

Delivery by Electronic Mail at:
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February 20, 2018

The Honorable Lamar Alexander
Chairman
Senate Committee on Health, Education,
Labor, and Pensions
428 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Patty Murray
Ranking Member
Senate Committee on Health, Education,
Labor, and Pensions
428 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Alexander and Ranking Member Murray:

Thank you for the opportunity to submit comments and suggestions for the committee's consideration of the upcoming reauthorization of the Higher Education Act (HEA). The National Council of Higher Education Resources (NCHER) and its members assist students and families develop, pay for, and attain their educational goals, pursue meaningful and rewarding work, and become contributing members of society.

For more than 50 years, state and nonprofit higher education agencies, including loan holders, loan authorities, servicers, and guaranty agencies, have been highly successful in providing important services to student and families. Based off of a holistic approach to student success, these agencies counsel students and families on early awareness of the variety of educational choices available beyond high school and creating a college-going culture, the appropriate courses to take in high school to facilitate entering the college major or career program of their choosing, how to apply for college and navigate the financial aid process, how to avoid overborrowing, the importance of managing student loan debt, and budgeting and personal finance management skills. The agencies also act as borrower advocates to help struggling borrowers understand the student loan repayment process and options that may be available to them to help mitigate delinquencies and defaults. In many instances, these services are proactively provided to student and parent borrowers at risk of default. This collective experience from decades of financial counseling, a proven track record of success in assisting families plan and pay for college, and recent efforts to serve as student loan servicers and collectors on behalf of the federal government influences our thoughts and suggestions on potential changes to current law in support of students and parent borrowers.

The following are NCHER's priorities for inclusion in an HEA reauthorization package for your consideration:

- Assisting students and families in making smart postsecondary education decisions. College affordability and student loan debt burden are important issues on the minds of our nation's students and families. As states and institutions of higher education work to control college costs and improve quality, students and families need access to face-to-face, personalized, and individualized financial education and counseling services to assist them in making smart education decisions and understanding, managing, and paying for the costs of a postsecondary education. State and nonprofit

higher education agencies, including loan holders, loan authorities, servicers, and guaranty agencies, have been highly successful in providing these important services for decades. However, these important services are largely going away, and some have already been eliminated, because of a lack of sustained resources. Also, under the Higher Education Act, institutions are required to provide basic entrance and exit counseling such as ensuring students know they have taken out loans, they are obligated to repay those loans, and of the availability of various repayment options. However, numerous reports make it clear the current automated counseling sessions are failing to fully engage students in understanding their responsibilities and full range of options. **ASK: Encourage states and/or institutions to provide face-to-face financial education and counseling services to students, borrowers, and families (incorporated into any financial literacy or risk-sharing initiative); strengthen existing entrance and exit counseling requirements; and promote the use of 529 Plans.**

- Improving federal student aid programs. The U.S. Department of Education administers more than \$122.5 billion annually through various grants, loans, and other programs that help students and families access postsecondary education. The Department also offers nine different repayment options to student borrowers who need help paying back their federal loans in a timely manner. While each of the repayment plans have been developed over time by Congress and/or the Administration to address specific borrower circumstances, this overly-complicated patchwork is the primary challenge that student and parent borrowers have with understanding the federal student loan program, and must be simplified and streamlined to reduce barriers to higher education for low- and moderate-income students who often believe that a postsecondary education degree is unaffordable. In addition, the Free Application for Federal Student Aid (FAFSA) totals more than 10 pages and includes 108 questions on topics such as income, family size, expenses, and assets. While many students and families complete the FAFSA online, thus avoiding some of the questions, the form's length and complexity has caused a number of low-income families to give up and lose access to federal financial aid. Also, the Higher Education Act includes specific annual and aggregate limits on the amount of loans that students can access for postsecondary education. Currently, financial aid administrators can implement 'professional judgment' to factor in special circumstances affecting a family's ability to pay for a student's education or to limit loan amounts. The process, however, is time-consuming. Finally, the American Enterprise Institute, New America Foundation, Heritage Foundation, and other think-tanks have examined the proliferation of student loan debt levels over the last decade and believe that the widespread availability of federal student loans, especially by parents without the ability to repay debt taken to finance their students' education, has contributed to the growing problem of unmanageable debt burdens. **ASK: Simplify and streamline the myriad of student loan repayment plans, dramatically reduce the number of questions on the Free Application for Federal Student Aid, provide authority to financial aid administrators to lower annual and aggregate student loan limits, and cap the amount parents can borrow under the PLUS program.**
- Expanding access to loan rehabilitation. The federal government's main program for assisting defaulted borrowers struggling to repay their student loans is loan rehabilitation. Under the program, student and parent borrowers can make nine voluntary, on-time payments within ten consecutive months and have their defaulted loans rehabilitated. Just as important, these borrowers regain eligibility for federal student aid and have the default status removed from their credit reports. Unfortunately, current law restricts loan rehabilitation to one-time per loan. As college costs continue to rise, many student borrowers continue to struggle to repay their loans and re-defaults are at record highs. **ASK: Allow defaulted borrowers to rehabilitate their loans twice in order to help struggling borrowers.**
- Preserving Account Maintenance Fees (AMF). State and nonprofit guaranty agencies receive Account Maintenance Fees which are crucial to ensuring that the agencies are able to perform critical functions that assist borrowers in avoiding default and protect federal taxpayers as the Federal Family Education

Loan Program (FFELP) continues to wind-down its operations. This important funding is used to support college access and success activities, such as financial aid awareness, consumer education, FAFSA completion services and events, borrower assistance, and ombudsman support, in states around the country. They also are used to assist borrowers in avoiding default, help defaulted borrowers rehabilitate their loans, provide schools with information on student loan defaults and loan transfers, provide training and technical assistance to lenders and schools, maintain loan records for student and parent borrowers, and conduct comprehensive compliance reviews of lenders, servicers, and schools. If AMF is not reauthorized, fewer schools will receive basic administrative support, federal taxpayers will receive fewer protections, and guaranty agencies will be unable to perform their administrative functions mandated by FFELP. **Ask: Authorize the continued payment of Account Maintenance Fees.**

- Providing for an orderly wind-down of the federal guaranteed student loan program. Since 1965, guaranty agencies have provided important services to students, borrowers, families, and the federal government by helping to manage the federal student loan program at the local level, and increasing access to and success in postsecondary education. Even though Congress ended all new FFELP originations in 2010, guaranty agencies continue to carry out their public purpose missions and federal responsibilities. In order to assist in an orderly wind-down of FFELP operations, in 2015, Congress increased from 95 percent to 100 percent reinsurance payments on default claims paid by agencies to lenders. But more must be done. **ASK: Provide just-in-time reinsurance payments to facilitate cash flow into the Federal Fund, remove the 45 percent cap on Federal Direct Consolidation Loans, and develop a specific process for those guaranty agencies interested in relinquishing their FFELP portfolios and the criteria and process the Department will use when selecting successor agencies.**
- Promoting better loan servicing for student and parent borrowers. Since 2009, the Department of Education has used not-for-profit and for-profit organizations to provide important services to borrowers with loans made under the Federal Direct Loan Program. The Department is currently in the process of re-competing all of its student loan servicing contracts, but the current approach fails to promote a competitive environment or leverage the role of multiple servicers, including state not-for-profit servicers, in helping struggling borrowers. At the same time, over the last three years, several states have passed laws requiring student loan servicers to obtain licenses to service loans to borrowers in their states - many with expensive fees - and meet new state-specific servicing routines, creating significant differences between the servicing of borrowers residing in certain states. This adds unnecessary complexity to the federal student loan system and creates a regulatory maze in the process and confusion for both student loan borrowers and their servicers. **ASK: Ensure that the upcoming student loan servicing procurement includes the participation of multiple service providers and has meaningful and sustainable opportunities for state and nonprofit organizations to help struggling borrowers, create a Common Manual to improve the consistency of servicing for borrowers, ensure federal law and contractual requirements preempt state and local rules that impact federal student loan servicing, and allow servicers to have access to the National Directory of New Hires so they can locate struggling borrowers to provide counseling on repayment options.**
- Protecting students and families by combatting debt relief scams. Over the last few years, the number of third-party debt relief companies – which charge exorbitant fees to students to help them repay their student loans that they can receive for free from their federal student loan servicers – has exploded led by the overall increase in student loan debt. Recently, the Department of Education’s Office of Federal Student Aid (FSA) released the first FSA Feedback System Annual Report for the period covering July 1, 2016 to June 30, 2017. According to the report, FSA received approximately 2,310 allegations of suspicious activity, 21 percent of which were in regard to third-party debt relief companies. In October, the Federal Trade Commission, along with 11 states and the District of Columbia, announced “Operation Game of Loans,” the first coordinated federal-state law enforcement

initiative targeting deceptive student loan debt relief scams. Led by its Ombudsman Caucus, NCHER members are collecting the names of these companies and providing them to the appropriate federal agencies. But more can be done to address the growing problem of student loan debt relief scams. **Ask: Designate a single federal agency to coordinate efforts against student loan debt relief scams and refer such pertinent information to federal and state law enforcement officials for appropriate action, including issuing cease-and-desist orders; maintain a list of all third-party debt relief companies, including a list of commonly-used tactics, and work with technology providers to eliminate fraudulent advertisers; and require federal student loan servicers to identify and track student loan debt relief scams and promptly report them to the designated federal agency.**

- Promoting the availability of private education loans. Private education loans are an important funding source that students and parents rely upon to achieve their higher education goals. These important programs fill the widening gap between the cost of an affordable postsecondary education and the availability of federal, state, and institutional support. A popular misconception is that all private education loans are more expensive than federal student loans and interest rates on outstanding loans will rise over time. For some borrowers, however, private education loans offer an attractive alternative to federal student loans, particularly when compared to Grad and Parent PLUS Loans. Under the Higher Education Opportunity Act of 2008, colleges and universities choosing to maintain a list of preferred lenders for private education loans must comply with a set of complicated disclosures and reporting requirements. Because of the new rules, many schools have shied away from having preferred lender lists and largely ended counseling students and parents on various sources of financial aid, with the result being that students and parents do not learn about the availability of private education loans that may be less costly than federal education loans. Also, the Truth-in-Lending Act (TILA) ensures applicants for almost all consumer loans are provided with a federally-mandated disclosure of the true cost of their loans (the annual percentage rate or APR), including the interest rate, any origination fees, and all other loan costs. But federal student loans are exempt from this requirement. Finally, under the federal student loan program, defaulted borrowers who make nine voluntary, on-time payments over a 10-month period can have their student loans rehabilitated, and the default status removed from their credit reports. This provides a powerful incentive for borrowers to undertake what is needed to rehabilitate their federal student loans, and the authority to remove adverse credit from borrower reports should be granted to private education loan providers as well. **ASK: Remove preferred lender list restrictions; support H.R. 1283/S. 749, the “Transparency in Student Lending Act,” which mandates that Direct Loan borrowers receive accurate disclosure of the cost of their loans; and support S. 1066, the “Federal Adjustment in Reporting (FAIR) Student Credit Act,” which permits private loan lenders to remove the default record upon the rehabilitation of a private education loan.**

If you have any questions or need more information on these recommendations, please contact me at jbergeron@ncher.us or (202) 822-2106. NCHER and its membership look forward to working with you over the next year to increase college access and success to students and families.

Sincerely,



James P. Bergeron
President