

ENSURING CONTINUED ACCESS TO STUDENT LOANS ACT  
OF 2008

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APRIL 14, 2008.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed

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Mr. GEORGE MILLER of California, from the Committee on  
Education and Labor, submitted the following

R E P O R T

[To accompany H.R. 5715]

The Committee on Education and Labor, to whom was referred the bill (H.R. 5715) to ensure continued availability of access to the Federal student loan program for students and families, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

I. PURPOSE

The purpose of H.R. 5715, the Ensuring Continued Access to Student Loans Act of 2008, is to ensure continued availability of access to the Federal student loan program for students and families.

II. COMMITTEE ACTION INCLUDING LEGISLATIVE HISTORY AND  
VOTES IN COMMITTEE

110TH CONGRESS

*Full Committee hearing on “Ensuring the Availability of Federal Student Loans”*

On Friday, March 14, 2008, the Committee on Education and Labor held a hearing in Washington, D.C., on “Ensuring the Availability of Federal Student Loans.” The purpose of the hearing was to highlight the options that exist through the Department of Education to prevent a shortage of student loan availability in the fall of 2008, and to underscore that credit market constraints may present a problem for some lenders’ access to capital, but such constraints do not present a problem for borrowers’ access to Federal student loans. Testifying before the full Committee were Hon. Mar-

garet Spellings, U.S. Secretary of Education; Paul Wozniak, Director and Manager, Education Loan Group—UBS; Terry Muilenburg, Senior Vice President, USA Funds; Roberta Johnson, Director, Office of Student Financial Aid, Iowa State University; Charlie C. “Chuck” Sanders, Jr., President and CEO, South Carolina Student Loan Corporation; Sarah Bauder, Director, Office of Financial Aid, University of Maryland.

*Introduction of the “Ensuring Continued Access to Student Loans Act of 2008”*

On Tuesday, April 8, 2008, Representatives George Miller (D-CA), Howard P. “Buck” McKeon (R-CA), Ruben Hinojosa (D-TX), Jason Altmire (D-PA), Carol Shea-Porter (D-NH), Phil Hare (D-IL), Rush D. Holt (D-NJ), Joe Courtney (D-CT), Raul M. Grijalva (D-AZ), John P. Sarbanes (D-MD), Robert C. “Bobby” Scott (D-VA), Lynn C. Woolsey (D-CA), Timothy H. Bishop (D-NY), Mazie Hirono (D-HI), David Loebsack (D-IA), David Wu (D-OR), and Joe Sestak (D-PA) introduced H.R. 5715, the Ensuring Continued Access to Student Loans Act of 2008, a bill to ensure continued availability of access to the Federal student loan program for students and families.

*Full Committee markup of H.R. 5715*

On Wednesday, April 9, 2008, the Committee on Education and Labor considered H.R. 5715 in legislative session, and reported the bill favorably to the House of Representatives. The Committee reported the bill by voice vote. The Committee rejected one amendment by roll-call vote.

### III. SUMMARY OF THE BILL

**Increased unsubsidized loan limits for students:** H.R. 5715 increases annual unsubsidized loan limits by \$2,000 for undergraduates and graduate students. It also increases the aggregate loan limits to \$31,000 for dependent undergraduates and to \$57,500 for independent undergraduate students.

**Delayed repayment of parent PLUS loans:** Currently PLUS loan borrowers—parents—go into repayment 60 days after disbursement of the loan. H.R. 5715 gives families an option of not entering repayment for up to 6 months after a student leaves school.

**PLUS loan eligibility for struggling homeowners:** Under current law, parents with an adverse credit history are ineligible to receive a parent PLUS loan, except under extenuating circumstances. In light of the current housing market, H.R. 5715 temporarily qualifies up to 180 day delinquency on home mortgages as an extenuating circumstance, therefore making it more possible for parents struggling with the current housing market to secure loans for their children.

**Lender of last resort flexibility:** H.R. 5715 makes clear in statute that the Secretary of Education has the authority to advance Federal funds to Guaranty Agencies in the case that they do not have sufficient capital, and also clarifies the existing authorization for the appropriations of funds to make such advances. Further, the bill allows a Guaranty Agency to designate a school (rather than an individual student) as a “lender of last resort school,” in accordance with guidelines set by the Secretary.

Authority for the Secretary of Education to purchase FFEL loan assets: H.R. 5715 gives the Secretary the temporary authority, upon a determination that there is inadequate availability of loan capital to meet demand for loans, to purchase loans from FFEL lenders. Such purchases could only be made in the case that loan purchases are revenue-neutral or beneficial to the Federal Government.

Federal institutions' participation: H.R. 5715 includes a section expressing the Sense of the Congress that the Federal Financial Institutions and entities (including the Federal Financing Bank, the Federal Home Loan Banks, and the Federal Reserve) should consider using, in consultation with the Secretaries of Education and the Treasury, available authorities, if needed, to assist in ensuring continued student loan access.

#### IV. COMMITTEE VIEWS

In recent months, turmoil in the U.S. credit markets has made it difficult for some lenders in the federally guaranteed student loan program to secure the capital needed to finance college loans, leading some lenders to scale back their lending activity. While no student or college has reported any problems accessing Federal student aid to date, the Committee believes it is only prudent for the Federal Government to make sure that contingency plans are in place that would provide students and families with continued, uninterrupted access to Federal loans, regardless of what's happening in the credit markets. The Ensuring Continued Access to Student Loans Act of 2008 would provide new protections, in addition to clarifying those in current law, to ensure that families can continue to access the loans they need to pay for college.

##### *Overview of current credit market conditions*

The U.S. capital market has been experiencing stress as a result of the sub-prime mortgage crisis and investor uncertainty about the condition of the economy. Mortgage default risk is spread widely across and intertwined throughout the nation's economy. The unclear impact of this risk on financial institutions has caused lenders of all types to reduce lending activity or to make loans at higher interest rates. Similarly, the ability of private companies to obtain funds through the credit markets has been affected. The inability of consumers and businesses in all parts of the economy to easily borrow funds has driven central banks around the world to take action to encourage the lending of funds to worthy borrowers and to reinvigorate the credit markets. In addition, the sub-prime mortgage crisis has put downward pressure on economic growth, because fewer or more expensive loans decrease investment by businesses and consumer spending, which drive the economy.

##### *Current credit market conditions related to student loans*

Recently, some student loan lenders have encountered difficulties in accessing the capital market to finance their lending activity. Some lenders, including 4 of the top 20 originators, have announced that they are exiting the Federal Family Education Loan Program (FFELP) or curtailing their lending by not originating Federal student consolidation loans. In addition, some private student loan lenders have announced that they will be more selective

in making loans to students and/or be more selective in their relationships with certain types of schools or leave the private loan market altogether. The heightened concern about the difficulties facing certain student loan lenders and the potential of significantly diminished student access to education loans has led some to call for government intervention in the capital markets. Doing so, in some instances, may potentially help ensure that students and families can access Federal student loans.

To address these challenges posed by current conditions in the credit markets, the Committee included specific provisions in H.R. 5715 aimed at ensuring that turmoil in the U.S. credit markets does not prevent any students or parents from accessing the financial aid they need to pay for college.

*Lender of last resort*

Under existing law, FFELP guaranty agencies are obligated to serve as lenders-of-last resort to avert any possible problem in access to student loans, thereby providing a nationwide network of backstop lenders. As part of their contracts with the Secretary, guaranty agencies are required to develop rules and procedures for a lender-of-last resort (LLR) program. Under these programs, guaranty agencies themselves, or in conjunction with another FFELP lender, make LLR loans to borrowers who show that two lenders have denied providing a borrower with a Federal student loan. Guaranty agencies or other lenders who make LLR loans qualify for 100 percent insurance against borrower default, rather than the standard 97 percent insurance. Moreover, the law gives the Secretary the authority to advance federal funds to guaranty agencies, on appropriate terms and conditions, to be used to make LLR loans, if needed.

Although a large scale LLR program has not been previously implemented for the FFELP, the Department had established and was ready to make operational a national LLR program in 1998, when some FFELP lenders were then indicating that they might withdraw from the FFELP. In addition, by preparing in advance, the Department had optimized an approach to minimize the burden on students. Rather than requiring individual students to document lenders' refusals to make loans, the plan provided for an option for a school unable to locate a lender willing to provide loans to its students. Such a school could notify its state's designated guaranty agency and certify that its students have been unable to obtain loans. Under the plan, the guaranty agency was then to review the school's certification of need for LLR loans, and then (1) provide LLR loans itself, if necessary with federal advances, or (2) provide them under an agreement with a third-party lender, if necessary with federal advances. Because schools are already accustomed to working the guaranty agencies, the plan took advantage of preexisting relationships under the FFELP program without unduly complicating the process for schools and borrowers.

H.R. 5715 aims to address the issues raised by Terry Muilenburg, Senior Vice President of USA Funds, at the March 14th Committee on Education and Labor hearing to ensure that guaranty agencies can better carry out the LLR provisions by:

- (providing specific authority to carry out the program on a school wide basis, as opposed to requiring individual students

to document that two lenders have denied making them a loan, in addition to being able to provide LLR loans to individual students; and,

- clarifying that the Secretary has the authority to advance funds to guaranty agencies under the LLR program to fulfill the goal of ensuring students' access to loans.

In responding to a letter sent to the Secretary by Chairman George Miller, the Secretary confirmed her ability to provide funding advances to guaranty agencies, if needed. While such a clarification is appreciated, the Committee believes that permanent clarification is needed to ensure that there is no ambiguity concerning the Secretary's authority in the future.

*Other options for institutions*

The Committee believes that the LLR provisions should be a priority for the Secretary to implement so that FFELP schools can continue to exist in the current program without disruption to their students. It is the strong belief of the Committee that it is up to each 4 individual college and university as to what program they participate in: either FFELP or the Direct Student Loan Program. Currently, Direct Loans account for about 20 percent of all federal college loan volume, but accounted for as much as 34 percent in years past.

The Committee believes there are clear steps that institutions can take right now to be ready in the case that their students are unable to secure loans from independent lenders participating in the FFELP. The Committee believes that institutions can and should take steps to consider entering the Direct Loan Program for this fall, even if they choose to not utilize the program. This will allow institutions to have this option on standby. The school certification and system processes for the Direct Loan Program are very similar to processes institutions already use to offer Pell Grants.

Further, the Secretary of Education should take steps to ensure that the Department is ready to help schools that meet established criteria to use the LLR option or help schools that so desire to utilize the DL program on either a temporary or permanent basis.

*Secretary's temporary authority to purchase loans*

FFELP lenders fund the loans they make to students in a variety of ways. Depository banks and credit unions, for example, use funds deposited by consumers into their checking and savings accounts to make loans to students. Other lenders may borrow money by issuing bonds to investors who agree to lend money in exchange for receiving payments of interest and repayment of principal.

Another way some student loan lenders fund the loans they make to students is through a process called "securitization." This process involves lenders pooling their loans together and selling securities to investors, which may be bought and sold in ways similar to how shares of a company are traded on the stock market. These securities are generally known as "asset-backed securities" (ABS) because the student loans serve as collateral backing up the securities. Investors who buy these securities are compensated with payments of interest. These investors assume the risk that the loans, pledged as collateral backing up the security, are repaid and generate the cash flow necessary to pay the interest due on their secu-

rity investment. Lenders who sell these securities to investors use the proceeds, in turn, to make more loans to students.

The interest rate the issuer of an ABS pays to investors who buy them can be determined in a variety of ways. In some cases, the ABS may carry a “floating rate.” Similar to an adjustable rate mortgage, the interest paid on a floating rate ABS is adjusted periodically according to a predetermined formula, usually pegged to an index rate such as the “prime rate” or the rate of interest paid on U.S. Treasury Bills. In other cases, the ABS may be an “auction-rate security,” where the interest paid on the ABS is a floating rate that is periodically reset through an auction process, usually conducted on a weekly or monthly basis. Investment banks, such as Goldman-Sachs, UBS, and others, conduct these auctions, serving as an intermediary between the lender issuing the securities and the investors interested in purchasing the securities. At these auctions, investors bid on the interest rate they will accept for the subsequent week or month until the next auction occurs. In addition, investors may buy or sell the securities to others. As recently reported in the media, some of these auctions have “failed,” meaning there have been no investors interested in buying the securities. When an auction fails, the securities are left in the hands of investors who already hold them, and the interest rate paid to the investors gets reset based on a formula written in the original offering documents when the securities were first sold.

The Committee is concerned that in recent months, the failing of these auctions has left many lenders without a means of raising capital. This issue was raised by several witnesses at the March 14th Committee on Education and Labor hearing, but in particular by Charlie C. “Chuck” Sanders, Jr., President and CEO, South Carolina Student Loan Corporation. To address this issue, H.R. 5715 gives the Secretary the temporary authority, upon a determination that there is an inadequate availability of loan capital to meet the demand for loans, to purchase loans from FFELP lenders. Such purchases could only be made in the case that the purchases were revenue-neutral or beneficial to the Federal Government. H.R. 5715 also provides the Secretary the ability to let contracts for the servicing of purchased loans with entities that have extensive and relevant experience. In addition to helping ensure the continued existence of the FFELP, the bill requires lenders who choose to take advantage of this provision to reinvest the funds back into the FFEL program.

#### *Increasing loan limits*

The Committee is concerned about the ever increasing cost of college, especially given that college costs have been increasing more rapidly than available grant aid, federal loans, and families’ ability to pay. While loans are not the preferred method of paying for college, increasing costs and the failure of grant aid to keep pace with the increases have led many students to finance their higher education using the Federal student loan programs. According to the Department of Education, 33 percent of all undergraduates (including those attending part-time and full-time) borrowed from the Stafford loan programs in academic year 2003–2004. Further, 42 percent of students at public 4-year institutions, and 53 percent at private not-for-profit 4-year institutions borrowed from the Stafford

loan programs in the same year. (Wei, C.C., and Berkner, L. (2008)). Trends in Undergraduate Borrowing II: Federal Student Loans in 1995–96, 1999–2000, and 2003–04 (NCES 2008–179rev). National Center for Education Statistics, Institute of Education Sciences, U.S. Department of Education. Washington, DC.).

Further, students are relying more and more on private education loans to fund their college educations. Last year, private loans totaled nearly \$20 billion, accounting for one out of every five dollars borrowed for college, according to the College Board. A decade ago, private loans accounted for only 4 cents of every loan dollar. The current market conditions have caused lenders to tighten borrowing standards on all consumer debt, including private student loans. While the Committee believes that students and families should only borrow the minimum amount needed to finance higher education, limited increase in the loan limits in the federal programs will help ensure uninterrupted access to higher education for those students who need to rely on costlier private loans.

H.R. 5715 aims to help alleviate the challenges facing students in paying for college. In particular, the bill provides for increased annual and aggregate Federal student loan limits for undergraduates and graduates, thereby helping borrowers to finance a higher portion of their educational costs as well as helping to reduce their reliance on costlier private education loans. A chart provided in the section-by-section outlines current law for both dependent and independent students and the proposed changes in H.R. 5715. The Committee expects that these additional funds will be used by students to help pay for their education and not provide institutions with an invitation to increase their costs.

#### *PLUS loans provisions*

Financing higher education often falls not only on students, but on their families as well. Just as Federal student borrowing has increased in recent years, parents have taken out loans through the Federally-backed PLUS loan program at increasing rates. Currently PLUS loan borrowers—parents—go into repayment 60 days after disbursement of the loan. This bill would give families an option of not entering repayment for up to 6 months after a student leaves school, making it consistent with the way that students in the Stafford loan program enter into repayment. Introducing more flexible repayment options in this program will help to ensure that families already struggling in tough economic times will still be able to provide assistance to their children while they are in school.

Additionally, under current law, parents with an adverse credit history are ineligible to receive a parent PLUS loan, except under extenuating circumstances. The Committee is concerned that many individuals who are struggling in the current credit markets are further strained in their efforts to afford college and qualify for loans. In light of the current housing market, the bill temporarily qualifies up to 180 day delinquency on home mortgages as an extenuating circumstance, therefore making it more possible for parents struggling with the current housing market to secure loans for their children's postsecondary education.

*Actions by other agencies—Sense of Congress*

Much has been discussed about other agencies and their abilities to assist in addressing the challenges faced by lenders participating in the federal student loan program.

H.R. 5715 includes a Sense of the Congress that the Federal Financial Institutions and entities (including the Federal Financing Bank, the Federal Home Loan Banks, and the Federal Reserve) should consider using, in consultation with the Secretaries of Education and the Treasury, available authorities, if needed, to assist in ensuring continued student loan access. Further the Sense of Congress clarifies that such efforts should not deter the work within the Department of Education to ensure that the lender of last resort option is ready and operational in the unlikely event it is needed for students and families, nor should such efforts limit or delay the Secretary's authority to purchase FFELP loans. In addition, the Committee believes that the efforts undertaken in this legislation should not slow down or stop efforts by the Department of Treasury or the Federal Reserve to take additional action through current authorities to provide additional liquidity into the market.

## V. SECTION-BY-SECTION ANALYSIS

*Sec. 1. Short title*

This section cites the short title of H.R. 5715 as the “Ensuring Continued Access to Student Loans Act of 2008.”

*Sec. 2. Increasing unsubsidized Stafford loan limits for undergraduate and graduate students*

This section increases annual unsubsidized loan limits by \$2,000 for each year of undergraduate and graduate school. It also increases the aggregate loan limits to \$31,000 for dependent undergraduates and \$57,500 for independent undergraduate students. Increased levels under this section apply to loans issued on or after July 1, 2008. Amended levels are reflected in *italic* below:

STUDENT LOAN LIMITS					
	Subsidized	Unsubsidized		Total	
ANNUAL LIMITS					
Dependent Undergraduates:					
First-Year Students .....	\$3,500	(3,500)	<i>\$5,500</i>	(3,500)	<i>\$5,500</i>
Second-Year Students .....	4,500	(4,500)	<i>6,500</i>	(4,500)	<i>6,500</i>
Third-Year Students .....	5,500	(5,500)	<i>7,500</i>	(5,500)	<i>7,500</i>
Fourth-Year+ Students .....	5,500	(5,500)	<i>7,500</i>	(5,500)	<i>7,500</i>
Independent Undergraduates:					
First-Year Students .....	3,500	(4,000)	<i>6,000</i>	(7,500)	<i>9,500</i>
Second-Year Students .....	4,500	(4,000)	<i>6,000</i>	(8,500)	<i>10,500</i>
Third-Year Students .....	5,500	(5,500)	<i>7,000</i>	(10,500)	<i>12,500</i>
Fourth-Year+ Students .....	5,500	(5,500)	<i>7,000</i>	(10,500)	<i>12,500</i>
Graduate Students .....	8,500	(12,000)	<i>14,000</i>	(20,500)	<i>22,500</i>
AGGREGATE LIMITS					
Dependent Undergraduates .....	23,000	.....		(23,000)	<i>31,000</i>
Independent Undergraduates .....	23,000	.....		(46,000)	<i>57,500</i>
Graduate Students .....	65,500	.....			138,500



*Sec. 3. Grace period for parent PLUS loans*

This section amends the repayment of PLUS loans to give families an option of not entering repayment for up to 6 months after a student leaves school. This section applies to new loans issued on or after July 1, 2008.

*Sec. 4. Special rules for PLUS loans*

This section adds a special rule for the PLUS loan program to qualify up to 180 day delinquency on home mortgages as an extenuating circumstance for loans made on or after July 1, 2008 and before July 1, 2009.

*Sec. S. Lender-of-last-resort*

This section amends the Lender-of-Last-Resort provisions to allow a Guaranty Agency to designate a school (rather than an individual student) as a “lender of last resort school,” in accordance with guidelines set by the Secretary. This section will ensure all student and parent borrowers at such institutions would be eligible to receive lender-of-last-resort loans from Guaranty Agencies in a less cumbersome manner.

*Sec. 6. Mandatory advances*

This section includes language to clarify that the Secretary of Education is authorized to advance Federal funds to Guaranty Agencies in the case that they do not have sufficient capital to fulfill their obligation and clarifies the existing authorization for the appropriations of funds to make such advances.

*Sec. 7. Temporary authority to purchase student loans*

This section gives the Secretary the temporary authority, upon a determination that there is inadequate availability to meet demand for loans, to purchase loans from FFEL lenders. Such purchases could only be made in the case that purchases are revenue-neutral or beneficial to the Federal Government, and lenders must use proceeds from such transactions in a manner consistent with ensuring continued participation of such lender in the Federal student loan programs under Part B of the Higher Education Act of 1965. The Secretary’s authority under this section is from the date of enactment of this Act until July 1, 2009. H.R. 5715 also provides the Secretary the ability to let contracts for the servicing of purchased loans with entities that have extensive and relevant experience.

*Sec. 8. Sense of Congress*

This section includes a Sense of the Congress that the Federal Financial Institutions and other entities (including the Federal Financing Bank, the Federal Home Loan Banks, and the Federal Reserve) should consider using, in consultation with the Secretaries of Education and the Treasury, available authorities, if needed, to assist in ensuring continued student loan access.

## VI. EXPLANATION OF AMENDMENTS

During consideration of H.R. 5715, Mr. Price of Georgia offered an amendment to require budgetary offsets for any provision in the legislation resulting in a cost to the Federal Government. Oppo-

nents of the amendment pointed out that the bill would be fully paid for in compliance with House Paygo Rules. The amendment was defeated by a vote of 16 ayes and 21 nays.

#### VII. APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1, the Congressional Accountability Act, requires a description of the application of this bill to the legislative branch. H.R. 5715 would apply to legislative branch employees in the same way it applies to other individuals, by protecting their access to student loans.

#### VIII. UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104–4) requires a statement of whether the provisions of the reported bill include unfunded mandates.

This issue is addressed by the CBO cost estimate letter included in section XIII of this report.

#### IX. EARMARK STATEMENT

H.R. 5715 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e) or 9(f) of rule XXI.

#### X. ROLL CALL

## COMMITTEE ON EDUCATION AND LABOR

ROLL CALL: 1      BILL: H.R. 5715      DATE: 4/9/2008  
 AMENDMENT NUMBER: 1      DEFEATED: 16 AYES/21 NOES  
 SPONSOR/AMENDMENT: PRICE – PAYGO REQUIREMENT OF OFFSETS

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. MILLER, Chairman		X		
Mr. KILDEE, Vice Chairman		X		
Mr. PAYNE				X
Mr. ANDREWS		X		
Mr. SCOTT				X
Ms. WOOLSEY		X		
Mr. HINOJOSA		X		
Mrs. McCARTHY		X		
Mr. TIERNEY		X		
Mr. KUCINICH		X		
Mr. WU		X		
Mr. HOLT		X		
Mrs. SUSAN DAVIS				X
Mr. DANNY DAVIS				X
Mr. GRIJALVA		X		
Mr. TIMOTHY BISHOP		X		
Ms. SANCHEZ		X		
Mr. SARBANES		X		
Mr. SESTAK		X		
Mr. LOEBSACK		X		
Ms. HIRONO		X		
Mr. ALTMIRE				X
Mr. YARMUTH		X		
Mr. HARE		X		
Ms. CLARKE				X
Mr. COURTNEY		X		
Ms. SHEA-PORTER		X		
Mr. McKEON	X			
Mr. PETRI	X			
Mr. HOEKSTRA				X
Mr. CASTLE	X			
Mr. SOUDER				X
Mr. EHLERS	X			
Mrs. BIGGERT	X			
Mr. PLATTS				X
Mr. KELLER	X			
Mr. WILSON	X			
Mr. KLINE	X			
Mrs. McMORRIS RODGERS	X			
Mr. MARCHANT				X
Mr. PRICE	X			
Mr. FORTUÑO	X			
Mr. BOUSTANY	X			
Mrs. FOXX	X			
Mr. KUHL	X			
Mr. ROB BISHOP				X
Mr. DAVID DAVIS	X			
Mr. WALBERG	X			
[vacancy]				
<b>TOTALS</b>	<b>16</b>	<b>21</b>		<b>11</b>

#### XI. STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the body of this report.

#### XII. NEW BUDGET AUTHORITY AND CBO COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the CBO estimate of the reported bill was not available at the time of filing this report. The Committee adopts as its own the CBO cost estimate as soon as it becomes available.

#### XIII. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c) of House rule XIII, the goal of H.R. 5715 is to make sure contingency plans are in place to provide students and families with continued, uninterrupted access to federal loans, regardless of issues affecting the credit markets.

#### XIV. CONSTITUTIONAL AUTHORITY STATEMENT

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress in the Constitution to enact the law proposed by H.R. 5715. The Committee believes that the amendments made by this bill, which ensure continued access to student loans, are within Congress' authority under Article I, section 8, clause 18 of the Constitution of the United States.

#### XV. COMMITTEE ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.R. 5715. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office (CBO) under section 402 of the Congressional Budget Act. As noted in Section XII of this report, the CBO estimate of the reported bill was not available at the time of filing this report. The Committee adopts as its own the CBO cost estimate as soon as it becomes available.

#### XVI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

HIGHER EDUCATION ACT OF 1965

\* \* \* \* \*

**TITLE IV—STUDENT ASSISTANCE**

\* \* \* \* \*

**PART B—FEDERAL FAMILY EDUCATION LOAN PROGRAM**

**SEC. 421. STATEMENT OF PURPOSE; NONDISCRIMINATION; AND APPROPRIATIONS AUTHORIZED.**

(a) \* \* \*

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this part—

(1) \* \* \*

\* \* \* \* \*

(4) there are authorized to be appropriated (A) the sum of \$12,500,000 for making advances after June 30, 1968, pursuant to sections 422 (a) and (b), and (B) such sums as may be necessary for making advances pursuant to section 422(c), for the reserve funds of State and nonprofit private student loan insurance [programs, and] *programs*,

(5) there are authorized to be appropriated such sums as may be necessary for the purpose of paying a loan processing and issuance fee in accordance with section 428(f) to guaranty [agencies.] *agencies, and*

(6) *there is authorized to be appropriated, and there are appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for the purpose of carrying out section 422(c)(7).*

Sums appropriated under paragraphs (1), (2), (4), and (5) of this subsection shall remain available until expended. No additional sums are authorized to be appropriated under paragraph (3) or (4) of this subsection by reason of the reenactment of such paragraphs by the Higher Education Amendments of 1986.

\* \* \* \* \*

**SEC. 428. FEDERAL PAYMENTS TO REDUCE STUDENT INTEREST COSTS.**

(a) \* \* \*

(b) INSURANCE PROGRAM AGREEMENTS TO QUALIFY LOANS FOR INTEREST SUBSIDIES.—

(1) \* \* \*

\* \* \* \* \*

(7) REPAYMENT PERIOD.—(A) \* \* \*

\* \* \* \* \*

(C) In the case of a loan made under section 428A[, 428B,] or 428C, the repayment period shall begin on the day the loan is disbursed, or, if the loan is disbursed in multiple installments, on the day of the last such disbursement, and shall exclude any period of authorized deferment or forbearance.

\* \* \* \* \*

(j) LENDERS-OF-LAST-RESORT.—

(1) GENERAL REQUIREMENT.—In each State, the guaranty agency or an eligible lender in the State described in section 435(d)(1)(D) of this Act shall make loans directly, or through an agreement with an eligible lender or lenders, to [students eligible to receive interest benefits paid on their behalf under subsection (a) of this section who are otherwise unable to obtain loans under this part] *students and parents who are otherwise unable to obtain loans under this part (except for consolidation loans under section 428C) or who attend an institution of higher education in the State that is designated under paragraph (4)*. Loans made under this subsection shall not exceed the amount of the need of the borrower, as determined under subsection (a)(2)(B), nor be less than \$200. The guaranty agency shall consider the request of any eligible lender, as defined under section 435(d)(1)(A) of this Act, to serve as the lender-of-last-resort pursuant to this subsection.

(2) RULES AND OPERATING PROCEDURES.—The guaranty agency shall develop rules and operating procedures for the lender-of-last-resort program designed to ensure that—

(A) \* \* \*

(B) consistent with standards established by the Secretary, students applying for loans under this subsection shall not be subject to additional eligibility requirements or requests for additional information beyond what is required under this title in order to receive a loan under this part from an eligible lender, nor, *in the case of students and parents applying for loans under this subsection because of an inability to otherwise obtain loans under this part (except for consolidation loans under section 428C)*, be required to receive more than two rejections from eligible lenders in order to obtain a loan under this subsection;

\* \* \* \* \*

(3) ADVANCES TO GUARANTY AGENCIES FOR LENDER-OF-LAST-RESORT SERVICES.—(A) \* \* \*

\* \* \* \* \*

(C) The Secretary shall exercise the authority described in subparagraph (A) only if the Secretary determines that eligible borrowers are seeking and are unable to obtain loans under this part *or designates an institution of higher education for participation in the program under this subsection under paragraph (4)*, and that the guaranty agency designated for that State has the capability to provide lender-of-last-resort loans in a timely manner, in accordance with the guaranty agency's obligations under paragraph (1), but cannot do so without advances provided by the Secretary under this paragraph. If the Secretary makes the determinations described in the preceding sentence and determines that it would be cost-effective to do so, the Secretary may provide advances under this paragraph to such guaranty agency. If the Secretary determines that such guaranty agency does not have such capability, or will not provide such loans in a timely fashion, the Secretary may provide such advances to enable another guaranty agency, that the Secretary determines to have such capability, to make lender-of-last-resort loans to eligible borrowers in that State who are

experiencing loan access problems or to eligible borrowers who attend an institution in the State that is designated under paragraph (4).

(4) *INSTITUTION-WIDE STUDENT QUALIFICATION.*—Upon the request of an institution of higher education and pursuant to standards developed by the Secretary, the guaranty agency designated for a State shall designate such institution for participation in the lender-of-last-resort program under this paragraph. If the guaranty agency designates an institution under this paragraph, such agency shall make loans, in the same manner as such loans are made under paragraph (1), to students and parent borrowers of the designated institution, regardless of whether the students or parent borrowers are otherwise unable to obtain loans under this part (other than a consolidation loan under section 428C).

\* \* \* \* \*

**SEC. 428B. FEDERAL PLUS LOANS.**

(a) **AUTHORITY TO BORROW.**—

(1) \* \* \*

\* \* \* \* \*

[(3) **SPECIAL RULE.**—Whenever necessary to carry out the provisions of this section, the terms “student” and “borrower” as used in this part shall include a parent borrower under this section.]

(3) **SPECIAL RULES.**—

(A) *PARENT BORROWERS.*—Whenever necessary to carry out the provisions of this section, the terms “student” and “borrower” as used in this part shall include a parent borrower under this section.

(B) *EXTENUATING CIRCUMSTANCES.*—For loans made on or after July 1, 2008, and before July 1, 2009, a lender may determine that a borrower meets the extenuating circumstances requirement described in regulations promulgated by the Secretary to carry out this section or section 455 if the borrower is 180 or fewer days delinquent on their home mortgage payments.

\* \* \* \* \*

(d) **PAYMENT OF PRINCIPAL AND INTEREST.**—

[(1) **COMMENCEMENT OF REPAYMENT.**—Repayment of principal on loans made under this section shall commence not later than 60 days after the date such loan is disbursed by the lender, subject to deferral during any period during which the graduate or professional student or the parent meets the conditions required for a deferral under section 427(a)(2)(C) or 428(b)(1)(M).

[(2) **CAPITALIZATION OF INTEREST.**—Interest on loans made under this section for which payments of principal are deferred pursuant to paragraph (1) of this subsection shall, if agreed upon by the borrower and the lender (A) be paid monthly or quarterly, or (B) be added to the principal amount of the loan not more frequently than quarterly by the lender. Such capitalization of interest shall not be deemed to exceed the annual insurable limit on account of the borrower.]

(1) *COMMENCEMENT OF REPAYMENT.*—Repayment of principal on loans made under this section shall—

(A) commence not later than—

(i) 60 days after the date such loan is disbursed by the lender, except as provided in clause (ii); and

(ii) if agreed upon by a parent borrower, the day after 6 months after the date the student for whom the loan is borrowed ceases to carry at least one-half the normal full-time academic workload (as determined by the institution); and

(B) be subject to deferral during any period during which the graduate or professional student or the parent meets the conditions required for a deferral under section 427(a)(2)(C) or 428(b)(1)(M).

(2) *CAPITALIZATION OF INTEREST.*—

(A) *IN GENERAL.*—Interest on loans made under this section—

(i) which accrues prior to the beginning of repayment under paragraph (1)(A)(i), shall be added to the principal amount of the loan; and

(ii) which accrues prior to the beginning of repayment under paragraph (1)(A)(ii) or during a period in which payments of principal are deferred pursuant to paragraph (1)(B) shall, if agreed upon by the borrower and the lender—

(I) be paid monthly or quarterly; or

(II) be added to the principal amount of the loan not more frequently than quarterly by the lender.

(B) *INSURABLE LIMITS.*—Capitalization of interest under this paragraph shall not be deemed to exceed the annual insurable limit on account of the borrower.

\* \* \* \* \*

**SEC. 428H. UNSUBSIDIZED STAFFORD LOANS FOR MIDDLE-INCOME BORROWERS.**

(a) \* \* \*

\* \* \* \* \*

**[(d) LOAN LIMITS.—**

**[(1) IN GENERAL.—**Except as provided in paragraphs (2) and (3), the annual and aggregate limits for loans under this section shall be the same as those established under section 428(b)(1), less any amount received by such student pursuant to the subsidized loan program established under section 428.

**[(2) ANNUAL LIMITS FOR INDEPENDENT, GRADUATE, AND PROFESSIONAL STUDENTS.—**The maximum annual amount of loans under this section an independent student (or a student whose parents are unable to borrow under section 428B or the Federal Direct PLUS Loan Program) may borrow in any academic year (as defined in section 481(a)(2)) or its equivalent shall be the amount determined under paragraph (1), plus—

**[(A) in the case of such a student attending an eligible institution who has not completed such student's first 2 years of undergraduate study—**



[(i) \$4,000, if such student is enrolled in a program whose length is at least one academic year in length; and

[(ii) if such student is enrolled in a program of undergraduate education which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in clause (i) as the length of such program measured in semester, trimester, quarter, or clock hours bears to one academic year;

[(B) in the case of a student at an eligible institution who has successfully completed such first and second years but has not successfully completed the remainder of a program of undergraduate education—

[(i) \$5,000; or

[(ii) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;

[(C) in the case of such a student who is a graduate or professional student attending an eligible institution, \$10,000 ; and

[(D) in the case of a student enrolled in coursework specified in sections 484(b)(3)(B) and 484(b)(4)(B)—

[(i) \$4,000 for coursework necessary for enrollment in an undergraduate degree or certificate program, and, in the case of a student who has obtained a baccalaureate degree, \$5,000 for coursework necessary for enrollment in a graduate or professional program; and

[(ii) in the case of a student who has obtained a baccalaureate degree, \$5,000 for coursework necessary for a professional credential or certification from a State required for employment as a teacher in an elementary or secondary school;

except in cases where the Secretary determines, that a higher amount is warranted in order to carry out the purpose of this part with respect to students engaged in specialized training requiring exceptionally high costs of education, but the annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit.

[(3) AGGREGATE LIMITS FOR INDEPENDENT, GRADUATE, AND PROFESSIONAL STUDENTS.—The maximum aggregate amount of loans under this section a student described in paragraph (2) may borrow shall be the amount described in paragraph (1), adjusted to reflect the increased annual limits described in paragraph (2), as prescribed by the Sec-

retary by regulation. Interest capitalized shall not be deemed to exceed such maximum aggregate amount.】

(d) LOAN LIMITS.—

(1) IN GENERAL.—*Except as provided in paragraphs (2), (3), and (4), the annual and aggregate limits for loans under this section shall be the same as those established under section 428(b)(1), less any amount received by such student pursuant to the subsidized loan program established under section 428.*

(2) LIMITS FOR GRADUATE AND PROFESSIONAL STUDENTS.—

(A) ANNUAL LIMITS.—*The maximum annual amount of loans under this section a graduate or professional student may borrow in any academic year (as defined in section 481(a)(2)) or its equivalent shall be the amount determined under paragraph (1), plus—*

(i) *in the case of such a student who is a graduate or professional student attending an eligible institution, \$14,000; and*

(ii) *in the case of a graduate student enrolled in coursework specified in sections 484(b)(3)(B) and 484(b)(4)(B), \$7,000;*

*except in cases where the Secretary determines, that a higher amount is warranted in order to carry out the purpose of this part with respect to students engaged in specialized training requiring exceptionally high costs of education, but the annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit.*

(B) AGGREGATE LIMIT.—*The maximum aggregate amount of loans under this section a student described in subparagraph (A) may borrow shall be the amount described in paragraph (1), adjusted to reflect the increased annual limits described in subparagraph (A), as prescribed by the Secretary by regulation.*

(3) LIMITS FOR UNDERGRADUATE DEPENDENT STUDENTS.—

(A) ANNUAL LIMITS.—*The maximum annual amount of loans under this section an undergraduate dependent student (except an undergraduate dependent student whose parents are unable to borrow under section 428B or the Federal Direct PLUS Loan Program) may borrow in any academic year (as defined in section 481(a)(2)) or its equivalent shall be the sum of the amount determined under paragraph (1), plus \$2,000.*

(B) AGGREGATE LIMITS.—*The maximum aggregate amount of loans under this section a student described in subparagraph (A) may borrow shall be \$31,000.*

(4) LIMITS FOR UNDERGRADUATE INDEPENDENT STUDENTS.—

(A) ANNUAL LIMITS.—*The maximum annual amount of loans under this section an undergraduate independent student, or an undergraduate dependent student whose parents are unable to borrow under section 428B or the Federal Direct PLUS Loan Program, may borrow in any academic year (as defined in section 481(a)(2)) or its equivalent shall be the sum of the amount determined under paragraph (1), plus—*

(i) in the case of such a student attending an eligible institution who has not completed such student's first 2 years of undergraduate study—

(I) \$6,000, if such student is enrolled in a program whose length is at least one academic year in length; or

(II) if such student is enrolled in a program of undergraduate education which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in clause (i) as the length of such program measured in semester, trimester, quarter, or clock hours bears to one academic year;

(ii) in the case of such a student at an eligible institution who has successfully completed such first and second years but has not successfully completed the remainder of a program of undergraduate education—

(I) \$7,000; or

(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year; and

(iii) in the case of such a student enrolled in coursework specified in sections 484(b)(3)(B) and 484(b)(4)(B), \$6,000 for coursework necessary for enrollment in an undergraduate degree or certificate program.

(B) **AGGREGATE LIMITS.**—The maximum aggregate amount of loans under this section a student described in subparagraph (A) may borrow shall be \$57,500.

(5) **CAPITALIZED INTEREST.**—Interest capitalized shall not be deemed to exceed a maximum aggregate amount determined under subparagraph (B) of paragraph (2), (3), or (4).

\* \* \* \* \*

**PART D—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM**

**SEC. 451. PROGRAM AUTHORITY.**

(a) **IN GENERAL.**—There are hereby made available, in accordance with the provisions of this part, such sums as may be necessary (1) to make loans to all eligible students (and the eligible parents of such students) in attendance at participating institutions of higher education selected by the Secretary, to enable such students to pursue their courses of study at such institutions during the period beginning July 1, 1994; and (2) for purchasing loans under section 459A. [Such loans shall] Loans made under this part shall be made by participating institutions, or consortia thereof,

that have agreements with the Secretary to originate loans, or by alternative originators designated by the Secretary to make loans for students in attendance at participating institutions (and their parents).

\* \* \* \* \*

**SEC. 456. CONTRACTS.**

(a) \* \* \*

(b) **CONTRACTS FOR ORIGINATION, SERVICING, AND DATA SYSTEMS.**—The Secretary may enter into contracts for—

(1) \* \* \*

(2) the servicing and collection of loans made *or purchased* under this part;

(3) the establishment and operation of 1 or more data systems for the maintenance of records on all loans made *or purchased* under this part; and

\* \* \* \* \*

**SEC. 459A. TEMPORARY AUTHORITY TO PURCHASE STUDENT LOANS.**

(a) *AUTHORITY TO PURCHASE.*—Upon a determination by the Secretary that there is an inadequate availability of loan capital to meet the demand for loans under sections 428, 428B, and 428H, whether as a result of inadequate liquidity for such loans or for other reasons, the Secretary, in consultation with the Secretary of the Treasury, is authorized to purchase from any eligible lender, as defined by section 435(d)(1), loans originated under sections 428, 428B, or 428H on or after October 1, 2003, on such terms as the Secretary determines (after consultation with the Secretary of the Treasury) are in the best interest of the United States, except that any loan purchase under this section shall not result in any cost to the Federal Government. The Secretary shall promptly publish any determination under this subsection in the Federal Register.

(b) *PROCEEDS.*—The Secretary shall require, as a condition of any purchase under subsection (a), that the funds paid by the Secretary to any eligible lender under this section shall be used in a manner consistent with ensuring continued participation of such lender in the Federal student loan programs authorized under part B of this title.

(c) *EXPIRATION OF AUTHORITY.*—The Secretary’s authority to purchase loans under this section shall expire on July 1, 2009.

\* \* \* \* \*

**XII. COMMITTEE CORRESPONDENCE**

None.

## REPUBLICAN VIEWS

Republican Members of the Committee on Education and Labor are committed to ensuring that every eligible American family is able to access the Federal funds available to help them pay for the cost of their, or their child's, postsecondary education. Unfortunately, the turmoil facing the home mortgage industry in the U.S. credit markets has bled into the student loan credit markets. It is our goal to take action that will prevent these market weaknesses from producing a crisis in student loan access rather than simply reacting once a crisis has occurred. For that reason, Committee Republicans were pleased to see the announcement of the hearing that took place on March 14th and were also pleased to be invited to work with Committee Democrats on H.R. 5715, Ensuring Continued Access to Student Loans Act of 2008.

Unanimous Committee passage by voice vote of H.R. 5715 reflects the bipartisan nature of the process used to craft the legislation. Likewise, the role of the Committee's Senior Republican, Rep. Howard P. "Buck" McKeon (R-CA), as an original cosponsor signifies a shared commitment to act expeditiously in the face of growing market turmoil. Regrettably, however, the Committee Report drafted by the majority does not reflect that same spirit of cooperation and good-faith negotiation. As such, the Committee Report does not reveal what Republicans believe to be an accurate and complete account of Congressional intent with respect to the bill's goals and purposes. These Republican views serve to illuminate the discussion of this legislation to better and more appropriately represent the tone and tenor of Congressional discourse on the critical issue of student loan access.

## STUDENT LOAN CREDIT CRISIS

In recent months, Committee Republicans have become increasingly alarmed as one lender after another announced they were leaving the privately-run Federal student loan program, scaling back on the benefits offered on loans to students (thereby making loans more expensive for students), ceasing to offer private (non-Federal) student loans or being more selective in their lending. Committee Republicans, along with Members from both sides of the aisle of the Committee, started to raise concerns early with the goal of trying to engage the rest of the Congress and the Administration in a dialogue.

Reps. McKeon and Keller, the senior Republican members of the Full Committee and Higher Education, Lifelong Learning, and Competitiveness Subcommittee, respectively, sent a letter to Secretary Spellings urging her to monitor the situation and consult with her colleagues in other Departments, including the Treasury Department, and utilize their existing authorities to help prevent a situation where students would be left without options. In addi-

tion, Rep. McKeon signed a letter spearheaded by the Chairman of the Subcommittee on Capital Markets, Insurance, and Government-Sponsored Enterprises, Rep. Paul Kanjorski (D-PA), to Federal Reserve Chairman Ben Bernanke urging intervention by the Federal Reserve. This letter was signed by 32 Members of Congress from both sides of the aisle.

Despite widespread media accounts of this grave and growing threat to our nation's largest source of college financial aid, it was not until March 14th that the majority scheduled its first and, to date, only official Committee hearing on the matter. It was at that same hearing that the Administration presented its first clear plan to begin to address the challenges in the financial markets and their spillover into the student loan programs. Although Committee Republicans welcome that decision by both the majority and the Administration to engage in efforts to stave off loan access problems for students and families, we continue to believe that if warnings had been heeded earlier, some of the current uncertainty could have been prevented. As it stands today, this legislation is being considered less than two months before the height of lending season, when millions of students and families are attempting to secure billions in low-cost financing for the upcoming academic year.

#### DIRECT LOAN PROGRAM

Included in the majority's Committee Report is a recommendation that all institutions prepare to undertake administrative steps to enter the Direct Loan program in the coming academic year regardless of their intent to actually leave the Federal Family Education Loan (FFEL) program. This language was crafted without any consultation with Committee Republicans and reflects neither the legislative language nor its intent as understood by Committee Republicans who were intimately involved in the bill's drafting.

Committee Republicans believe this operational advice to institutions, in addition to being wholly outside the scope of the legislation, is short-sighted and unwise. Such a recommendation encourages schools to unnecessarily expend time and resources on a program that approximately four out of five schools have already rejected. Moreover, if followed, this course of action would result in a tremendous administrative burden on the U.S. Department of Education, potentially diverting resources from students and schools that truly need help.

The Direct Loan program reached its peak in 1998 when it encompassed 34 percent of the market. Since that time, schools have actually left the program to the extent that the program now encompasses 20 percent of total loan volume. We agree with Committee Democrats that it is up to the institution to select the student loan program that it believes will best meet the needs of its student population. Eighty percent of institutions have chosen the FFEL program. Given that overwhelming support, the Federal government should do what it can to ensure that the upcoming lending season unfolds without a hitch to the students. This Committee should not use this opportunity to advocate for one lending program over another, but should ensure that students are able to access loans in a seamless fashion with as little disruption as possible.

Congress has not a single piece of evidence to indicate that the Direct Loan program is capable of successfully taking on a significant increase in loan volume. The only indications that have been given are the verbal and written statements of the Secretary of Education. The majority finds these assurances compelling enough to encourage thousands of institutions to undertake a major operational change in how their financial aid programs are administered; yet just last year, Democrats called the Secretary's stewardship of the loan programs into question.

Despite the lack of evidence that the Direct Loan program is equipped to serve a greater number of students and schools, we have concrete evidence that the government-run Direct Loan program has, in the past, been unable to, handle spikes in volume. In 1998, the Department of Education abandoned more than 84,000 students and left these students without the ability to consolidate their student loans. This occurred because the Direct Loan consolidation program was shut down after it could not handle a sharp increase in loan volume. Congress had to step in, on the brink of a reauthorization of the Higher Education Act, to ensure that the FFEL program was statutorily permitted to assist the Direct Loan program's students. History may repeat itself again a decade later.

This history of program instability and a preference among institutions for the FFEL program is what we do know about the Direct Loan program. There are also many things we do not know about the program and how it is being run. For example, we do not know how many employees are currently in place to run the Direct Loan program or train new schools on the software. We also do not know whether the Department plans to hire additional staff or seek additional contracts to handle any potential shift in volume. We do not know, specifically, how quickly the Direct Loan program can absorb additional volume and exactly how much volume can be assumed in a short period of time. We do not know whether the Department has the infrastructure and administrative capacity to ensure that their systems will not crash. Nor do we know if students will have access to knowledgeable customer service representatives in a timely fashion to answer questions, or whether they will be forced to contend with long hold times because of a shortage in trained personnel.

We believe that Committee Democrats provided questionable advice prior to gathering all the facts. In talking to institutions that have been in and out of the Direct Loan program, we have heard that it could take up to nine months for a big institution, with plenty of staff, to be ready to issue its first loan. In addition, we have heard that the cost to institutions of switching programs could be as much as \$400,000 for staffing costs, system changes, updates, etc. Switching programs is not like flipping a light switch. Congress should not be recommending that schools spend significant time and money to switch into a program that may not be ready to handle the volume. Gaining eligibility for the Direct Loan program and being ready to operate the program on an institution-wide basis are two very different issues.

## LENDER OF LAST RESORT

H.R. 5715 provides for some important reforms that will make the lender of last resort program easier to administer on a broader scale if needed. However, Committee Republicans believe that we should consider whether a threshold should be put in place so that an institution does not turn to this program as a lender-of-first-resort.

## NATIONAL SECONDARY MARKET

Committee Republicans support efforts to provide the Secretary of Education with the temporary authority to purchase student loans should a FFEL lender decide to sell its loans to the Secretary, as long as the funds received by the lender are reinvested into the FFEL program. This authority will expire after one year and we do not envision extending this authority. We are optimistic that after one year, actions by the Treasury in conjunction with the credit markets will render this authority unnecessary. We strongly oppose any activities that would expand the Direct Loan program or turn lenders simply into originating agents for the Direct Loan program.

In exercising this authority, Committee Republicans support all efforts to ensure that any loan sale not be disruptive or confusing to students. In addition, Committee Republicans support providing the Secretary with the greatest amount of flexibility in negotiating purchase agreements so this provision has the intended effect of increasing liquidity in the student loan market.

## CONCLUSION

The troubles facing our financial markets and our economy as a whole are daunting. But we would do a real disservice to students and families if we dismissed the challenges in the student loan program as merely a symptom of a larger problem that is outside our control. The fact is we can take steps to prevent a collapse in the student loan market. We can do so quickly, and without a cost to taxpayers, by focusing on our commitment to market stability.

Committee Republicans strongly believe that H.R. 5715 is not the only answer to ensuring uninterrupted access to student loans for the millions of students and families now preparing for the upcoming academic year. It is, at best, one small piece of the puzzle. The situation that has been created is a perfect storm. The so-called College Cost Reduction & Access Act (CCRAA) slashed the return on these loans to the point that many loans made today result in a net loss to the lender due to the combination of reduced Federal support and a higher cost of funds in the current marketplace. During debate on CCRAA, Committee Democrats argued that even if a few smaller lenders dropped out of the program, the big lenders would remain and be able to capitalize on their economies of scale, while Committee Republicans voiced concern with respect to excessive cuts driving lenders from the loan programs. Our concerns should have been taken more seriously as we now sit and watch several deposit banks drop out of the program because the subsidy levels are too low. While a few banks have offered tentative support to help fill in the gaps, that level of support is not nearly



as overwhelming as it could have been had last year's subsidy cuts not taken place. Now is the time to revisit those cuts, along with the other available options, in order to ensure a strong and viable FFEL program. Committee Republicans look forward to continuing to work with Committee Democrats as H.R. 5715 moves through the legislative process.

HOWARD P. "BUCK" McKEON.  
RIC KELLER.  
JOE WILSON.  
JOHN KLINE.  
CATHY McMORRIS RODGERS.  
KENNY MARCHANT.  
CHARLES W. BOUSTANY, Jr.  
ROB BISHOP.  
DAVID DAVIS.  
TIMOTHY WALBERG.

