

December 11, 2017

The Honorable Virginia Foxx
Chairwoman
U.S. House Committee on Education and
the Workforce
2176 Rayburn House Office Building
Washington, DC 20515

The Honorable Bobby Scott
Ranking Member
U.S. House Committee on Education and
the Workforce
2101 Rayburn House Office Building
Washington, DC 20515

Dear Chairwoman Foxx and Ranking Member Scott:

On behalf of the National Council of Higher Education Resources (NCHER), I am writing to express our views on H.R. 4508, the Promoting Real Opportunity, Success, and Prosperity through Education Reform (PROSPER) Act, which the committee will consider this week. NCHER represents state, nonprofit, and private organizations that make grant and loan assistance available to students and parents to pay for the costs of postsecondary education. Our membership includes organizations under contract with the U.S. Department of Education to service and recover outstanding loans made under the Federal Direct Loan Program, entities that service and recover outstanding loans made under the Federal Family Education Loan Program (FFELP), and organizations that service and recover private education loans. Many of our members, including state agencies and state-designated authorities, also provide higher education access, outreach, and financial literacy programs and act as ombudsman on behalf of students and families.

NCHER believes that the committee's effort to reauthorize the Higher Education Act in the 115th Congress is a critical opportunity to better support today's college students in their pursuit of higher education. We commend and support the PROSPER Act's stated goals of promoting college access, completion, and innovation; simplifying and improving student aid; and empowering students and families to make informed decisions on the best postsecondary institution that works for their unique needs. Federal policymakers must ensure that students are able to secure the necessary support and financing to enroll in the college or university of their choice and that they receive the education necessary to allow them to graduate and get a job; after all, we know that non-completers are more likely to become delinquent and default on their student loans. There is also a growing bipartisan consensus, as well as feedback from NCHER members, that the current federal student aid process could benefit significantly from simplification. The current overly-complicated patchwork of repayment plans 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 is unaffordable.

Finally, as states and institutions of higher education work to control college costs and improve quality, students and families need access to better support services to assist them in making good educational choices and understanding, managing, and paying for the costs of a postsecondary education. State-based and state-affiliated nonprofit higher education agencies, including lenders, loan holders, servicers, and guaranty agencies, have been highly successful in providing these important services for decades so that students and families understand the higher education finance options available to them. We look

forward to continuing our important work on behalf of students and families and working with both the House and Senate, Republicans and Democrats, to promote a high-quality postsecondary education for all students.

As the committee moves to consider H.R. 4508, the PROSPER Act, NCHER offers its support for the following provisions:

- Helping students and families make informed decisions about their postsecondary education options. The PROSPER Act establishes a new College Dashboard website that provides information to all students - traditional and non-traditional - so that they can choose the best college for them and their family. It also requires colleges to report on the average loan debt incurred by their students and the loan repayment rate for each educational program, two important elements that should provide a more accurate snapshot of institutional quality.
- Revising the preferred lender list restrictions. The PROSPER Act makes a number of revisions to the preferred lender list restrictions passed in 2008 that over-burden institutions of higher education with paperwork and unnecessary reporting requirements if they choose to maintain a list of preferred lenders for private education loans. Because of the rules, many schools have shied away from having preferred lender lists and largely ended working with state agencies or state-designated authorities to counsel students and parents on various sources of federal, state, and private financial aid available to students. This important provision will allow colleges and universities to work closely with their state partners that may provide lower cost loan products to borrowers, while maintaining a number of important disclosure and code of conduct requirements in current law that protect students.
- Allowing defaulted borrowers to rehabilitate their loans twice. The PROSPER Act improves the federal loan rehabilitation program by allowing student borrowers to rehabilitate their loans twice, which will assist those borrowers struggling to repay their student loans and address the growing problem of re-defaults. Loan rehabilitation allows student borrowers to make nine voluntary, on-time payments within ten consecutive months and have their defaulted loans rehabilitated, allowing them to regain all benefits of the federal student loan program, including eligibility for federal student aid.
- Extending the authority for Account Maintenance Fees (AMF) paid to guaranty agencies until 2024. The PROSPER Act extends the funding for AMF, which will allow state and nonprofit guaranty agencies to continue to provide 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.
- Capping the amount parents can borrow under the PLUS program. The PROSPER Act would cap the amount that parents can borrow to finance the cost of postsecondary education. Parents today can borrow the full cost of college for all of their dependent children, including amounts for living expenses, under the Parent PLUS program. While some can afford to borrow higher amounts, many parents become saddled with debt for which they have no ability to repay. This important provision would remove the incentive for those with lower credit scores – those more likely to struggle with their repayment burden – to take out student loans they can ill afford.
- Streamlining student loan repayment. The PROSPER Act authorizes two plans for students to repay their federal student loans. First, a standard repayment plan not to exceed 10 years. Second, an income-based repayment plan setting payments at 15 percent of the amount by

which the adjusted gross income of the borrower (and spouse) exceeds 150 percent of the poverty line for the borrower's family size. This provision will simplify and streamline the myriad of student loan repayment plans, improving the federal financial aid system for all borrowers.

- Providing authority to financial aid administrators to lower annual and aggregate student loan limits. The PROSPER Act authorizes financial aid administrators to use professional judgement to reduce a student's eligibility to receive grants, loans, or work assistance provided that the model or method used to deliver instruction to the student results in a substantially reduced cost of attendance to the student. This important provision will reverse the ability of students to take out and accumulate unnecessary debt without making progress toward their degree goals.
- Promoting financial literacy through enhanced counseling for recipients of federal financial aid. The PROSPER Act requires institutions of higher education to provide annual, in-person, or online counseling so that students better understand their financial obligations, including their outstanding loan balance, anticipated monthly payment under the various federal repayment options, and information on how interest accrues and is capitalized if a borrower does not pay more than the minimum payment. It will also require borrowers to affirmatively accept their loans. These important changes, as well as the revised exit and new Pell Grant counseling requirements, should assist students in better understanding, accessing, planning, and paying for the costs of postsecondary education.
- Providing Direct Loan borrowers with additional disclosures. The PROSPER Act provides student and parent borrowers with important information on the annual percentage rate or APR on their loans, including the interest rate, any origination fees, and all other loan costs. In order to protect consumers and allow them to make accurate and informed decisions when borrowing for college, the Truth in Lending Act (TILA) requires all lenders to disclose the true cost of a loan in standard and easy-to-understand language. The only agency that currently enjoys an exception to this universal requirement is the Department of Education, which is the largest provider of student and parent loans. Student and parent borrowers with federal student loans cannot make fully informed choices on the best loan option available to them – either public or private – because they are not provided with accurate information about the full cost of their loans. Under the bill, borrowers will also be provided with an explanation that if they decide to take out a private education loan, they have the ability to select a private educational lender of their choice, the proposed private education loan may impact the borrowers' potential eligibility for other financial assistance, and the borrowers have a right to accept the term of the private education loan within 30 calendar days following the required TILA disclosures and the right to cancel the private loan within 3 business days of the date in which the loan is consummated.
- Improving federal student loan servicing. The PROSPER Act includes a number of changes to support the important and successful work of the nation's loan servicers in helping student and parent borrowers repay their loans. For example, the bill requires the Secretary of Education to allocate federal student loan volume to those servicers based on performance and capacity; allows federal consolidation loan borrowers to choose the servicer of their choice; and mandates the development of a Common Performance Manual of servicer practices, consistent with past language in the Labor, Health and Human Services, and Education Appropriations Act.
- Ensuring federal law and contractual requirements preempt state and local rules that impact federal student loan servicing and collections. The PROSPER Act provides for the preemption of state student loan servicing laws, reducing confusion to student and parent borrowers. 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 additional regulatory burden adds unnecessary complexity to the federal student loan system and creates a regulatory and supervisory maze in the process and confusion for both student loan borrowers and their servicers. In some cases, the patchwork of state rules and regulations are contrary to the Higher Education Act. Depending on the definition of 'student loan servicer,' these state laws ensnare master servicers with FFELP loans, guaranty agencies that have agreements with the Secretary of Education to provide supplemental late-stage delinquency assistance, private collection agencies under contract with the Department to collect on Direct Loans, and even third-party servicers that work with institutions of higher education to identify and assist struggling borrowers (even though these agencies do not encompass the array of duties performed by servicers). All of these entities are already required to comply with the myriad of rules and requirements set forth in the Higher Education Act of 1965 and its governing regulations and, in the case of Department contractors, the detailed requirements of the contracts.

As H.R. 4508 undergoes additional changes through the amendment process during this week's markup and as the bill moves to the House Floor, NCHER requests the following changes to the bill:

- Promoting the use of state and nonprofit organizations with expertise in helping student and parent borrowers. With federal student loan debt totaling nearly \$1.3 trillion and with unacceptably high delinquency and default rates, it is clear that student and parent borrowers need access to more specialized support services throughout their postsecondary education to help them understand their financial decisions, instead of just simple annual, exit (which will never occur for non-completers), and online counseling. We hope to work with the committee to explore ways to help students better understand their financing and repayment options before, during, and after their college careers, leveraging the expertise and infrastructure of state and nonprofit loan holders, servicers, and guaranty agencies who have been highly successful in providing these important services for decades. The financial literacy needs of students and families vary widely due to individual circumstances and, in order to be most effective, cannot be a one-size-fits-all proposition.

As a first step, NCHER supports amending section 485 to provide "debt management strategies that are designed to facilitate the repayment of such indebtedness" to all federal student loan borrowers, not just to Federal ONE Parent Loans. We also support adding language to H.R. 4508 to enhance the role of state-based organizations by making clear that the definition of 'small business' in the student loan servicing context includes state and not-for-profit entities so student loan servicers receive credit for subcontracting for services with these organizations. The Consolidated Appropriations Act, 2017 included language directing the Department to put together a plan under which it will give credit for subcontracting with small businesses, including state and nonprofit organizations with expertise in assisting borrowers in the repayment of their student loan. But the Department believes that there must be a slight change to the small business designation.

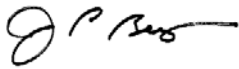
- Transitioning from cohort default rates to a programmatic loan repayment rate. NCHER urges the committee to proceed cautiously when transitioning from a cohort default rate to a programmatic loan repayment rate. While our members are supportive of developing a better measurement of institutional quality, we believe that a longer transition period may be warranted to provide colleges and universities with time to adjust to the new metric, including an additional time-period where the metric is used for educational purposes.
- Providing just-in-time reinsurance payments to facilitate cash flow into the Federal Fund. Currently, guaranty agencies do not receive reinsurance for claim repayments for three weeks or more following the time they pay a claim. This puts unnecessary stress on an agency's Federal

Fund, which is the property of the federal government, and can curtail an agency's ability to provide critical services to assist struggling borrowers. NCHER believes that the Department should reimburse guaranty agencies within 72 hours of claim payment to mitigate the unnecessary cash-flow concerns. This recommendation was included in the Department's report on the wind-down of FFELP operations.

- Encouraging multiple federal student loan servicers. NCHER believes that all federal student loan servicers should be allowed to carry out their necessary functions for the full life-cycle of the loans. This important provision would encourage competition between multiple federal student loan servicers that will improve the quality of servicing for all borrowers.

Chairwoman Foxx and Ranking Member Scott, thank you for the opportunity to provide our comments on H.R. 4508, the PROSPER Act. NCHER and its members look forward to continuing our work with the committee to promote college access and success, strengthen the federal financial aid programs, and ensure that students and families receive accurate and timely information in order to successfully plan and pay for college. If you have any questions on the items raised in this letter, please feel free to reach out to me at jbergeron@ncher.us or (202) 822-2106.

Sincerely,

A handwritten signature in black ink, appearing to read 'J P Bergeron', with a stylized flourish at the end.

James P. Bergeron
President