

April 24, 2007

U.S. House of Representatives  
Committee on Education and Labor  
Attn: HEA Recommendations  
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To the House Committee on Education and Labor:

This letter is in response to the Committee's request for ideas to improve and enhance the country's postsecondary education system through the reauthorization of the Higher Education Act.

Our nation's future competitiveness depends on how well our financial aid system advances college enrollment, supports degree completion, encourages responsible financing choices, and contains the financial risks of pursuing a postsecondary education. With these goals in mind, the Institute for College Access and Success recommends the attached changes to the Higher Education Act. These changes are designed to lower significant barriers to college access and affordability, particularly for low-income and first-generation students:

**Attachment 1:** Includes recommendations and legislative language to **strengthen protections for student-loan borrowers.**

**Attachment 2:** Includes recommendations and legislative language to **eliminate the taxation of cancelled loans for borrowers with high debt burdens.**

**Attachment 3:** Includes recommendations and principles for **simplifying the federal financial aid application process for students and families.**

Our recommendations are selective and specific, and we acknowledge that other important issues raised by various members of the higher education community also require your attention and consideration. In particular, we strongly support increasing Pell grant awards.

Additionally, we are in the process of developing a proposal to reward states for their enrollment and graduation of students from low- and moderate-income households. We will be happy to share this proposal with you as it is developed.

We greatly appreciate your consideration of these important reforms.

Sincerely,

Robert Shireman, President  
The Institute for College Access & Success

## 2007 RECOMMENDED AMENDMENTS TO THE HIGHER EDUCATION ACT

### Attachment 1: Strengthen the current system of student loan borrower protections.

Today, nearly two-thirds of college seniors will graduate with student debt. The trend is clear: not only are an unprecedented proportion of students borrowing, they are borrowing at higher levels than ever before.

As debt hits record levels, the rules that are supposed to protect student borrowers instead leave millions facing unaffordable payments and decades of debt. These debt burdens can harm families and threaten our nation's competitiveness in the global economy.

The current system of student-loan borrower protections is inadequate, inconsistent, and inaccessible. Fixing this broken system is critical to ensure that more students pursue a college education, and that they can afford to become teachers, social workers, nurses, and other public service professionals after graduation. Borrowers also need fair and manageable loan payments to be able to save for retirement, buy a home, support a family, or start a small business.

To help address the growing need for clear and consistent borrower protections that encourage responsible repayment we suggest the following changes:

1. Limiting student loan payments to a reasonable percentage of income (15%).
2. Recognizing that family size affects how much income is available for loan payments (adjusting payment expectations to account for family size ).
3. Protecting borrowers from high interest charges when they face hardship situations (on Subsidized Stafford Loans).
4. Canceling remaining debts when borrowers have made regular payments for 20 years.
5. Providing borrowers in both the Direct Loan and the Federal Family Education Loan programs with easy access to all repayment options and protections.

#### **Proposed Legislative Language:**

The proposed legislative language aims to accomplish the goals of the Institute's Plan for Fair Loan Payments. These goals are supported by thousands of students, higher education leaders, loan industry representatives, civil rights groups, Republicans and Democrats in Congress, organizations of parents, college counselors, and others. While originally proposed as regulatory changes, our recommendations would be most effectively implemented through legislative changes to create a fair payment assurance program and amend the formula for the economic hardship deferment. The language below is similar to the Fair Payment Assurance provisions in Senate Bill S.359, but differs in two primary ways: (1) changing the maximum period for loan cancellation from 25 to 20 years; and (2) excluding the cancellation of Grad PLUS loans.

## **Fair Payment Assurance**

“Sec. 493C. FAIR PAYMENT ASSURANCE.

“(a) DEFINITIONS.—In this section:

“(1) EXCEPTED PLUS LOAN.—The term ‘excepted PLUS loan’ means a loan under section 428B, or a Federal Direct PLUS Loan, that is made, insured, or guaranteed on behalf of a dependent student and any Federal Consolidation loan that includes such a loan.

“(2) MANAGEABLE REPAYMENT. —The term ‘manageable repayment’ means 15 percent of the result obtained by calculating the amount by which—

“(A) the borrower’s adjusted gross income;  
Exceeds

“(B) 150 percent of the poverty line applicable to the borrower’s family size as determined under section 673(2) of the Community Service Block Grant Act.

“(b) FAIR PAYMENT ASSURANCE PROGRAM AUTHORIZED.—

Notwithstanding any other provisions of the Act, the Secretary shall carry out a program under which—

“(1) a borrower of any loan made, insured, or guaranteed under part B or D (other than an excepted PLUS loan) may elect to have the borrower’s aggregate monthly payment for all such loans not exceed the manageable payment described in subsection (a)(2) divided by 12;

“(2) the holder of such a loan shall apply the borrower’s monthly payment under this subsection first toward interest due on the loan and then toward the principal of the loan;

“(3) any interest due and not paid under paragraph (2)—

“(A) in the case of a Federal Stafford Loan or Federal Direct Stafford Loan, shall be paid by the Secretary; or

“(B) in the case of any other loan under part B or D (other than a loan described in subparagraph (A) or an excepted PLUS loan), shall be capitalized;

“(4) any principal due and not paid under paragraph (2) shall be deferred in the same manner as deferments under section 428(b)(1)(M);

“(5) the amount of time the borrower makes monthly payments under paragraph (1) may exceed 10 years;

“(6) if the borrower no longer wishes to continue the election under this subsection, then—

“(A) the maximum monthly payment required to be paid for all loans made to the borrower under part B or D (other than an excepted PLUS loan) shall not exceed the monthly amount calculated under section 428(b)(9)(A)(i) or 455(d)(1)(A); and

“(B) the amount of time the borrower is permitted to repay such a loan may exceed 10 years; and

“(7) the Secretary shall repay or cancel an outstanding balance of principal and interest due on all loans made under part B or D (other than an excepted PLUS Loan and Grad PLUS loans) to a borrower who—

“(A)(i) makes the election under this subsection; and

(ii) for a period of time prescribed by the Secretary, not to exceed 20 years (including any period during which the borrower is in deferment due to an economic hardship described section 435(o)), meets any of the following requirements:

“(I) Has made reduced monthly payments under paragraph (1).

“(II) Has made monthly payments of not less than the monthly amount calculated under section 428(b)(9)(A)(i) or 455(d)(1)(A) when the borrower first made the election described in this subsection.

“(III) Has made payments under a standard repayment plan under section 428(b)(9)(A)(i) or 455(d)(1)(A).

“(IV) Has made payments under an income contingent repayment plan under section 455(d)(1)(D).”.

### **Definition of Economic Hardship**

“(a) Section 435(o) of the Higher Education Act of 1965 (20 U.S.C. 1085(o)) is amended--

“(1) in paragraph (1)--

“(A) in subparagraph (A)(ii), by striking ‘100 percent of the poverty line for a family of 2’ and inserting ‘150 percent of the poverty line applicable to the borrower's family size’;

“(B) by striking subparagraph (B); and

“(C) by redesignating subparagraph (C) as subparagraph (B); and

“(2) in paragraph (2), by striking ‘(1)(C)’ and inserting ‘(1)(B)’.

## 2007 RECOMMENDED AMENDMENTS TO THE HIGHER EDUCATION ACT

### **Attachment 2: Eliminate the taxation of cancelled loans for borrowers with high debt burdens.**

Current tax law treats loan cancellation pursuant to the Income Contingent Repayment (ICR) program as taxable income even though the taxpayer (borrower) is never able to access this “income.” The tax treatment unfairly penalizes an already struggling borrower who has overcome the odds and made consistent responsible payments on their student loans in accordance with their income for a prescribed period of time. The recommended changes would prevent loans cancelled under ICR from being taxed. It also would extend this exemption to individuals in high debt burden situations who have repaid pursuant to the Fair Payment Assurance program and are eligible for cancellation.

#### **Proposed legislative language:**

- (a) Section 108 of the Internal Revenue Code is amended by inserting at the end of Section 108(f) and renumbering subsequent sections accordingly—
  - (1) “Section 108(g) Treatment of student loan cancellation for income-based repayment.
    - (1) In general  
In the case of an individual, gross income does not include any amount which (but for this subsection) would be includible in gross income by reason of the discharge (in whole or in part) of any student loan if such discharge was pursuant to a provision of such loan under which all or part of the indebtedness of the individual would be discharged if repayment was assessed on the basis of income.
    - (2) Student Loans  
For purposes of this subsection, the term "student loan" includes any loan to an individual to assist the individual in attending an educational organization made pursuant to Title IV of the Higher Education Act of 1965 where repayment is assessed on the basis of income.
      - (a) “in the case of a loan made under part D of title IV of the Higher Education Act of 1965 which has a repayment schedule established under section 455(e)(4) of such Act (relating to income contingent repayments), such discharge is after the maximum repayment period under such loan (as prescribed under such part), and”
      - (b) “in the case of a loan made under part B or D of title IV of the Higher Education Act of 1965 which is repaid

under the program established under section 493C (Fair Payment Assurance) or section 255(e)(4).

- (b) Effective Date - The amendments made by this section shall apply to discharges of indebtedness after the date of the enactment of this Act.

## 2007 RECOMMENDED AMENDMENTS TO THE HIGHER EDUCATION ACT

### Attachment 3: Simplify the federal financial aid application process for students and families.

- 1) **Implement Auto-Answer Option for Income Questions:** Make the process of applying for federal financial aid less burdensome and confusing for students and families -- without reducing the information available to schools, states, and the U.S. Department of Education -- by drawing relevant income information directly from applicants' tax records at their request.
- 2) **Open the Aid Application Process by October 15:** Begin accepting aid applications earlier. This way, high school students can apply for financial aid when they apply for college admission. (Income information drawn from the prior year's IRS records would either be considered final, as described in item (3) below, or treated as estimates are under the current process.)
- 3) **Make It Possible to Use Income Information from One Year Earlier:** *If the Secretary determines that it would significantly improve the aid application process (including consideration of state and institutional aid processes), authorize the Secretary to make final aid determinations using income data from the prior tax year than is currently required. Require any such decision to go through the negotiated rulemaking process.*
- 4) **Create an Early Aid Estimator with Auto-Answer Option for Income Questions:** Simplify the Department's FAFSA4caster online tool so that users can easily allow relevant income questions to be answered automatically with their most recent available tax information. *Features must include* simple and user-friendly ways for users to:
  - i. allow relevant income questions to be answered automatically with their most recent available tax information;
  - ii. transfer data from the estimator to the official aid application and update it as necessary when they are ready to apply for aid; and
  - iii. receive nonbinding aid estimates regardless of the student's age or year in school.
- 5) **Ensure that Simplified Aid Application and Estimation Processes Meet or Exceed Current Privacy Protections for Applicant Data:** See section 552a of title 5 of the U.S. Code for current requirements.

*Legislative language available upon request.*