May 26, 2004

The Honorable John Boehner  
Chairman  
Education and the Workforce Committee  
United States House of Representatives  
Washington, DC  20515

The Honorable Buck McKeon  
Chairman  
21st Century Competitiveness Subcommittee,  
Education and the Workforce Committee  
United States House of Representatives  
Washington, DC  20515

Dear Chairmen Boehner and McKeon:

I write on behalf of the Association of American Universities, which represents 60 U.S. and two Canadian public and private research universities distinguished by their strong programs of undergraduate and graduate education and research. We wish to provide the association's views on H.R. 4283, the College Access and Opportunity Act, which would reauthorize the Higher Education Act of 1965. AAU endorses the letter you will receive from the American Council on Education (ACE) on behalf of AAU and other organizations. These views supplement that letter. Thank you for this opportunity to comment.

Unfortunately, while the legislation has some important positive elements, AAU cannot support H.R. 4283 in its current form. There are two primary reasons for this.

First, the bill would significantly alter the basic relationship between the federal government and universities and colleges by undermining the important tradition of academic autonomy. That tradition has long been respected by the federal government. American higher education is not managed by a government ministry of education and therefore has avoided the constraints of a one-size-fits-all approach. This autonomy is accompanied by strict accountability – to government and to the public – through extensive reporting on the use of public funds, rigorous accreditation procedures, and public choice fostered by institutional diversity and sharpened in a highly competitive higher education market. The combination of autonomy and accountability has distinguished our nation's higher education system from those of other countries. Indeed, the unrivaled quality and creativity of American higher education is due in large measure to this unique system.

H.R. 4283 breaks sharply from this tradition of academic autonomy by intruding upon the fundamental academic activities of universities and colleges and dictating costly and burdensome new requirements. We fear that many of the provisions of H.R. 4283 would place American higher education on the slippery slope toward federalization that would, in the long run, diminish competition, educational choice, and quality. We seek to work with you to maintain academic autonomy because it is essential to the continued preeminence of American higher education.

ASSOCIATION OF AMERICAN UNIVERSITIES

Brandeis University
Brown University
California Institute of Technology
Carnegie Mellon University
Case Western Reserve University
Columbia University
Cornell University
Duke University
Emory University
Harvard University
Indiana University
Iowa State University
Johns Hopkins University
Massachusetts Institute of Technology
McGill University
Michigan State University
New York University
Northwestern University
Ohio State University
Pennsylvania State University
Princeton University
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Rice University
Rutgers, The State University of New Jersey
Stanford University
State University of New York
Syracuse University
Texas A&M University
Tulane University
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The University of Arizona
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University of Texas at Austin
University of Toronto
University of Virginia
University of Washington
University of Wisconsin - Madison
Vanderbilt University
Washington University in St. Louis
Yale University

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First, the bill would significantly alter the basic relationship between the federal government and universities and colleges by undermining the important tradition of academic autonomy. That tradition has long been respected by the federal government. American higher education is not managed by a government ministry of education and therefore has avoided the constraints of a one-size-fits-all approach. This autonomy is accompanied by strict accountability – to government and to the public – through extensive reporting on the use of public funds, rigorous accreditation procedures, and public choice fostered by institutional diversity and sharpened in a highly competitive higher education market. The combination of autonomy and accountability has distinguished our nation's higher education system from those of other countries. Indeed, the unrivaled quality and creativity of American higher education is due in large measure to this unique system.

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Second, the bill does not reflect the priority that most Americans give to federal student aid funding as a means of expanding access to higher education. While we appreciate the difficult fiscal situation the federal government is facing now, providing greater access to college through increased federal student aid funding is exactly the type of investment our nation should be making in its people, its workforce, and our economic and national security.

We are disappointed that the bill authorizes little new funding for student aid programs, despite greater need and the growing numbers of students seeking higher education. We want to work with you to make increased student aid funding a priority for Congress and the Administration.

I will elaborate further on these two concerns, but first, I would like to note that we are pleased that the bill includes several student aid provisions that, taken alone, would improve student access to higher education:

- **Pell Grant** – The Pell Grant is the key student aid program that provides access to higher education through need-based grant aid to low-income students. The bill enhances the Pell program by providing for year-round awards that would greatly aid students seeking to accelerate their time to earn their degrees.

- **Student Loans** – The bill makes valuable enhancements to the student loan programs that would improve the terms and conditions of borrowing, including reducing loan origination fees from 3 percent to 1 percent; increasing first- and second-year undergraduate borrowing limits; increasing the unsubsidized graduate borrowing limit; and authorizing a two-year interest-only repayment option for new graduates with limited financial resources. The bill also extends two expired student loan disbursement provisions for those institutions that have low default rates.

- **Need Analysis** – The bill makes needed and beneficial changes to federal need analysis by increasing the income protection allowance for dependent students, equalizing treatment of federal educational savings plans, and simplifying the student aid application process. Each of these improvements would alleviate obstacles to qualifying for student financial aid.

With respect to our specific concerns about the bill, AAU’s members especially support the ACE letter’s comments on the provisions affecting accreditation, transfer of credit, intellectual diversity, Pell Grant and student aid funding, and burdensome reporting and recordkeeping requirements. We are also distressed about the proposed phase-out of the base guarantees in the Campus-Based Aid programs. The following briefly summarizes AAU’s views on all of these provisions.

- **Accreditation** – Accreditation is a non-governmental function that relies upon peer review and self-evaluation. This accreditation structure has long been key to the academic quality and integrity of universities and colleges. Accreditation relies on the academic and professional judgments of knowledgeable and objective academic experts, not government officials. Unfortunately, H.R. 4283 threatens to turn accrediting agencies into agents of the Department of Education. The bill assigns significant new federal
responsibilities to accreditors that are inappropriate and intrusive and that would impose new burdens and costs on universities and colleges. The extensive accreditation changes in the bill would begin to transform accreditation from a mechanism for ensuring high academic quality to a mechanism for federal intrusion into the affairs of universities and colleges.

Problematic areas include new requirements for review of institutional practices in governance, transfer of credit, and the disclosure of information. The proposed College Consumer Profile is just one example of this. This provision would require accreditors to collect data from universities and colleges on behalf of the Secretary of Education for the proposed profile. We believe that this is an inappropriate role for accreditation agencies and that much of the data to be collected is already provided by institutions to the Department through the IPEDS surveys. Also, we are very concerned about the provision that would permit states to become accreditors. This is wholly unacceptable. This new authority would create a conflict of interest for a state agency that accredits public universities and colleges because it might be unwilling to impose demands on an institution that could require additional state funding to address. Additionally, allowing states to become accreditors would give state government unprecedented and significant authority over private universities and colleges.

We strongly urge you to accept the detailed accreditation recommendations outlined in the ACE-led higher education community letter.

- **Transfer of Credit** – The HEA has never authorized a federal role in the transfer of academic credit, but H.R. 4283 begins to federalize this central area of academia. The awarding of credit is one of the core academic activities of universities and colleges. It is one of the ways they harmonize admissions with their institutional academic standards. Credit transfer decisions should be made only by those academically qualified to make such decisions, and institutions should retain the sole authority to make these decisions for themselves. H.R. 4283 limits the factors that an institution may consider in awarding credit and establishes onerous reporting requirements on credit transfer decisions. The federal government is not qualified to make credit transfer judgments. Frankly, there is no appropriate role for the federal government in credit transfer decisions.

The proposed provision that requires that the acceptance of academic credit be based on "objective criteria" presumes an academic equivalence across curriculum, faculty and pedagogy which does not exist and hence it ignores complex and substantial differences between disciplines, fields of specialization, and the academic qualifications of individual faculty members. The establishment of such criteria would be a significant administrative burden on universities and colleges.

We recognize that credit transfers are critical to students as well as to institutions, and increasingly so given the rising number of non-traditional students. If the federal government would like to facilitate greater transparency in this area and increase credit transfers between institutions, a goal we share, then we would encourage you to create a program that provides incentives to institutions to create voluntary articulation
agreements between institutions. Many universities and colleges already make good use of articulation agreements, and more of these would enhance the ability of students to transfer their academic credits.

We urge you to drop all transfer of credit provisions from the bill.

- **Intellectual Diversity** – The bill includes Sense-of-Congress language asserting how universities and colleges should ensure protection of the expression of diverse viewpoints on campus, including student activities not approved by the institution. Let me be clear: AAU universities – and I believe all American colleges and universities – are committed to ensuring the expression of diverse views on campus regardless of their intellectual, political, or religious nature. Indeed, this commitment is key to the principle of academic freedom that our institutions already embrace and practice, and it is central to the missions of our universities.

With respect to this proposal: On principle it is inappropriate for the federal government to delve into this area of academia; the implications of these provisions for maintaining the principle of academic freedom and independence are troubling. But putting the weight of government behind this language also makes little sense for practical reasons. First, by requiring the presentation of a diversity of views, the language essentially gives all views intellectual and moral equivalence under the imprimatur of the federal government. This is not even practical for some disciplines, such as chemistry and physics. But consider the implications in other areas. Such protection of “diversity” would require that equal attention be paid to differing historical views of slavery, including those that propound that slavery was actually good for African-Americans. It would require the teaching of creationism at research universities. It would require the teaching of atheism at religious colleges. The effect of these provisions would be to dictate academic curriculum and to impose inappropriate academic and moral relativism under the auspices of academic freedom. We do not believe this is your intent, and we urge you to remove this provision from the bill.

- **Pell Grant and Student Aid Funding** – The fundamental purpose of the HEA for nearly four decades has been to improve access to higher education by providing financial assistance, primarily to individual students but also to institutions, to help students pay for college. But this bill weakens that commitment because it does not increase the maximum Pell grant authorization level over the life of the reauthorization, and in the campus-based student aid programs, it authorizes and essentially redistributes existing funds across a larger number of institutions.

More students are expected to pursue higher education in the coming years, but the bill ignores this reality and instead assumes a “budget neutral” base while making more universities and colleges eligible for federal student aid programs. Clearly, this approach will reduce the amount of financial aid available to individual students and thus decrease access. We are especially concerned that by freezing the Pell Grant maximum award at $5,800, Congress would shut the door to future opportunities to increase funding.
We urge you to increase the authorized Pell Grant maximum award level and to increase the authorization levels for the Campus-Based Aid programs, TRIO, GEAR UP, and LEAP for each year the bill covers to meet the unmet needs of low- and middle-income students and to meet growing enrollments. This is the best way to ensure that the federal government lives up to its HEA promise to provide access to all who seek a higher education.

- **Campus-Based Aid Programs** – The bill phases out the base guarantees for the campus allocations for each of these programs – Supplemental Educational Opportunity Grant, Federal Work-Study, and Perkins Loans. This would penalize needy students at some institutions by reducing the amount of student aid available to them in order to provide additional aid to needy students at other institutions. The base guarantees were put in place to ensure that institutions that elected to participate in the programs and met the matching funds requirements would receive an assured minimum level of funds for students.

AAU recognizes the legitimate demand for increased participation in the programs and supports expanded participation. However, it is not the base guarantees that stand in the way of increased and new participation. The chief barrier to expanded participation is the ongoing lack of increased financial investment in these programs. Increased investment would permit more students to benefit from the programs regardless of where they choose to attend school.

We therefore urge you to increase significantly the authorization levels for each of the programs. We also urge you to work with Congressional appropriators to fund the programs at levels that would allow maximum participation by all institutions that provide the required matching funds. Congress should understand that seeking to achieve fair and sufficient distribution of resources across all institutions through a phase-out of the base guarantees will penalize a significant set of institutions, which have invested substantial resources in these programs, by reducing their ability to meet the financial needs of their students. The end result is that needy students at these universities and colleges will suffer.

- **Burdensome Reporting and Recordkeeping Requirements** – The bill imposes substantial, complex, and expensive new reporting and recordkeeping requirements on universities and colleges with no funding to pay for them, and in some cases, for unclear purposes. ACE has identified approximately 30 separate new requirements in H.R. 4283 pertaining to accreditation, transfer of credit, and college costs.

Of particular concern are the requirements related to college costs. AAU appreciates the removal from this bill of the sanctions proposed in H.R. 3311 that would have made some universities and colleges ineligible to receive some kinds of federal funding. However, we believe that the federal government should not get into the business of setting tuition standards and that it should not impose new and burdensome reporting and action requirements on institutions.
Beyond this principle, the proposed college affordability index bears no relationship to the actual college costs it purports to represent. Yet an institution that exceeds the index would be required to provide a detailed report to the Secretary of Education describing: the factors contributing to higher costs, a management plan, an action plan, and a schedule showing how the institution will reduce tuition increases or stabilize costs. These burdensome and costly requirements essentially establish a federal tuition standard – based on an arbitrary and misleading index – that institutions would be expected to meet. Moreover, and ironically, these requirements impose significant new costs, thus adding to the very problem they are intended to address.

AAU is acutely aware of concerns about college costs, and our members strive – by seeking to control their own costs and by providing institutional financial aid to students – to maintain access for qualified students regardless of their income. Moreover, AAU shares with you the goal of greater transparency of college costs. Better informed students and families will have a greater understanding of costs and available aid, which will help them to make better choices. But the requirements of H.R. 4283 would obfuscate more than inform. The fact is, there is a good tool in place today for informing families about institutional costs. The Department of Education already collects data on tuition and other information of interest to students and families. AAU supports efforts to make this data more available, accessible, and user-friendly. We encourage you to continue to work with the higher education community to identify additional data elements and ways of presenting existing data that would provide useful information to the students and families without dramatically increasing the reporting and recordkeeping burden on institutions.

Given the number, but more importantly, the character of these concerns, AAU cannot support H.R. 4283 as introduced. Existing law is greatly preferable to the changes the bill would impose, and if the bill were to advance in its current form, AAU would actively oppose it. But we believe the positive provisions of the bill are helpful, and those specifically mentioned in this letter reflect the heart of the HEA’s purpose – to provide access for all to higher education. AAU stands ready to help you build on these positive provisions to further enhance the HEA and achieve legislation that AAU can support.

We commend and thank you for your efforts to solicit and listen to the views of the higher education community before consideration of H.R. 4283 begins.

Cordially,

Nils Hasselmo
President