

April 14, 2017

The Honorable Mike Crapo
Chairman
Senate Committee on Banking, Housing, &
Urban Affairs
534 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Sherrod Brown
Ranking Member
Senate Committee on Banking, Housing, &
Urban Affairs
534 Dirksen Senate Office Building
Washington, DC 20510

Submitted to submissions@banking.senate.gov

Dear Chairman Crapo and Ranking Member Brown:

We write in response to your request for proposals to foster economic growth. An independent, nonprofit organization, the Institute for College Access & Success (TICAS) works to make higher education more available and affordable for people of all backgrounds. Our Project on Student Debt works to increase public understanding of rising student debt and the implications for our families, economy, and society. We thank both senators and the committee for considering proposals that will help students, borrowers, and consumers to fully participate in the economy.

Today, jobs that pay enough to get ahead, or at least not fall behind, usually require more than a high school diploma. Being able to complete a quality degree or credential without burdensome debt is crucial to improving Americans' job prospects and quality of life and boost economic growth. Rising borrowing levels raise serious concerns, both for individuals and the broader economy. More than 40 million Americans have student loans, and a record high 8.4 million federal student loan borrowers are in default, which carries long-lasting, devastating financial consequences for students and families. For students not in default, high student loan debt, risky private loans, and even low debt, when paired with low earnings, can hold borrowers back from starting a family, buying a home, saving for retirement, starting a business, or saving for their own children's education.

Chief among our [recommendations](#) for this committee to consider are preventing unnecessary private student loan borrowing by requiring school certification of private student loans and treating private student loans like other consumer debt in bankruptcy:

Prevent unnecessary private loan borrowing by requiring school certification of private loans. There is bipartisan support for ensuring that students review all federal student loan options before turning to riskier private loans to pay for school,¹ yet almost half of undergraduates who borrow private loans could have borrowed more in safer federal student loans.² Paying for college with private loans is similar to paying for college on a credit card because private loans typically charge higher interest rates and lack the consumer protections and flexible repayment options that come with federal loans, except that private loans are much more difficult to discharge in bankruptcy than credit card debt. We strongly support the introduction of legislation to require school certification of private loans, including notifying the student of any remaining federal aid eligibility before the loan is certified. That is because the current self-

¹ See, for example, U.S. House of Representatives Committee on Education and the Workforce. 2016. Bill Summary: The Empowering Students Through Enhanced Financial Counseling Act. <http://bit.ly/2hxHm3Y>.

² TICAS. 2016. Private Loans: Facts and Trends. <http://bit.ly/2axtG3o>.

certification procedures do not adequately protect private loan borrowers because there is no mechanism to ensure that the information provided is correct, and many schools do not take the opportunity to inform or counsel students before certifying the private loan. Legislation to require school certification of private loans passed the House with bipartisan support in 2008 and 2009, with support from lenders, schools and students.³

Treat private loans like other consumer debt in bankruptcy. Since 2005, private education loans have been treated like federal student loans in bankruptcy, making them much more difficult to discharge than credit cards and other consumer debt in bankruptcy. This leaves most private loan borrowers at the mercy of the lender if they face financial distress, for reasons including, but not limited to: unemployment, disability, illness, or military deployment, or when a school closes before a student can finish their certificate or degree. Dozens of organizations representing veterans, students, schools, admissions counselors, teachers, financial aid administrators, and consumers support restoring fair treatment to bankrupt private loan borrowers.⁴ We strongly support legislation from last Congress, the *Fairness for Struggling Students Act*, S.729, to restore fair bankruptcy treatment to private loan borrowers.

Attached please find our [national policy agenda to reduce the burden of student debt](#), which contain these two common-sense private loan reforms and many more improvements to spur economic growth by:

- Increasing access to need-based student aid
- Simplifying and improving federal student loans and their repayment
- Providing students with key information when they need it
- Protecting students and taxpayers from colleges that overcharge and under deliver
- Reducing reliance on private education loans and strengthening borrower protections

Sincerely,

Jennifer Wang
DC Office Director
The Institute for College Access & Success (TICAS)
jwang@ticas.org

³ See December 10, 2009 letter signed by 25 organizations, including TICAS, in support of mandatory certification at http://ticas.org/sites/default/files/pub_files/House_coalition_ltr_cert_Dec09.pdf, and May 7, 2010 letter signed by lenders and others urging inclusion of mandatory school certification in the Senate financial reform bill at http://ticas.org/sites/default/files/pub_files/nasfaaschoolcert_may_7_cba_nasfaa_et_al.pdf.

⁴ Sen. Durbin. Press Release. March 12, 2015. "As Rising Student Loan Debt Nears \$1.2 Trillion, Durbin Introduces Legislation To Address Crisis." <http://bit.ly/1dlepMu>.



NATIONAL POLICY AGENDA TO REDUCE THE BURDEN OF STUDENT DEBT

October 10, 2016

Since 2005, The Institute for College Access & Success (TICAS) and its Project on Student Debt have worked to reduce the risks and burdens of student debt. We have helped create and improve Income-driven repayment plans to keep federal loan payments manageable; strengthen Pell Grants, which reduce the need to borrow; and simplify the financial aid application process. But there is much more work to be done.

Increase access to need-based student aid

- Secure and improve Pell Grants
- Further simplify the federal financial aid application process
- Streamline and improve higher education tax benefits
- Promote state investment in affordable higher education

Simplify and improve federal student loans and their repayment

- Simplify federal student loans and better target subsidies
- Streamline, improve, and promote awareness of federal loan repayment options

Provide students with key information when they need it

- Collect better data on students' debt and outcomes
- Improve and promote tools to help students make wise college decisions

Protect students and taxpayers from colleges that overcharge and underdeliver

- Enhance and improve institutional accountability
- Strengthen policies to prevent waste, fraud, and abuse

Reduce reliance on private education loans and strengthen borrower protections

- Prevent unnecessary private loan borrowing by requiring school certification of private loans
- Treat private loans like other consumer debt in bankruptcy
- Increase community college students' access to federal students loans

INCREASE ACCESS TO NEED-BASED STUDENT AID

Financial aid policy should ensure that students from all backgrounds can get a college education without taking on crushing debt or excessive outside work that reduces the odds of completing a degree or certificate. Truly supporting college access and success requires more need-based grant aid and better targeted tax incentives that help limit how much students need to borrow and work while in school, and a financial aid process that is a gateway rather than an obstacle.

Secure and improve Pell Grants

Our nation cannot achieve the goal of leading the world in college completion without investing in Pell Grants. A strong economy requires a well-educated populace, and federal [Pell Grants](#) help nearly eight million low- and moderate-income students a year pursue higher education or training. At the same time, cost concerns still deter many from pursuing a college education or postsecondary training. Grants based on financial need reduce the amount that low- and moderate-income students need to borrow and encourage them to attend and finish college. Strengthening Pell Grants must be a top priority. Based on existing research, we recommend doubling the maximum Pell Grant to close income gaps in access and attainment and indexing it to inflation to maintain its value going forward. We recommend making Pell Grants a mandatory program that is not subject to annual appropriations based on projections that can turn out to be too high or too low. We also support [legislation](#) (H.R. 3512, S. 2037) that would restore Pell eligibility for defrauded students and students who attended schools that closed, as well as urge the Department of Education to review its [existing authority](#) to do this. These students need and deserve a [fresh start](#).

Further simplify the federal financial aid application process

The complexity of the federal financial aid application process discourages too many students from applying for or receiving the aid they need to attend and complete college. Significant changes have been implemented to simplify the Free Application for Federal Student Aid (FAFSA), including our proposal to let applicants electronically transfer their IRS data to the FAFSA, and using the tax data available when students typically apply to college to determine aid. These changes have streamlined the aid application process for millions of students and their families and will let students find out how much federal aid they are eligible for before they have to decide where to apply. We recommend [further simplifying](#) the FAFSA by eliminating 20 burdensome questions that cannot be automatically answered using Internal Revenue Service (IRS) data and that require students to collect detailed financial information from multiple sources. Other [policy and institutional changes](#) would reduce the heavy paperwork and bureaucracy typical of the aid verification process, which can keep eligible students from getting the aid they need and unduly burden financial aid offices.

Streamline and improve higher education tax benefits

Current higher education tax provisions are too poorly timed and poorly targeted to efficiently increase college access or success. [Bipartisan legislation](#) (H.R. 3393) introduced in 2013 incorporated many of our [recommendations](#) to dramatically streamline tax benefits by creating an improved American Opportunity Tax Credit (AOTC) and eliminating less targeted and less effective tax benefits, such as the Tuition and Fees Deduction and Lifetime Learning Credit. Research suggests that the AOTC is the most likely of the current tax benefits to increase college access and success because unlike other higher education tax benefits it is partially refundable, so students and families with low incomes can benefit. The bill also eliminated the taxation of Pell Grants, removing unnecessary complexity while helping Pell

recipients access the education tax benefits for which they are eligible. [Bipartisan legislation](#) (H.R. 5764) introduced in 2016 also eliminates the taxation of Pell Grants.

Additionally, to simplify the tax code, ensure equity, and reduce the burden of student debt, we recommend eliminating the taxation of forgiven or discharged federal student loan debt. Currently, borrowers who receive a loan discharge after 20 or 25 years of responsible payments in an income-driven repayment (IDR) plan may face an unaffordable tax liability because these discharged amounts are treated as taxable income. Concern about this potential tax liability discourages some borrowers from enrolling in IDR—including borrowers whom IDR was specifically designed to help. By contrast, loan balances discharged after 10 years of payments under the Public Service Loan Forgiveness program (PSLF) are *not* treated as taxable income. This disparity is highly inequitable and multiple bills have been introduced to correct it so that discharged student loans are not taxed as income.

Promote state investment in affordable higher education

A decades-old trend of state disinvestment in public higher education accelerated dramatically during the Great Recession. After adjusting for inflation, average per student state funding at public institutions remains [18 percent](#) below its pre-recession level. We recommend making new federal investments contingent on states investing in public higher education. It is critical that Congress take steps to ensure that states increase and maintain their investment in public higher education, with a particular focus on maintaining or lowering the net price of public college for low- and moderate-income students. For example, [legislation](#) (S. 2191) introduced in 2015 and [legislation introduced](#) in 2016 (H.R. 5756) include strong maintenance of effort provisions to ensure that new federal dollars sent to states do not supplant state and other forms of higher education funding and financial aid.

SIMPLIFY AND IMPROVE FEDERAL STUDENT LOANS AND THEIR REPAYMENT

The current federal student loan program is too complex, its terms are too arbitrary, and its benefits are poorly targeted. Much of the complexity is a holdover from when banks received subsidies to make loans that were guaranteed by the government. Now that these loans are made directly and more cost-effectively by the Department of Education, the entire student loan system can and should be streamlined and improved.

Simplify federal student loans and better target subsidies

We [recommend](#) streamlining and improving federal student loans to better support access and success while containing costs and risks for both students and taxpayers. In place of the two types of Stafford Loans available to undergraduates today, there should be a single undergraduate student loan with a fixed interest rate and no fees. To support and encourage students to stay enrolled and complete, the loan would have a low interest rate while the student is in school, based on the government's cost of borrowing. When the loan enters repayment, the interest rate would rise by a set margin, but the total rate could never exceed a designated cap. The interest rates would be set based on the cost of running the loan program, rather than based on how much net revenue they are expected to generate for the government.

To help borrowers who go to school when interest rates are unusually high, the loan would have a built-in form of insurance that would keep their rates from ever being too much higher than the rate on loans being offered to current students. Additionally, to provide a targeted safety net for borrowers from low-

income families, Pell Grant recipients would be eligible for interest-free deferments during periods of unemployment and economic hardship.

Streamline, improve, and promote awareness of federal loan repayment options

With the number of federal student loan borrowers in default at a record eight million and rising, more needs to be done to improve student loan servicing, simplify and increase borrower awareness of repayment options, and help borrowers enroll and remain in affordable plans to avoid default.

Since July 2009, federal student loan borrowers have had additional repayment options that cap monthly payments as a share of their income and forgive any debt remaining after 20 or 25 years in repayment. These plans help to ensure that monthly payments are affordable, but current default and delinquency rates make clear that many more borrowers could be benefiting from them. The Education Department has taken steps to promote awareness of income-driven plans and make it easier to enroll, but much more needs to be done. We strongly support bipartisan [legislation](#) (H.R. 5962) introduced in 2016 that would automatically enroll severely delinquent borrowers in an income-driven plan to help prevent defaults, and automate the annual income recertification process required for borrowers to continue making income-driven payments.

We also [recommend](#) replacing the multiple income-driven plans with a single, streamlined plan that lets all borrowers choose the assurance of manageable payments and forgiveness after 20 years. Monthly payments would be capped at 10% of a borrower's income and remaining balances would be forgiven after 20 year of payments. Additionally, we recommend targeting the benefits to borrowers who need help the most by phasing out the income exclusion for borrowers with high incomes and eliminating the 10-year standard payment cap on monthly payment amounts. We strongly support [legislation](#) introduced in the Senate (S. 1948) in 2015 that reflects these recommendations.

In addition, we urge the adoption of consistent, enforceable servicing standards for all student loans, as [jointly recommended](#) by the Consumer Financial Protection Bureau (CFPB) and Departments of Education and Treasury. We also strongly support prompt implementation of the Education Department's July 2016 [policy direction](#) on the servicing of all federal student loans to create a more transparent and accountable system that provides high-quality servicing and promotes continuous improvement.

PROVIDE STUDENTS WITH KEY INFORMATION WHEN THEY NEED IT

To make wise decisions about where to go to college and how to pay for it, students and their families need clear, timely, and comparable information about costs, financial aid, and typical outcomes. That is why we recommend improvements in the collection and availability of student data, and the improvement and promotion of important federal consumer tools.

Collect better data on students' debt and outcomes

The Department's recently improved [College Scorecard](#) highlights new data on individual colleges' costs and student outcomes. However, currently available data on student debt remain incomplete and uneven. For example, the total debt at graduation—including federal and private loans—is still not available for each college, nor is the debt for each type of credential offered by a given school. While the Department is working toward obtaining cumulative debt data through the National Student Loan Data System (NSLDS), such data will be incomplete because private loans are not included in that database.

Ultimately, the best way to provide accurate and comprehensive data on private loan borrowing while minimizing the reporting burden for colleges is for the Department to collect the data directly from lenders, using the NSLDS platform through which lenders currently report on every federal loan, or an equivalent system for tracking all federal and private loans. Until such a system is in place, we recommend that the Department immediately [collect these data](#) from colleges via the Integrated Postsecondary Education Data System (IPEDS).

Improve and promote tools to help students make wise college decisions

It is far too hard for consumers to tell what a given school might cost them before they apply, or to compare the real value of financial aid offers before choosing where to attend. With easy-to-understand, comparable information, students and families will be able to better identify colleges that provide the best value and fit their specific needs. Increased transparency and awareness may also create pressure for colleges to keep their costs to students affordable and find ways to better support student success. That is why we support the improvement and promotion of the College Scorecard and the following federal consumer tools.

- **Net Price Calculator.** Federal law requires colleges to post online “net price calculators” to help students and families look beyond a college’s sticker price and learn which colleges they might be able to afford, before they have to decide where to apply. Unfortunately, our [research](#) has found that many calculators are hard to find, use, and compare. Subsequent [guidance](#) from the Department has helped, but more remains to be done to ensure that the calculators live up to their potential. We strongly support bipartisan legislation introduced in the [House](#) (H.R. 3694) in 2013 and in the [Senate](#) (S. 2150) in 2015 to improve these tools based on our research, including by authorizing the creation of a central net price calculator portal so students could enter their information once and instantly get comparable net price information from multiple colleges.
- **Shopping Sheet.** Jointly developed by the U.S. Department of Education and CFPB, the “Shopping Sheet” is a voluntary model format for college financial aid offers to make it easy for students who have been accepted to a college to understand and compare the real cost of attending that college. More than 3,000 colleges now use the [Shopping Sheet](#), but most schools still either do not use it at all or use it only for some students. To ensure that students receive clear and comparable information from every college to which they are admitted, we support [bipartisan legislation](#) (S. 2149) introduced in 2015 that would require all colleges receiving federal aid to use a similar standardized format. Both this legislation and the shopping sheet reflect the consensus we helped build on [key elements](#) that must be included in any aid offer, such as the full cost of attendance, net price, and clear distinctions between grants and loans.
- **Loan Counseling.** By law, all federal student loan borrowers are required to receive entrance and exit counseling. But both the timing and content of loan counseling need to be improved. The Department’s current online counseling, used by thousands of colleges, could better help students borrow wisely, complete college, and repay their loans. For example, the Department recently proposed fixing the timing of entrance counseling, so that borrowers are counseled before rather than after they sign the promissory note, as we have long recommended. Exit counseling should better help borrowers consider the tradeoffs among repayment options based on the borrower’s expected income and total student debt, and preference for keeping monthly payments low or for reducing their total cost. We support the Department’s [effort](#) to test and evaluate more frequent loan counseling, and improve its existing online loan

counseling tools through consumer testing. We also support [bipartisan legislation](#) (H.R. 3179) passed by the House of Representatives in 2016 to improve the timing and effectiveness of loan counseling, including by encouraging students to use federal student loans before considering risky private loans to pay for college.

PROTECT STUDENTS AND TAXPAYERS FROM COLLEGES THAT OVERCHARGE AND UNDERDELIVER

While students are, and should be, held accountable for studying and making progress toward a credential, there are few consequences for schools that fail to graduate large shares of students while consistently leaving students with debts they cannot repay. Federal policies need to protect taxpayers and students from waste, fraud, and abuse in federal student aid programs.

Enhance and improve institutional accountability

We [propose](#) more closely tying a college's eligibility for federal funding to the risk students take by enrolling and the risk taxpayers take by subsidizing it, and rewarding schools that serve students well. The current all-or-nothing, one-size-fits-all eligibility standard based on the cohort default rate (CDR) alone provides little incentive for colleges to improve unless they are on the verge of losing eligibility for federal funds, and provides no rewards for schools serving low-income students well. It also may unintentionally provide incentives for institutions with low borrowing rates to withdraw from the federal student loan program, resulting in federal loans being out of reach for nearly [one million community college students](#). To address these shortcomings, we recommend that Congress use a metric that accounts for a school's borrowing rate to establish thresholds for rewards, risk-sharing payments and loss of eligibility. Penalties should be targeted at the worst performers, and rewards designed to protect against unintended consequences of decreased access for low-income students.

Strengthen policies to prevent waste, fraud and abuse

Stronger policies, oversight, and enforcement are urgently needed to prevent unscrupulous colleges from wasting taxpayer dollars and preying on vulnerable students and our nation's veterans. These problems are of particular concern in the for-profit college sector, where borrowing rates, debt levels, and default risk are highest. For-profit colleges enroll only 10 percent of college students but account for [35 percent](#) of all student loan defaults. [Thirty-seven state attorneys general](#) are jointly investigating potential fraud by for-profit colleges, the Department of Justice, Securities and Exchange Commission, Consumer Financial Protection Bureau have sued major for-profit colleges, and two major chains closed after the Education Department took enforcement actions.

Important new [regulations](#) went into effect in 2015 to enforce the longstanding statutory requirement that career education programs at public, nonprofit, and for-profit colleges receiving federal funding "prepare students for gainful employment in a recognized occupation." The Education Department also launched a coordinated [system](#) for accepting and tracking public complaints against schools on July 1, 2016. However, more can and must be done to protect students and taxpayers from well-documented abuses. For example, current laws and regulations should be enforced more aggressively, and defrauded students need to receive the debt relief to which they are entitled under the law without delay. Congress must do its part as well, including by enacting legislation ([S. 1908](#), [H.R. 4109](#)) to prohibit any type of college from using federal financial aid dollars for marketing, advertising, and recruitment. For information on the broad coalition of student, consumer, civil rights, veterans, and college access organizations working to better protect students and taxpayers, visit [ProtectStudentsandTaxpayers.org](#).

REDUCE RELIANCE ON PRIVATE EDUCATION LOANS AND STRENGTHEN BORROWER PROTECTIONS

Interest rates on private loans are typically variable, like on a credit card, and over the life of the loan much higher than the fixed rates on federal student loans. Lower income students usually receive the worst rates and terms, and private loans do not have the important borrower protections and repayment options that come with federal loans. We recommend the changes below to reduce reliance on risky private loans and to enhance protections for borrowers who have such loans. For more information, see our [publications and resources](#) related to private loans.

Prevent unnecessary private loan borrowing by requiring school certification of private loans

Almost half of undergraduates who borrow private loans [could have borrowed more](#) in safer federal student loans. Unfortunately, many students who borrow private loans – and the family members who co-sign them – don’t understand the difference between federal and private loans until it is too late. Requiring private lenders to confirm a borrower’s eligibility with his or her school before disbursing the loan ensures the student is eligible for that loan. It also gives the school a chance to help the student make an informed borrowing decision. Students, schools, and lenders, as well as the CFPB and the Department of Education, have all endorsed requiring “school certification” of private loans, including notifying the student of remaining federal aid eligibility before the loan is certified. We urge the Department and the CFPB to require such certification for all private loans, and we support [legislation](#) (S. 3347) that would require it as well.

Treat private loans like other consumer debt in bankruptcy

Since 2005, it has been far more difficult to discharge private loans than credit cards and other consumer debt in bankruptcy. This leaves most private loan borrowers at the mercy of the lender if they face financial distress due to unemployment, disability, illness, or military deployment, or when a school shuts down before they can finish their certificate or degree. We are part of a broad coalition that supports [legislation](#) (S. 729, H.R. 1674) to restore fair bankruptcy treatment to private loan borrowers.

Increase community college students’ access to federal student loans

[Nearly one million community college students](#) can’t get a federal loan if they need one, because their school does not participate in the federal loan program. While many community college students can avoid borrowing, those who need to borrow to stay and succeed in school should have access to the safest, most affordable option: federal student loans. Without access to federal loans, students may turn to risky and expensive private loans or credit cards, or they may drop out, work excessive hours, or take fewer classes – choices that reduce their odds of earning a degree or certificate. Federal and state policies should encourage community colleges to participate in the federal loan program and better support them in helping students make informed borrowing decisions.