

to persist once in college. And 77 percent of Native Americans did not have a postsecondary certificate or degree, as compared with 37 percent of others.

The Higher Education Opportunity Act, the bill before us today, addresses the reality that the overwhelming majority of Native American students are being educated in non-tribally controlled colleges and universities and that we need to do a better job to support these students within these schools. This legislation authorizes the Native American-Serving Non-Tribal Institutions Program to enable such colleges to improve and expand their capacity to serve these Native American and low-income individuals.

Right now, there are 43 colleges and universities that serve large Native American student populations. In my State, we have three such schools that serve large Native American student populations. In fact, the student population at the University of New Mexico at Gallup, NM, is close to 80 percent Native American.

Native American students in New Mexico would not be the only students to benefit from this provision. Colleges and universities around the country would also qualify in other States, including schools in Alaska, Wyoming, Colorado, North Carolina, and Utah. Out of the 43 schools that could be eligible to benefit from the provisions in this legislation, 24 of the schools are located in the State of Oklahoma.

I am very pleased this provision has garnered strong bipartisan support. It is a part of this very important legislation.

I am also pleased that the bill includes funding for a long overdue graduate program for Hispanic-serving institutions.

I thank the chairman and Senator ENZI for their strong support of these provisions. I urge my colleagues to support the conference report.

I yield the floor.

The PRESIDING OFFICER (Mr. WHITEHOUSE). The Senator from Maryland.

Ms. MIKULSKI. Mr. President, following our agreement and time allocation, I yield 5 minutes to the Senator from Rhode Island—the other Senator from Rhode Island, the senior Senator, Senator JACK REED, also a member of the HELP Committee. He is a very persistent person in engaging in the content of this bill.

The PRESIDING OFFICER. The senior Senator from Rhode Island is recognized.

Mr. REED. Mr. President, I thank Senator MIKULSKI for not only the time to speak about this important measure but for her leadership. I particularly wish to recognize the extraordinary contribution of Senator KENNEDY who has been the architect of this legislation and many previous reauthorizations. And I wish to give particular thanks to Senator ENZI whose quiet, thoughtful, and determined approach made a contribution to this legislation. I thank him for his hard work.

I rise in strong support of the Higher Education Opportunity Act of 2008. It will be an important way in which we fulfill our obligation to the American people, and keep opportunity and hope alive throughout this country. Education is truly the engine that pulls people forward. It allows individuals and families to move up the economic ladder, and not only for their own progress, but also for the benefit of the communities in which they live.

This might be one of the most important pieces of legislation we ever considered on this floor. I am proud it has been so well handled and so meaningful that today we are debating legislation which I believe will get overwhelming support. I am particularly pleased it is being reauthorized at this time. We have seen an economy in turmoil. One of the realizations that is taking place is that the housing sector of our economy is so central to everything we do. I can imagine, as we all can, that there are literally hundreds of thousands of families across America who are counting on the equity in their homes to send their son or daughter to college. That equity has been diminished, if it has not disappeared altogether.

Today we are responding to that urgent need by providing more assistance to families to send their children to higher education. I am particularly pleased the aspects of the legislation I helped author are included in this final version. I introduced legislation called the FAFSA Act, which is the acronym for the federal financial aid form, to streamline the financial aid application process. There will now be a short EZ-FAFSA form for low-income students and families while also allowing students to apply earlier so they have an idea of what their financial options are as they consider college. These provisions will make the sometimes daunting task of getting financial aid, I hope, a little easier and a little more efficient.

I am also pleased that aspects of my legislation called the ACCESS Act have been included. This legislation deals primarily with the LEAP program. The LEAP program is a partnership between States and the Federal Government to provide grants to students who need the help—not loans, but grants. The States put in some resources; we match those resources. It is a way in which we can fulfill our commitment and our promise to many low-income families. This legislation builds on the LEAP program by providing critical additional financial resources, particularly resources and that will be useful for helping middle- and low-income families attend college.

We are all concerned about another aspect of our educational system, and that is teacher quality. This legislation incorporates some other provisions which I advanced that will help prepare teachers for the reality of today's classroom. I am very pleased they are included also.

We also included in this legislation a Perkins student loan forgiveness for li-

brarians and for members of the Armed Forces. The Perkins program provides need-based loan assistance for students attending college. We are going to forgive the debt on that loan assistance for librarians and members of our armed services.

This is a wonderful act. I am pleased and proud to support it and be a part of it. I once again thank Chairman KENNEDY, Senator ENZI, and Senator MIKULSKI for their great work.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, do I understand I have up to 30 minutes?

The PRESIDING OFFICER. The Senator is correct.

Mr. ALEXANDER. I thank the Chair. I ask unanimous consent that I may bring demonstrative evidence on the floor and use it during my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALEXANDER. Mr. President, in case anyone is wondering, these boxes, which are nearly as tall as I am, are the rules and regulations that our 6,000 colleges and universities must comply with in order to receive students who have a Federal grant or loan. As I will make clear in my remarks, my primary objection to the legislation I am about to address is that the legislation doubles the size of this stack of boxes. My fear is we are undermining the quality of American higher education. The greatest threat, I believe, to American higher education is not underfunding, it is overregulation.

Before I say that, let me first say a word, as has been said before, about Senator KENNEDY, Senator ENZI, and Senator MIKULSKI. While they have, among themselves, different philosophical views, I regard each of them as institutions whom I greatly admire. In other words, they like to work within this body across party lines to get a result. I thank both Senator ENZI and Senator MIKULSKI for the courtesy accorded me in the development of this result. And as every other Member of this body does, I greatly admire Senator KENNEDY for his tenacity and his commitment to education. Obviously, we wish he were here tonight to join us.

Because I admire Senator KENNEDY and Senator MIKULSKI and Senator ENZI does not mean I have to admire the particular result of this work. After 4 years, the Senate has spewed forth a well-intentioned contraption of unnecessary rules and regulations that waste time and money that ought to be spent on students and improving quality. It confirms my belief that the greatest threat to the quality of American higher education is not underfunding, it is overregulation.

Current Federal rules for the 6,000 higher education institutions that accept students with Federal grants or loans fill a stack of boxes that is nearly as tall as I am. The former President of Stanford, Gerhard Casper, estimated

that it cost these institutions from Harvard to the Nashville Auto Diesel College 7 cents of each federal dollar to do all the busy work to fill out these regulations.

The legislation which we are considering tonight doubles those rules and regulations with 24 new categories and 100 new reporting requirements. These new requirements include a total of 54 so-called college watch lists which I believe will be too confusing for families to understand, and complicated rules involving textbooks which only will prove that Members of Congress have no idea about how faculty members prepare their courses.

Most of these complications of rules, graduation rates in 48 different categories, disaggregation of student reporting dates by 14 racial, ethnic, and income subgroups, employment of graduates of institutions will leave college administrators scratching their heads and create thousands of new jobs for people who know how to fill out forms.

All of this will be put on the Web, I suppose, and most of it will be sent to Washington, DC, for someone to read. Having once been the Secretary of Education myself, I do not know who will read all these new regulations and all these new reports, and I don't know what they would do about them if they did read them.

The American higher education system is far from perfect, but it is one thing in our country that works and it works well. It is our secret weapon in maintaining our brain power advantage so we can keep our higher standard of living and keep our jobs from going overseas.

The United States not only has the best colleges and universities in the world, it has almost all of the best colleges and universities in the world. Some are big, some are small, some are public, some are private, some are profit, some are nonprofit. They are community colleges, historically Black colleges and church-affiliated institutions.

Tuitions range from \$50,000 a year at some private institutions to an average of \$6,200 a year for 4-year public institutions, to \$2,400 for community colleges. In Tennessee, some cities are even making community college free.

Their foremost advantage, the advantage of all these 6,000 institutions, is that in a rapidly changing world, these 6,000 autonomous institutions are flexible and able to meet the needs of their student customers.

Federal support for higher education goes almost all to these students. It does not go to the institutions. A little of it does, but almost all of it goes to the students who then choose the schools, forcing the institutions to compete, stay flexible and meet real needs. That is the precisely opposite way we fund kindergarten through the 12th grade. We give the money to elementary and secondary institutions, tending to freeze them into whatever

they have been doing for the last 50 years.

We can compare the success of our higher education system with the lack of success of our K through 12 system and wonder whether the reason might not be that in higher education, we focus on autonomy, choice, and competition.

Generous research dollars in higher education are for the most part competitively awarded, which also helps to keep the institutions on their toes.

The rest of the world is busy trying to emulate the American system of higher education, which means other countries are creating more autonomy, more choices, and more competition. Yet here we are in the Senate today cluttering up our secret weapon with the same bureaucratic nonsense that has stifled excellence in universities in other parts of the world and will do it here if these trends are not reversed.

There is a great deal of beating of breasts about how much good this bill does to address the problem of college costs. It is ironic that the same legislation would add to tuition costs by imposing unnecessary regulations. And it is especially ironic that the very Members of Congress who are complaining the most about rising tuition costs fail to see that at least for public institutions, which about 70 percent of our students attend, Members of Congress are the cause of the rising costs. This is why it is true that State support for higher education has been low during this decade.

Between 2000 and 2006, State spending for higher education increased by only 17 percent, while tuition at public institutions during that time was up 63 percent. It is also true that the reason tuition costs are up is that State spending is down.

But what Members of Congress seem to be missing is that the principal reason State support of higher education is down is because Congress has mandated that States pay so much for programs such as Medicaid or fail to meet their commitments to programs like the Individuals with Disabilities Education Act, IDEA. When the Governors and legislatures are through paying for the mandates for Medicaid or to make up the lack of the Federal Government's commitment to IDEA, there is very little left for higher education.

When Federal requirements for Medicaid dictate that State spending for Medicaid goes up 7 or 8 percent a year when the overall State budget is only going up 3 or 4 percent a year, the money has to come from somewhere. States have to balance their budgets, and in State after State, the money has been coming from higher education. That was true in Tennessee during the 1980s, when I was the Governor, and it is even more true today.

During the 1980s, my major goal was to try to help us to spend at least 50 percent of our State tax dollar on education. My major adversary was Federal Medicaid. While I ultimately did

succeed in getting to 50 cents, I had to squeeze it and push it and try to control it, and still it grew faster than everything else in the State budget. I was able to do that then because Medicaid and other health services were only about 15 cents of the State tax dollar. But by this decade, 2003 and 2004, the number was 40 percent of the State tax dollars in Tennessee went to education, not 50, and 31 cents went to Medicaid and health services. I am confident most of the cutting came out of higher education, which resulted in most of the tuition increases so the universities could operate and pay their bills.

I would respectfully suggest that we in Congress need to start along two completely different tracks if we want to retain the autonomy, competition, and choice that has led to quality and access to American higher education. First, we need to deregulate, not over-regulate higher education. Cut this stack of rules and regulations in half and use the time and the money for students and for academic excellence.

Second, we need to stop loading State budgets with so many unfunded Federal mandates. For example, if Congress were to fully fund IDEA, the program for students with disabilities, at 40 percent of its cost, which is what Congress said it would do in the 1970s, that would add \$250 million to Tennessee's revenue stream. I am sure much of this would go straight to higher education, whose annual budget is about \$1.2 billion.

More importantly, we need to give States more flexibility in dealing with Medicaid costs and give them an opportunity to take steps to make it easier to free themselves from outdated Federal Court consent decrees, which restrict the ability of Governors and legislators to direct money to higher education priorities. Then, of course, there is the REAL ID, another \$4 billion in unfunded mandates for the States, and out of which pot do you think the States might take that? Higher education would be my guess. Most Governors and legislators can point to many more unfunded Federal mandates.

These two steps are the best way to drive down college costs and to maintain academic excellence.

There are major accomplishments in this bill, some of which I have worked on and of which I am proud. They include simplifying the Federal student aid form and allowing year-round Pell grants for students making progress toward a degree. There is a new compliance calendar, which the Secretary of Education will be required to develop, that will set forth all of the reports and the disclosures required under the Higher Education Act. I am proud to say I suggested that. In other words, the new Secretary of Education will have to make a calendar listing every single report that has to be complied with, so the small Catholic college in Baltimore might not have to hire three more people in to go through this growing stack of requirements.

I authored the restrictions prohibiting the Secretary of Education from regulating student learning standards or requiring accreditors to adopt specific measures of learning assessment, which would have been additional federalizing of our 6,000 autonomous institutions.

There is an accountability research grant in this bill to focus attention on institutions making progress in measuring student achievement and asking the advisory committee, which has already done such good work in simplifying the student application form, to review this stack of growing Federal regulations. I also sponsored the new discretionary grant program for Teach for America.

All these actions in this bill are for the good, as is the increase in the availability of Pell grants for students who need help attending college. But I cannot support a piece of legislation that so undermines the excellence in higher education that comes from institutional autonomy.

I would like to offer a few letters and statements, and I ask unanimous consent they be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ALEXANDER. Mr. President, the first of these is a release today from the National Governors Association, which points out that Governors are responsible for making funding decisions that serve the best interests of all citizens. The Governors, in their release, say:

Maintenance of effort undermines governors' authority and guarantees students and their families will be writing larger not smaller tuition checks in the future. This is not the answer to affordable higher education. Governors oppose the higher education bill because of the negative impacts of the maintenance of effort and implore Congress to vote against it.

We had a vote on stripping out the maintenance-of-effort bill, but I lost that by one vote in the conference committee. Basically, what it says is that Members of the Senate and the House will substitute their judgment for that of Governors and State legislators. My suggestion was that if we are going to pass a bill and take credit for requiring States to spend more money on higher education, whether or not they have other priorities, then we might as well also go back down to our State capitals and join in the pain and suggest to the Governors whom to lay off or what school to close or what mental hospital to limit or what tax to raise because of our requirement about higher education maintenance of effort.

The second letter I would like to include in the RECORD comes from the commissioner of the Department of Finance and Administration in Nashville. Our Democratic Governor, Phil Bredesen, who has done a great many good things for higher education during his 6 years, is in the midst of a

budget crisis. He is reacting to the very idea that during the midst of that, when he is laying off employees and making cuts in virtually every program, that we would take it upon ourselves to say that if he doesn't increase funding for higher education, we are going to cut his Federal funding. All when we ourselves are one of the reasons he is having a hard time funding higher education, because of all our unfunded mandates.

The third letter I would like to include is from the chancellor of Vanderbilt University in Nashville, one of our most distinguished research universities and one of which I am proud to be an alumnus. It is a well-modulated letter, as you would expect from the chancellor of Vanderbilt. The letter argues very eloquently why the autonomy, competition, and choice that characterizes excellence in higher education is so important and so fragile and needs to be respected by us as we pass higher education bills, rather than to use a blunderbuss and start stacking boxes and boxes of regulations on institutions such as Vanderbilt.

Why do we think we can do a better job in the Senate making Vanderbilt University a better university by complying with all this stuff, when it takes money that might be used to educate the students and improve academic excellence? They already have deans, vice chancellors, provosts, chancellors, and a board of trustees. If they are a public institution, they have a Governor, they have a higher education commission. They have plenty of overseers. They do not need us.

Two other letters, one from the president of Duke University, office of the president, Richard Brodhead, an equally thoughtful letter about the Federal role in higher education. I might say that North Carolina has done one of the best jobs of any State in accountability for higher education.

No one is doubting we need accountability for the money the Federal Government spends. As I mentioned earlier, the dollars we spend for research, tens of millions a year, are made accountable by being competitively granted, for the most part. The dollars we spend for colleges and universities don't go to the colleges and universities, they go to the students, and the students choose the school. If they do not like the school or the cost of the school, they may go to another school. Each of those schools has to be accredited before the student can choose the school. That has been a marvelous system for helping to give autonomous institutions the freedom to be good, while at the same time allowing for accountability for the money we spend.

Finally, two letters that were written to Senator ISAKSON of Georgia. One is from the president of the University of Georgia, Mike Adams, who was president of two other colleges before he was president of the University of Georgia. A distinguished educator. Georgia, of course, is one of our distinguished public universities in America.

Finally, a letter from the President of Emory University, James Wagner, and the president of Georgia Tech, Gary Schuster, to Senator ISAKSON, making the same objections.

As I said at the beginning, I admire my colleagues, I admire their 4 years of hard work, and I admire their commitment to a result. My hope would be we could go on two different tracks from here. One would be to look for ways to deregulate higher education, not add regulations to it. Realize that in America, where we are worrying that this might work or that might work, our system of higher education, with all its warts, is the best in the world. The rest of the world is trying to emulate it. Its greatest threat, in terms of its quality, is overregulation, not underfunding.

That leads me to the second track we go on. I hope we will be careful as Members of Congress that if we have a great idea for States, that we don't pass it and send them the bill. Because I know from having been Governor and having been president of a university and having been Secretary of Education, and seeing it in different areas. As a Governor making up a budget, it's pretty well set that you start with K-12. That is pretty well set. He then goes to prisons, and that is probably in the courts. Then he does mental health. That might be in the courts too. Then he or she goes to highways, and that comes from the gas tax. Then they are pretty well down to the choice between Medicaid and higher education. I can guarantee you that if we continue to increase requirements for funding of higher education at the State level, at the rate of 7, 8 or 9 percent a year, when State budgets are only going up 2 or 3 or 4 percent a year, we will significantly reduce the quality of our State universities and colleges. We will significantly increase the tuition costs that we say in this bill we would like to lower.

#### EXHIBIT 1

##### NATIONAL GOVERNORS ASSOCIATION STATEMENT ON HIGHER EDUCATION BILL GOVERNORS SAY INCLUSION OF MAINTENANCE OF EFFORT WILL RAISE TUITION FOR STUDENTS

WASHINGTON.—The National Governors Association released the following statement regarding the impending vote on the Higher Education Reauthorization bill:

"The nation's governors are committed to providing students in their states with affordable access to higher education and agree that the reauthorization of the Higher Education bill is a priority. However, inclusion of the Maintenance of Effort (MOE) provision in the bill has negative implications for states; therefore governors oppose the passage of the conference report with this provision.

"Governors must balance their budgets in both good and bad economic times. This mandate means that states will be unable to make major increases or invest one-time surpluses in higher education during good times because they will be penalized if forced to reduce spending during difficult times. In the end, this will increase the cost of college for students and their families.

"Governors are responsible for making funding decisions that serve the best interest

of all their citizens. MOE undermines governors' authority and guarantees that students and their families will be writing larger, not smaller, tuition checks in the future. This is not the answer to affordable higher education. Governors oppose the higher education bill because of the negative impacts of the maintenance of effort and implore Congress to vote against it."

STATE OF TENNESSEE,  
DEPARTMENT OF FINANCE AND  
ADMINISTRATION, STATE CAPITOL,  
Nashville, TN, July 29, 2008.

Hon. LAMAR ALEXANDER,  
United States Senate, Via Email.

DEAR SENATOR ALEXANDER, The State of Tennessee shares your concerns with regard to the MOE mandate provided in the higher education bill and appreciates your efforts in defending our state interests. These restrictions on a state's ability to manage its way through a fiscal downturn would be a terrible mistake.

Under Governor Bredesen's leadership, we have made public education a priority. We know sufficient funding is critical to achieving success in primary, secondary and higher education. During the good economic times, we've increased funding for higher education operating costs and put over \$1 billion into capital projects.

However, when times are tough economically, we have to share the downside. When budget cuts have been necessary, education programs were always last to be considered. Unfortunately, Governor Bredesen has experienced two very tough budget fiscal years during his six years in office, FY 2003/2004 and FY 2008/2009. The severe problems required some base reductions in higher education's operating budgets. In FY 2003-04 there was a 9 percent base reduction of \$101,327,200. In the current fiscal year, we were facing a \$464 million total shortfall, and again had to ask higher education to do its part. As a result, higher education received a base reduction in its operating budget of \$55.8 million. These reductions were not made lightly. However, our constitution requires us to balance, and in a relatively poor state, we have no choice but to spread the reductions as broadly as possible.

Our economy remains uncertain. We already face numerous restrictions on the state's ability to manage from our federal partner. An MOE mandate that reduces our flexibility even further is not warranted. We appreciate your efforts to oppose this measure.

Warmest Regards,

M. D. GOETZ, JR.,  
Commissioner.

VANDERBILT UNIVERSITY,  
July 23, 2008.

Hon. LAMAR ALEXANDER,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR ALEXANDER: After nearly five years of work and ten years since the last reauthorization, I understand that the Higher Education Act reauthorization is nearly complete. It has been a long process, and I commend the Congress for its fortitude to enact the bill this year. My regret is that this final product is not one that I can be proud to share with the Vanderbilt campus.

As a new chancellor, I have the luxury, or some would say misfortune, of only seeing the end result of the past five years of negotiations. When I accepted the position as Vanderbilt's chancellor, I did so knowing that my first and most important priority is, and always will be, our students. Vanderbilt's mission states:

Vanderbilt University is a center for scholarly research, informed and creative teach-

ing, and service to the community and society at large. Vanderbilt will uphold the highest standards and be a leader in the: quest for new knowledge through scholarship; dissemination of knowledge through teaching and outreach; creative experimentation of ideas and concepts.

In pursuit of these goals, Vanderbilt values most highly: intellectual freedom that supports open inquiry; equality, compassion, and excellence in all endeavors.

With this mission in mind, I have been evaluating the conference agreement for the Higher Education Act. While there are provisions in this agreement that will support and enhance our mission, there are many other provisions that deeply trouble me and, I think, have the potential to profoundly threaten our ability to be a "center for scholarly research, informed and creative teaching, and service to the community and society at large."

I believe you share my view that at the heart of the American system of higher education are its autonomy and its great diversity. What works for Vanderbilt may not work for Rhodes College, MTSU, Volunteer State Community College, or any other school in Tennessee. I firmly believe that increased federal intrusion into higher education would fundamentally and irreparably damage our system of postsecondary education. For these reasons, I am saddened to conclude that Vanderbilt cannot wholeheartedly endorse this conference agreement. However, before I enumerate the reasons for our reservations, I would be remiss in did not acknowledge and applaud the Congress—and you in particular—for preserving institutional autonomy with respect to the accreditation process. As you know, this has been our top priority throughout the reauthorization, and we are extremely pleased by the final outcome on this issue. Vanderbilt strongly supports an institution's ability to choose how it will demonstrate success with respect to student achievement as well as the standards by which such achievement is measured. We have consistently opposed any effort to make accrediting agencies agents of the federal government; in particular, we believe that the Secretary of Education should not be able to regulate in this area. This responsibility must lie with individual institutions.

The issue of accreditation is of such paramount concern to Vanderbilt that, had this not been adequately addressed, we would have strongly considered opposing the entire agreement. We are grateful that we do not have to take this drastic action, and we have you—and your staff—to thank for this. Without your unyielding persistence on the matter of institutional autonomy with respect to accreditation, the outcome would have been far different. Vanderbilt is immensely proud to call you one of our own and is indebted to you and your staff for your efforts.

Nonetheless, there is a lengthy list of provisions with which we have serious concerns. We recognize that many Members and staff have worked diligently on this legislation for years, and we regret that more reasonable language was not agreed upon.

Chief among our concerns are the countless number of new regulations with which universities are going to be forced to comply, covering such topics as peer-to-peer file sharing, campus emergency notifications, data on alumni, charitable gifts, student diversity, immunization records, missing person reports, and lobbying efforts. These new regulations will place an immense burden on institutions and carry with them a heavy implementation price tag. At the same time that we are trying to rein in costs, we are facing spiraling expenses associated with complying with federal regulations. Over-

regulation of higher education institutions threatens the core of what makes our system successful—its autonomy and its diversity.

We also remain concerned about provisions that could lead us along the path toward federal price controls through the creation of innumerable "Watch Lists;" a mandatory Department of Education developed net price calculator; mandatory "Quality and Efficiency Task Forces;" projecting future tuition; and reporting on tuition based on income categories. Vanderbilt is committed to ensuring that every admitted student can afford to attend Vanderbilt, regardless of their financial situation and regardless of what the "sticker price" is. We are very proud of the fact that we meet 100 percent of a student's demonstrated financial need.

Finally, provisions related to textbook prices continue to concern us. Requirements that ISBN numbers for textbooks be disclosed in course catalogs are, frankly, unworkable as many courses have not finalized their textbooks at the time the catalog is printed. We recognize that textbook costs have grown considerably and are committed to finding ways to address this; federal requirements and a "one-size-fits-all" approach, again, fail to recognize the immense diversity of our nation's colleges and universities.

In short, other than the accreditation language, there is very little to support in this final agreement. Ultimately, in my estimation, this bill will do more harm than good for the students it purports to serve. Legislation that hampers an institution's ability to educate its students threatens our institutional mission. I am deeply troubled that the conferees will agree to this woefully misguided legislation, and I worry about how it will be implemented and the ramifications of that implementation. Therefore, I urge you to think carefully about whether this is the direction we want to take postsecondary education and whether this legislation supports the fundamental nature of our system of higher education.

Thank you again for your strong and principled leadership on so many issues about which we care deeply.

Sincerely,

NICHOLAS S. ZEPPOS,  
Chancellor.

DUKE UNIVERSITY,  
OFFICE OF THE PRESIDENT,  
Durham, NC, May 28, 2008.

Hon. EDWARD M. KENNEDY,  
U.S. Senate, Russell Senate Office Building,  
Washington, DC.

Hon. MICHAEL ENZI,  
U.S. Senate, Russell Senate Office Building,  
Washington, DC.

Hon. GEORGE MILLER,  
House of Representatives, Rayburn House Office  
Building, Washington, DC.

Hon. HOWARD "BUCK" MCKEON,  
House of Representatives, Rayburn House Office  
Building, Washington, DC.

DEAR SENATOR KENNEDY, SENATOR ENZI, REPRESENTATIVE MILLER AND REPRESENTATIVE MCKEON: As you work to complete conference consideration of the Higher Education Act (REA) reauthorization, I write to add my voice to those expressing concern about a number of issues your committees are facing as you finalize this important legislation.

I appreciate the time and thoughtful consideration you and members of your staff have devoted to the REA bill. Two years ago I wrote the North Carolina congressional delegation urging our representatives to vote against the House version of the REA because of the significant steps the legislation took toward eroding the role of trustees in institutional governance and the longstanding, successful relationship between the

federal government and institutions of higher education. While the current legislation is somewhat more palatable, I fear that it still represents a major intrusion and regulatory encumbrance for higher education and that the proportion of bureaucracy relative to public value will be extremely high.

Please allow me to highlight several troublesome provisions that I urge you to revise or eliminate before the bill moves forward:

It is apparent that you have taken our concerns about the inappropriateness of unnecessary federal control of accreditation seriously. Including language that limits the authority of the Secretary of Education from prescribing standards and otherwise regulating measures of student achievement success is welcome. But, the language is not restrictive enough. I urge you to modify it specifically to prevent the Secretary from regulating standards for faculty, facilities, equipment, supplies, student services and the fiscal and administrative capacity of institutions.

Duke takes the accreditation process with great seriousness, and we use what we learn from our intensive self-study, as well as external evaluations, to help guide the high quality of the educational experiences we offer our students. Duke is currently in the midst of its decennial review with the Commission on Colleges of the Southern Association—of Colleges and Universities (SACS). I am impressed with the thoughtful questions the SACS team asks of us regarding a wide range of issues. Maintaining this quasi-independent system of assessment and assurance of quality is an important contribution to the unique success of American higher education. While there are areas of accreditation that may need some tinkering, it is not role, nor is it wise public policy, to have the responsibility of institutional trustees and accreditation usurped by federal intrusion. I urge you to fully close the door on the Secretary's ability to dictate the measurement of standards that should remain outside the scope of the federal government's responsibility in higher education.

At a time when institutions are struggling to find ways to reduce administrative costs, I am struck by the number of new reporting requirements in the bill, which inevitably will lead to greater bureaucracy both at the institution and at the Department of Education. For example, the reporting of graduation rates in 48 different student categories gives pause and raises questions about the usefulness of such information.

Penalizing institutions for increasing tuition by requiring a report to the Department of Education about cost reducing strategies is an egregious notion, at best. There is little doubt that the quality of the educational experience Duke provides does not come cheap. Our trustees invest in progressive and aggressive financial aid programs to make a Duke education affordable to the more than 40 percent of Duke students who receive financial aid under Duke's need-blind admissions policy. In the coming year alone, we are budgeting more than \$86 million from institutional funds to help ensure that no admitted student is denied access to the Duke educational experience for financial reasons. Our trustees have developed over time both policies and procedures to ensure that the university's budget—including our tuition and financial aid programs—is consistent with the mission of the university. Inserting the Department of Education into this conversation eats away at the delineation between governmental responsibility and institutional autonomy. Please remove this provision.

Along those same lines, the proposed requirement to provide non-binding, multi-year estimates of future tuition and fee levels, is misleading and inappropriate. In order for this to be of minimal assistance to an en-

tering student, each institution of higher education would need to forecast every individual student's financial situation in advance. Each year we reassess all of our students' financial aid packages to make sure we are meeting each student's demonstrated need. If their financial situation changes during the year—for instance if their mother loses her job or wins the lottery—the aid package is appropriately adjusted. We simply can't predict what will happen to the student, nor can we predict the needs of the university as far in advance as the proposed legislation would require.

There is much in the proposed REA that will benefit students, their families, and institutions of higher education, and I applaud the Congress for these positive steps. As the bill works its way to passage, I urge you and your colleagues to reconsider the inappropriate regulatory burden that will be placed on institutions of higher education if this legislation passes as currently written.

Thank you for your consideration.

Sincerely,

RICHARD H. BRODHEAD.

THE UNIVERSITY OF GEORGIA,  
OFFICE OF THE PRESIDENT,  
Athens, GA, July 16, 2008.

Hon. JOHNNY ISAKSON,  
Russell Senate Office Building,  
Washington, DC.

DEAR SENATOR ISAKSON: As conference consideration of the Higher Education Act Reauthorization progresses, I would like to take the opportunity to comment on the latest draft of the proposed legislation.

As you know, we have followed the process to reauthorize the Higher Education Act very closely. We at the University of Georgia appreciate that, during this process, you have been an advocate for higher education nationally as well as for our institution and the University System of Georgia.

In the latest draft, many improvements have been made, particularly in the areas of accreditation, teacher education reporting, and collection of data on alumni. While such improvements are laudable, the legislation, in its current form, still represents a major intrusion and regulatory burden for higher education.

It is always difficult to balance the need for transparency in the educational process with the burdens associated with new regulations. In a time of declining state funds for higher education and a need to reduce administrative costs, I am concerned about the wisdom of creating new unfunded mandates for reporting data from our universities. Many of the new requirements contained in the draft of this bill are unnecessary and/or duplicative, and they would impose significant compliance costs in exchange for little, if any, benefit. I fear these reporting requirements will lead to greater bureaucracy both at the institution level and at the Department of Education.

Please allow me to highlight a few troublesome areas that UGA and other members of the National Association of State Universities and Land-Grant Colleges are seeking to revise or eliminate before the bill moves forward:

College Costs and Transparency: The proposed "watch" lists in Title I of the bill for institutions that must raise tuition; the reporting requirements related to the lists; and the proposed provisions in Title VIII of the bill (Tierney provisions) that would establish new requirements for costs reporting and reducing net tuition. All of these could be simplified, and Section 830 of the conference legislation would place additional reporting requirements on institutions with respect to costs and is inconsistent with the cost provisions of Title I.

Multi-year Tuition Price Estimates: The Murphy-Myrick Amendment would require

institutions to publish non-binding, multi-year estimates of future tuition and fee levels. Although "non-binding," these figures would create the potential for ill will between universities and prospective students if the state of the economy or other events force institutions to take action. As you know, tuition at state universities is inextricably linked to funding from the state. This provision is fundamentally flawed and should be addressed.

New Reporting Requirements: This legislation would impose a host of new reporting requirements on colleges and universities that would be virtually impossible to meet. For example, the bill would require universities to obtain information on alumni employment, salary, and graduate education. Such data is very valuable, but we cannot compel graduates to report it.

Student Diversity and Graduation Rates Reporting Requirements: Institutions would be required to report to the Department of Education the percentage of enrolled, full-time students who are male, female, Pell Grant-eligible, and self-identified members of a major racial or ethnic group. These categories would also be applied to existing reporting of graduation rates. Institutions would have to report graduation rates in no fewer than 48 separate categories. To determine Pell Grant eligibility, institutions would have to demand private financial information.

Peer-to-Peer File Sharing/Copyright Infringement Requirements: Institutions would be required to disclose "the development of plans to detect and prevent unauthorized distribution of copyrighted material on the institution's information technology system, which shall, to the extent practicable, include offering alternatives to illegal downloading." Although our institutions offer alternatives to illegal downloading, the technology simply does not exist to prevent all unauthorized distribution of copyrighted material on our IT systems.

While it has the potential to benefit students, their families, and institutions of higher education, the regulatory requirements and the additional costs relative to benefits are such that I would recommend that you vote against this bill. We hope for a better version to come along shortly.

Sincerely,

MICHAEL F. ADAMS,  
President.

EMORY UNIVERSITY,  
OFFICE OF THE PRESIDENT,  
Atlanta, GA, July 14, 2008.

Hon. JOHNNY ISAKSON,  
Russell Senate Office Building,  
Washington, DC.

DEAR SENATOR ISAKSON: As conference consideration of the Higher Education Act Reauthorization progresses, we respectfully write to offer our comments on the latest draft of the proposed legislation.

As you are aware, we have followed very closely the process to reauthorize the Higher Education Act. We appreciate that, during this process, you have been an advocate for higher education nationally as well as in the state of Georgia. Specifically, we have been pleased with improvements in the areas of accreditation, teacher education reporting, and collection of income data.

While improvements have been made, the legislation in its current form represents a major intrusion and regulatory encumbrance for higher education. At a time when institutions of higher education are struggling to find ways to reduce administrative costs, we are gravely concerned about the collective weight of these new federal requirements.

The draft bill would significantly increase the number of federal requirements with which universities must comply. Many of the new proposed requirements are unnecessary and/or duplicative, and they would impose significant compliance costs in exchange for little, if any, benefit. We fear these reporting requirements will lead to greater bureaucracy both at the institution level and at the Department of Education.

Please allow us to highlight several other troublesome areas that we hope can be revised or eliminated before the bill moves forward:

**College Costs:** The proposed 400 "watch" lists in Title I of the bill; the reporting requirements related to the lists; and the proposed provisions in Title VIII of the bill (Tierney provisions) that would establish new requirements for costs reporting and reducing net tuition should be simplified. The proposed reporting requirements in Title I and Title VIII of the bill would require "high-cost" institutions to form cost efficiency task forces and issue reports to the Department describing actions they are taking to reduce costs and net tuition.

**Tuition Price Estimates:** The Murphy-Myrick Amendment would require institutions to publish non-binding, multi-year estimates of future tuition and fee levels. In order for this to be of even minimal assistance to an entering student, each institution of higher education would need to forecast every individual student's financial situation in advance. Furthermore, public universities are highly dependent on state funding, making such estimates nearly impossible.

**Alumni Reporting Requirements:** Institutions would be required to report on alumni employment and enrollment in graduate and professional education programs. Although we would like to have more detailed information on our alumni, we cannot force them to provide us with this information.

**Student Diversity and Graduation Rates Reporting Requirement:** Institutions would be required to report to the Department of Education the percentage of enrolled, full-time students who are male, female, Pell Grant-eligible, and self-identified members of a major racial or ethnic group. These categories would also be applied to existing reporting of graduation rates. Institutions would have to report graduation rates in no fewer than 48 separate categories. Although we already collect some of this information, other data, like Pell Grant-eligible, would require us to demand personal financial information that our students, and their parents, may not want to share with us.

**Peer-to-Peer File Sharing/Copyright Infringement Requirements:** Institutions would be required to disclose "the development of plans to detect and prevent unauthorized distribution of copyrighted material on the institution's information technology system, which shall, to the extent practicable, include offering alternatives to illegal downloading." Although our institutions offer alternatives to illegal downloading, the technology simply does not exist to prevent all unauthorized distribution of copyrighted material on our IT systems.

We have asked our staff to provide your staff with more information detailing our concerns with this legislation in its current form. The proposed HEA has the potential to greatly benefit students, their families, and institutions of higher education. We applaud Congress for these steps. However, we urge Congress to reconsider the inappropriate regulatory burden that will be placed on insti-

tutions of higher education if this legislation passes in its current form.

Sincerely,

JAMES W. WAGNER,  
*President,*  
*Emory University.*  
GARY SCHUSTER,  
*Interim President,*  
*Georgia Institute of Technology.*

Mr. ALEXANDER. I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, under our agreement, I will yield time to our colleague, Senator HARKIN from Iowa, but before I do, I wish to do two things.

First, a few minutes ago we heard from our colleague, Senator BINGAMAN, about the untimely death of one of Senator BINGAMAN's key staffer's sons. Bob Simon is a staff director on his Energy Committee. Bob Simon's 16-year-old son passed away, and he, Senator BINGAMAN, was paying an eloquent tribute about this very melancholy situation. On behalf of the Senate, we would like to extend our condolences to the Simon family.

The other comment I wish to make is in response, very quickly, to the comments my colleague from Tennessee made.

First, I would like to thank my colleague from Tennessee for his very collegial and thoughtful efforts as we moved our bill through. I enjoyed our conversations, from talking about bluegrass and Grand Old Opry, we went on to high notes and higher education, and then we went on to maintenance of effort.

I am sorry you took out the regulatory stack you had because it is bigger than I am. As we said in our conversation, I look forward to working with the Senator from Tennessee to see if some of the regs might be dated, arcane, duplicative, and so on and how, over the next year or so, we could look forward to doing that.

But before I move off from the reg comment, I do wish to comment about the maintenance of effort. In many ways, I understand the point the Senator from Tennessee is making. My own home State of Maryland's Governor O'Malley inherited a \$1.7 billion budget deficit that was not of his making, and at the same time I understand Governors and State legislators are facing real obstacles. However, we need to be realistic. Congress is doing its part by increasing Pell grants, and families can be assured that as the Federal Government increases its commitment to colleges, funds will not be offset by the States.

Last night we did pass an amendment offered by another gentleman from Massachusetts, Congressman TIERNEY. What his amendment does is provide incentives and funds to Governors, which they can use for a broad range of college access activities. They would be able to access \$66 million to States to use on a variety of very important college access activities, particularly need-based grants and college prep programs.

But I also want to acknowledge the validity of the issues raised by the Senator from Tennessee on unfunded mandates.

Over here we have a champion.

Mr. ALEXANDER. Mr. President, may I have 60 seconds to respond?

Ms. MIKULSKI. Yes, but I am not done with my comments so I have not yielded the floor.

Mr. ALEXANDER. I am sorry.

Ms. MIKULSKI. I wish to comment on the unfunded mandates. The Senator who will speak shortly has been a champion of the disability community and a leader of the IDEA community. We have been fighting to double IDEA and we have been trying to do it on both sides of the aisle. We look forward to having the Senator's support to do exactly that. We look forward to increasing the Federal role in Medicaid, particularly in SCHIP, which would be a very important component of Medicaid.

Last, but not at all least, in Medicaid, 80 percent of the money goes to 20 percent of the population. That 20 percent of the population that gets that Medicaid is primarily old or fragile people in nursing homes, many of whom have serious cognitive impairment such as Alzheimer's.

Let's get the Coburn hold off my bill to double funding for Alzheimer's. One of the ways to lower the cost of Medicaid is to find the cure of the cognitive stretchout for people with Alzheimer's. It is estimated by NIH and other institutions that comment on these things that we could reduce Medicaid by \$5 to \$11 billion a year if we could do that.

I think we can work our way through this, but I must say, working with the Senator from Tennessee has been indeed a pleasure. It has been based on intellectual rigor, good conversation, excellent exchanges of ideas. I look forward to doing more of it and trying to solve some of the problems that we both strongly believe need to be addressed.

Mr. ALEXANDER. If I may just acknowledge the remarks of the Senator, I feel the same way about working with her. I am delighted we will be working together to take a look at the rules and regulations that we impose from here in Congress to make sure they are useful and needed. The natural thing here is to add. It is also very natural for us to have good ideas, but we might discover that the dean or the provost or the Governor or somebody else might have a good idea as well.

This is one of those issues that has no partisan attribute whatsoever. As far as I am concerned, the Republicans are as bad as the Democrats on unfunded Federal mandates and unnecessary regulations. I look forward to an opportunity to work with the Senator from Maryland to see if we can identify a process that makes certain that institutions are accountable for the Federal dollars, but at the same time we leave them free to be excellent in their own autonomous ways.