

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.

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## 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

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## 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.”.

○