errors on their application." Recent statements released by the U.S. General Accounting Office (GAO), state that fraud accounted for approximately $300 million of the more than $11 billion in funds—or just over 3 percent of the program dollars per year.

The Financial Aid Community has been eagerly anticipating the elimination of the U.S. Department of Education mandated process known as "Verification." Schools have labored for years to help students accurately apply for need-based aid through the federal methodology enacted by Congress. For this process, schools have been required to collect federal tax information (manually, via paper submission process) to verify the data elements provided by students and parents on the Free Application for Federal Student Aid (FAFSA). I think it is safe to say that the last 'enhancement' to happen to Verification was the fax machine!

The FAFSA is the cornerstone application of federal aid programs, including Federal Pell Grant, Federal SEOG Grant, Federal Work-Study, and Federal Perkins Loans, and Stafford Student and Parent PLUS loans. In addition, many state agencies, postsecondary institutions and outside private agencies rely on the FAFSA re-

sults—the Student Aid Report—to best determine who should receive limited gift and self-help aid via a number known as the Expected Family Contribution (EFC).

I applaud Representative Sam Johnson (R–TX) for introducing the Student Aid Streamlined Disclosure Act of 2003 (H.R. 3613), which would amend section 6103 of the Internal Revenue Code of 1986. Authorizing the IRS to share limited taxpayer information with the U.S. Department of Education—at the onset—seems to be a win for all parties involved. Unfortunately, fraud and abuse do exist in most federal programs. Why should the Federal Pell Grant program be immune from those trying to cheat the system? Additionally, most parties involved would support any change that saves time, money, and resources. However, if enacted as written, the process currently being proposed by the U.S. Department of Education would result in a "mismatch" for the financial aid process—and as a result, would create a larger burden on everyone involved with the financial aid process.

Potential Pitfalls with the Proposed Match

1. The IRS Data Match Only (vaguely) Verifies Two of The Federally Mandated Five Items.

Currently, regulations require that schools verify five main elements when determining a student's EFC. These elements are: adjusted gross income, federal taxes paid, untaxed income, number in household, and number in said household who are attending college. The proposed legislation would only examine two elements: adjusted gross income and federal taxes paid. These two verification elements, in many cases, are not the greatest factor in determining the EFC. In many situations, the number of people in the student's household, or the number going to college has a greater impact on determining the EFC. Additionally, untaxed income (such as Social Security, Disability, Child Support Received) can also have a significant impact on determining the EFC. When I posed the possibility of data match with Social Security for Untaxed Income at a recent DOE Electronic Access Conference open forum on this topic, I was told, ". . . We haven't got that far yet." I was also surprised to hear that the match results, when provided to schools, would only divulge that a mis-match had occurred, and would not share the correct data element with the schools. Schools would still need to collect the 'correct' data from the students via paper tax form submission. Why introduce a match that only covers 40% of the required process, does not share the correct answers to the 40% it does provide, and puts the student and school through a second paper collection process in the end?

2. The IRS Data Match Doesn't Address Potential Problems with IRS.

The notion that conducting a DOE/IRS database match will eliminate fraud and abuse fails to recognize that when there is a will, there is a way. A student need simply file all zeros in the parent Social Security field to skip the IRS data match. Or, a student could provide the valid Name, Date of Birth, and Social Security Number of someone other than the required custodial parent to obtain a 'clean' match result. Additionally, the proposed match doesn't address multitude of filing options (married, single, head of household, married filing joint) that students and parents (often on the advice of tax professionals) file. How would the match work for the married couple filing separate? How about the married couple that each incorrectly files head of household? To ultimately reduce fraud and abuse, DOE should examine any potential fraud and abuse occurring with the federal tax form. I won't even venture down the road of what would happen when a student applies and is being raised by a non-biological parent—such as a grandparent or sibling . . .

3. The IRS Data Match Will Increase the Work Load at Schools—and Subsequently the Frustration Level of Students.

The proposed DOE/IRS database match poses serious difficultly with regard to timing and logistics. Most financial aid applicants must file their FAFSA before the April 15th tax filing deadline to maximize their potential for limited need-based aid. Even if the majority of the student aid applicants (and parents) filed by the April 15th tax-filing deadline, it would undoubtedly take the IRS time to process all tax submissions at the various locations around the United States. The IRS would then pass this information to DOE, who would then match it against financial aid applicants on file thus far. DOE would then send the schools a list of mis-matched students in late summer. This is peak processing season for most college sectors, which may have already reviewed a student's file and disbursed aid to the student's account. If the student has not yet had their file reviewed/disbursed, it is the worst time of year for both a student and a school to receive increased workload from DOE. This process will force many schools to conduct 100% verification—in some fashion—in response to the alternative. Increased workload on the financial aid pro-

fessionals and their institutions will bring about increased costs of additional long term and/or temporary staff, computing enhancements and Information Technology resources, and hourly costs associated with personnel. Schools unable to absorb the cost associated with necessary enhancements will see delivery timeframes slowed, which in turn will delay the timely delivery of funds to students.

4. The IRS Data Match Doesn't Give Credit to the Financial Aid Profession.

The vast majority of Financial Aid Professionals around the country have been working diligently to see that only the eligible students receive gift aid. We verify, and re-verify, those students selected by DOE. We also select and re-select many students who were unexplainably overlooked by the DOE selection process. Many schools often conduct 100% verification prior to making financial aid award offers—to be certain that only the eligible students are receiving funding. Perhaps the rate would be much higher than 3% if it weren't for the diligence on the part of financial aid professionals. I'd be interested to know what the fraud rate is for other federal programs.

In closing, I think we, as a financial aid community must continue to advocate for positive changes to a complex system. I am not denying that fraud and abuse exist. I have considered myself a 'gatekeeper' of federal funding for over 10 years and have seen errors that appear to be intentional along with those that were simply honest mistakes due to the complex nature of the process involved. However, I don't feel the current approach proposed is the answer. If we are going to do something, let's do it all the way and right the first time to benefit everyone involved. I don't want to see the estimated $300 million in savings shift costs from the federal government to schools and students. As we approach what may already be inevitable, I am constantly reminded of the life lesson told to us by many of our parents, "Be careful what you wish for, it might just come true."

National Association of Student Financial Aid Administrators
Washington, DC 20036
January 22, 2004

Representative Amo Houghton
Chairman, Subcommittee on Oversight
Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

On behalf of the National Association of Student Financial Aid Administrators (NASFAA) representing student financial aid administrators at approximately 3,000 postsecondary institutions across the nation, we are pleased for the invitation to submit comments on H.R. 3613. We appreciate your leadership and that of your co-sponsors in introducing this legislation which if done correctly will safeguard taxpayer interests and reduce administrative burdens on students and their families as well as financial aid administrators.

H.R. 3613, "The Student Aid Streamlined Disclosure Act of 2003," proposes to match limited IRS federal income tax items against information from the Free Application for Federal Student Aid (FAFSA) for all federal student aid applicants. NASFAA has long supported the verification of student aid applicant data against information reported to the IRS to improve the efficiency and accuracy of the student aid process.

However, as currently structured, we have serious reservations about whether H.R. 3613 will accomplish this goal. The major problems are:

1. The five IRS verification items included in the bill do not fully align with the verification items stated in section 484(q) of the Higher Education Act.
2. The Department of Education is unable to share the actual IRS reported data with its contractor to resolve discrepancies which in turn creates unnecessary additional steps in the resolution process that are costly, burdensome, and inefficient.
3. The roughly 1,800 institutions that use third party servicers to assist with their financial aid processing are prohibited from sharing discrepant data with their servicers to make necessary corrections.
4. We always have understood that some disruption in the normal aid processing cycle would occur because the IRS match results would not be available until

after the start of the July 1 award year. However, the restrictions and requirements imposed by the bill as written will result in significant delays and duplicative reprocessing that will be detrimental to achieving the purposes of the federal financial aid programs.

While we have a number of other questions and concerns, we believe that significant modifications to H.R. 3613 are necessary to permit a smoothly functioning process for everyone affected. In an ideal system, the Department of Education should receive and reprocess—through its contractor—all discrepant information and forward corrected output documents directly to students and their selected schools. However, at a minimum, NASFAA recommends that H.R. 3613 be modified to require a limited and representative demonstration program to test the systems and processes before full implementation. Such a test program will identify problems and issues that need further modification so that a nationwide program is successful.

We respectfully suggest your subcommittee hold a hearing on the legislation to explore the ramifications of H.R. 3613 or that a meeting of interested parties is organized to serve a similar purpose.

Sincerely,

Dallas Martin
President

National Taxpayers Union
Alexandria, Virginia 22314
February 24, 2004

The Honorable Amo Houghton
Chairman
Subcommittee on Oversight
Committee on Ways and Means
United States House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Houghton and Congressman Johnson:

On behalf of the 350,000 members of National Taxpayers Union (NTU), I am pleased to offer our comments and praise for H.R. 3613, the "Student Aid Streamlined Disclosure Act" sponsored by Congressman Sam Johnson.

The incidence of fraud in the Pell Grant program—which the General Accounting Office estimated at $600 million during Fiscal Year 2001 and Fiscal Year 2002—should greatly concern any cost-conscious policymaker. Such concern is only amplified by the fact that Congress is facing a budget deficit of more than $500 billion for the current Fiscal Year. Fortunately, a disclosure remedy already exists, one whose carefully designed reform could yield substantial savings for taxpayers.

Current policy allows the Department of Education to require substantiation of income represented on the Free Application for Federal Student Aid (FAFSA) form, which could include certain information from the applicants' tax returns. As a practical matter, however, only 30 percent of FAFSA submissions are routinely subjected to this verification process. Worse, government auditors have determined that in some cases, FAFSA applicants who were asked to provide tax information simply abetted their fraud by concocting falsified tax returns.

H.R. 3613 would address this accountability problem by facilitating direct tax information disclosure between the Internal Revenue Service (IRS) and the Department of Education. The result would create a "cross-check" against fraud—the tax return data the FAFSA applicant submits could be matched against the tax agency's own records.

As you know, NTU has long supported the sanctity of tax return information as a cornerstone of our tax system. Indeed, one reason why heavy-handed tax enforcement mechanisms should *not* be necessary is that many citizens comply with the tax law out of assurance that the filing information they supply is confidential. We have therefore urged extreme caution with measures that would allow wholesale sharing or disclosure of tax return data.

Fortunately, H.R. 3613 takes a prudently targeted approach. The bill specifies four well-defined circumstances under which information may be verified between the IRS and the Department of Education. The legislation further limits the scope

of information that may be cross-checked to five simple items, as well as sets a strict procedure for disclosure that should minimize the risk of privacy invasion or government "fishing expeditions."

In the final analysis, FAFSA participants voluntarily choose to avail themselves of an aid program that puts far from "voluntary" burdens on American taxpayers. Sound fiscal stewardship, not to mention this moral obligation to taxpayers, calls for a verification process that reduces the potential for fraud while limiting the potential for government abuse of information. Enactment of H.R. 3613 would amply and admirably provide this balance.

Sincerely,

Pete Sepp
Vice President for Communications

[BY PERMISSION OF THE CHAIRMAN:]

Puerto Rico Association of Student Financial Aid Administrators
San Juan, Puerto Rico 00936–8250
January 22, 2004

Representative Amo Houghton
Chairman, Subcommittee on Oversight
Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

On behalf of the Puerto Rico Association of Student Financial Aid Administrators (PRASFAA) representing more than 600 student financial aid administrators, in Puerto Rico we are pleased to submit our comments on H.R. 3613. As Student Aid Administrators we recognize the effort and your leadership in introducing this legislation.

The H.R. 3613 the "Student Aid Streamlined Disclosure Act of 2003" proposes to match IRS federal income tax data against the information on the Free Application for Federal Student Aid (FAFSA) for all federal student aid applicants. It is important to bring to your attention that in the Commonwealth of Puerto Rico, we do not file federal taxes. There are specific regulatory dispositions in the Title IV programs that permit the use of the Puerto Rico tax system information as the basis for completing and providing the income and tax responsibility of the residents and taxpayers of Puerto Rico, when the Free Application for Federal Student Aid (FAFSA) is submitted for processing.

If the proposed H.R. 3613 the "Student Aid Streamlined Disclosure Act of 2003" intends to match the information between the federal IRS system and the Free Application for Federal Student Aid (FAFSA), has the bill contemplated the processing of the Puerto Rico tax system information?

There are two basic options to deal with this condition.

- To exclude PR from the match process.
- To approach the Puerto Rico government to explore the possibility to integrate the Puerto Rico tax system to the match process.

We urge you and your cosponsors to consider this dimension not contemplated when the bill was conceptualized.

The Puerto Rico Association of Student Financial Aid Administrators is willing to assist you to explore possibilities and to provide the necessary information to assure that in the process our students and families do not be affected by the implementation of this bill.

Sincerely,

Luis Aquiles
President

Statement of Su A. Saunders, Martins Ferry, Ohio

I am a former Financial Aid Director and former President of the West Virginia Association of Student Financial Aid Administrators. I am also, of course, a taxpayer. Currently I am employed by the Internal Revenue Service Martinsburg Computing Center in West Virginia.

I whole-heartedly support H.R. 3613 and feel that verifying income information of federal student aid applicants with IRS data is long overdue. There are, from an aid standpoint, three compelling rationales for moving forward with this initiative and one compelling IRS rationale.

First, from an aid perspective, students and parents find the instructions confusing and overwhelming. They often feel that the college aid administrator is personally conspiring to keep aid from them and think there are secret loopholes that will lead to more aid.

An income match with IRS data will emphasize the "Federal" in the Free Application for **Federal** Student Aid. Students and families will realize that it really is an impartial method of accessing eligibility for **need-based** Federal assistance and that there are no secret loopholes to FAFSA filing.

Second, the possibilities for simplifying and streamlining the application exist. Instead of asking for data from numerous lines on an individual's 1040 tax return, only a few key lines will need to be reported in order to insure that the proper match is being made; once the match is made with the proper 1040, all the needed elements can be extracted.

Third, the savings cannot be stressed enough. While confusion and complexity lead to much misreported data, there exists—unfortunately, in the current paper verification process—the ability for families to commit fraud in order to increase aid eligibility. Under reporting of income and submitting fraudulent copies of 1040s are not all that uncommon in the paper verification process.

From an IRS standpoint, because aid application deadlines are generally early in the year, for example, March 1st, it encourages families of college aid applicants to file their income tax forms early.

I would not even be averse to using tax dollars to give an incentive to people to file their federal income tax returns early. An incentive might be in the form of a credit, for example.

I am **very** cognizant of the need to protect the confidentiality of taxpayer records but, when taxpayers desire to benefit from Federal assistance programs such as need-based financial aid, they should have no reluctance in signing a release to have official income data used to determine their eligibility for such assistance.

When only the truly eligible applicants receive federal assistance, the integrity of **all** taxpayers and their data are well served.

Thank you for the opportunity to comment on this important issue.

Statement of Robert T. Collins, University of Phoenix, Phoenix, Arizona

My name is Bob Collins and I am the Vice President of Student Financial Aid for the University of Phoenix. I have been working in student financial aid administration for over 23 years in various institution types and sizes. I applaud you for taking the important first step in streamlining the federal student aid application process with your proposals in H.R. 3613. I have a few recommendations to improve the process even more.

Allow me to write candidly as a conscious stream of thought. The current application process is such that the Free Application for Federal Student Aid (FAFSA) is available on January 1st of the calendar year for the upcoming July to June award year. For many families, this timeframe is necessary so traditional schools can make award offers to entering freshman early enough for the student and parents to decide on which college to attend. Oftentimes, admissions decisions are made on the basis of "out of pocket" expenses. Regardless, the fact is, the FAFSA timeline does not synchronize with the IRS timelines. At best, the majority of income tax filings (excluding extensions) will be available for data matching in early to mid summer making the FAFSA a two part application for a significant number of families that apply early (applicant estimates early then IRS post screens data for accuracy in summer). A possible solution to this problem is to utilize prior-prior year income when calculating an expected family contribution. Professional aid administrators have bantered about this idea for well over five years and I, for one, do not understand why the government would not adopt this concept. I believe research will

prove that expected family contribution does not vary substantially from year to year. In situations where income does fluctuate considerably, schools could utilize current professional judgment provisions to reexamine aid eligibility. If we used prior-prior year income, the Treasury database would be most accurate and available in January. In fact, we could eliminate over 20 questions on the FAFSA by not asking for income information at all. Simply obtain the personal identifier information and authorizations of the appropriate applicants (student/parent(s)/stepparent) on the FAFSA and have the federal contractor calculate the family contribution and pass the outcome number to the school. In this scenario, the applicants do not have to struggle with answering unnecessary questions and the income information would be held in strictest privacy.

For an even more radical reform, by using history of Treasury data, we could trend income information of the family over many years to determine an average expected family contribution that could be used for up to 4 years of aid eligibility. A student applies for admission to college once. Maybe the family need only apply for financial aid once? Another piece of legislation (H.R. 2956) requests the Advisory Committee on Student Financial Assistance to conduct a thorough study of how the need analysis model in HEA could be simplified. Perhaps this dialogue can be continued in that forum. Only to say, be cognizant of other data mining potential when crafting the statute so as not to restrict future database matching opportunities.

Alternatively, to advance your proposal in a timely manner (assuming prior year income is the preferred need analysis methodology), at a minimum, we should increase the scope of data elements to include all FAFSA questions with reference to the tax return such as untaxed income and income exclusions (i.e. worksheets A, B, C). Additionally, the proposal falls short by not actually correcting the data fields but merely reporting an error with a nominal tolerance level. Under the current proposal, if schools get a notice of an incorrect data field, especially so close to the start of the traditional fall semester, many aid administrators will ask for tax information to ensure accuracy before making a revised award offer. Otherwise we get caught in a game of back and forth with the central processing system causing even more delays to aid delivery. Hence, no gain on the protection and privacy of tax returns.

The most promising aspect in the short term is to simply update the FAFSA with the accurate information from Treasury of all the required IRS data elements. Under this modified proposal, we still have not eliminated the two part application process for early applications, but at least FAFSA applications submitted after the Treasury database is complete and updated in the summer could follow a somewhat real time database match process. Nonetheless, these are significant improvements that would streamline the process and protect taxpayer information.

I appreciate the opportunity to comment on such an innovative process that is most beneficial to families, schools and taxpayers for multiple reasons (fiduciary responsibilities and privacy). Do not hesitate to contact me if you need any additional information.

Western Association of Student Financial Aid Administrators
January 19, 2004

Chairman Amo Houghton
Subcommittee on Oversight
Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Houghton:

The Western Association of Student Financial Aid Administrators (WASFAA) is a professional organization whose mission is to promote student financial aid and educational opportunities for students. There are approximately 1,200 members who are student financial aid professionals from Alaska, Arizona, California, Idaho, Nevada, Oregon, Washington, Hawaii, Guam, the Northern Marianas Islands and the Freely Associated Nations of the Pacific.

On behalf of WASFAA, we would like to respond to your request for comments on H.R. 3613, the "Student Aid Streamlined Disclosure Act of 2003." As financial aid administrators we appreciate the efforts to simplify the verification process and obtain more accurate income information. However we would like to bring your attention to some of the issues and affects of the timing and provisions of H.R. 3613.

Students and their parents will no longer be required to provide copies of Form 1040 or blanket waivers of tax confidentiality in order to obtain a student loan or grant.

The five data elements that will be matched (AGI, filing status, total earnings from employment, federal tax liability and type of tax return filed) does not give sufficient information to determine eligibility for federal student aid. Missing elements include the data necessary to determine the family size, the number in college and untaxed income. These three items are part of the federal needs analysis formula and necessary to calculate the Expected Family Contribution (EFC).

Schools should have the option to request actual tax forms. The AGI does not always provide an accurate financial picture. High interest income, dividends or business deductions can provide data that will negate a low AGI.

Recommendation #1: Permit schools to request actual tax forms.

Verification of income by use of the IRS match will better protect taxpayer privacy.

There are regulations in place that provide for the confidentiality and safekeeping of all financial aid documents. These include the applicable Department of Education rules including the Safeguard Procedures Report and FERPA rules that must be followed.

Recommendation #2: Continue to partner with schools to ensure safekeeping of documents.

Applicants often prepare their applications in January or February, before their tax returns are filed.

Timing is an important issue since it has been projected that the IRS match results will not be available until very late in the award year. It has been recommended that financial aid administrators start to educate students and families that the application for financial aid will now be a "two-step" process. The FAFSA will be filled out with estimated data prior to filing the 1040. A second step will require that the FAFSA be updated and resubmitted after the actual 1040 data is available. This adds complications to a process that deter some students and families from applying.

Students may be further confused by the possibility that the needs analysis and awarding process will be repeated twice and result in very different award amounts that they have budgeted for covering educational expenses.

Recommendation #3: Allow schools that choose to request income tax forms from their entire population to do so to avoid a disruption of the delivery system and ensure correct initial packaging.

The taxpayer identity information will include the filing status of that taxpayer.

The FAFSA requires students to report their marital status "as of today." This may or may not be reflected in the IRS definition and status listed on the tax form.

Recommendation #4: Retain the current verification process.

The material discrepancy means a difference between such sets of not less than the greater of $100 or 1 percent of the item shown on the return.

If this is the amount that a C Code or Reject Code will be applied, it will place undue burden on the needs analysis system. Present regulations require recalculation of the Expected Family Contribution only if the difference between the reported AGI and taxes paid and the actual AGI and taxes paid differs by $800. This is a more reasonable dollar amount since fluctuations of $100 will not usually result in a change of the EFC so therefore should not be flagged as a discrepancy requiring correction.

Recommendation #5: Retain the current tolerance limits.

Discrepancies may only be redisclosed to the individual whose information is discrepant and to the Department of Justice, and not the officers and employees of institutions of higher education.

It would be very helpful for financial aid administrators to assist students and families in correction if the type of discrepancy noted is communicated. If the discrepancy is a monetary amount it would be extremely helpful to have the actual figures otherwise it is like a verification flag received late in the awarding year, with no actual factors to redeem the problem.

Recommendation #6: Same as #1, permit schools to request actual tax forms.

We are excited that the IRS match provided in H.R. 3613 may provide additional Pell Grant funds to the truly needy students by correcting overpayments and underpayments to students and families. The Pell Grant program has been enormously successful in promoting the goals of quality, access and affordability. The program is fundamentally sound and should be continued and expanded. We appreciate the continued commitment to America's neediest college students.

Sincerely,

Kate Peterson
President

Tami Sato
Federal Issues Chair

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