

Calendar No. 722

110TH CONGRESS
2D SESSION

H. R. 5715

IN THE SENATE OF THE UNITED STATES

APRIL 28, 2008

Received; read the first time

APRIL 29, 2008

Read the second time and placed on the calendar

AN ACT

To ensure continued availability of access to the Federal student loan program for students and families.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This title may be cited as the “Ensuring Continued
5 Access to Student Loans Act of 2008”.

1 **SEC. 2. INCREASING UNSUBSIDIZED STAFFORD LOAN LIM-**
2 **ITS FOR UNDERGRADUATE AND GRADUATE**
3 **STUDENTS.**

4 (a) AMENDMENTS.—Subsection (d) of section 428H
5 of the Higher Education Act of 1965 (20 U.S.C. 1078–
6 8(d)) is amended to read as follows:

7 “(d) LOAN LIMITS.—

8 “(1) IN GENERAL.—Except as provided in para-
9 graphs (2), (3), and (4), the annual and aggregate
10 limits for loans under this section shall be the same
11 as those established under section 428(b)(1), less
12 any amount received by such student pursuant to
13 the subsidized loan program established under sec-
14 tion 428.

15 “(2) LIMITS FOR GRADUATE AND PROFES-
16 SIONAL STUDENTS.—

17 “(A) ANNUAL LIMITS.—The maximum an-
18 nual amount of loans under this section a grad-
19 uate or professional student may borrow in any
20 academic year (as defined in section 481(a)(2))
21 or its equivalent shall be the amount deter-
22 mined under paragraph (1), plus—

23 “(i) in the case of such a student who
24 is a graduate or professional student at-
25 tending an eligible institution, \$12,000;
26 and

1 “(ii) in the case of a graduate student
2 enrolled in coursework specified in sections
3 484(b)(3)(B) and 484(b)(4)(B), \$7,000;
4 except in cases where the Secretary determines
5 that a higher amount is warranted in order to
6 carry out the purpose of this part with respect
7 to students engaged in specialized training re-
8 quiring exceptionally high costs of education,
9 but the annual insurable limit per student shall
10 not be deemed to be exceeded by a line of credit
11 under which actual payments by the lender to
12 the borrower will not be made in any years in
13 excess of the annual limit.

14 “(B) AGGREGATE LIMIT.—The maximum
15 aggregate amount of loans under this section a
16 student described in subparagraph (A) may
17 borrow shall be the amount described in para-
18 graph (1), adjusted to reflect the increased an-
19 nual limits described in subparagraph (A), as
20 prescribed by the Secretary by regulation.

21 “(3) LIMITS FOR UNDERGRADUATE DEPEND-
22 ENT STUDENTS.—

23 “(A) ANNUAL LIMITS.—The maximum an-
24 nual amount of loans under this section an un-
25 dergraduate dependent student (except an un-

1 dergraduate dependent student whose parents
2 are unable to borrow under section 428B or the
3 Federal Direct PLUS Loan Program) may bor-
4 row in any academic year (as defined in section
5 481(a)(2)) or its equivalent shall be the sum of
6 the amount determined under paragraph (1),
7 plus \$2,000.

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

12 “(4) LIMITS FOR UNDERGRADUATE INDE-
13 PENDENT STUDENTS.—

14 “(A) ANNUAL LIMITS.—The maximum an-
15 nual amount of loans under this section an un-
16 dergraduate independent student, or an under-
17 graduate dependent student whose parents are
18 unable to borrow under section 428B or the
19 Federal Direct PLUS Loan Program, may bor-
20 row in any academic year (as defined in section
21 481(a)(2)) or its equivalent shall be the sum of
22 the amount determined under paragraph (1),
23 plus—

24 “(i) in the case of such a student at-
25 tending an eligible institution who has not

1 completed such student's first 2 years of
2 undergraduate study—

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

7 “(II) if such student is enrolled
8 in a program of undergraduate edu-
9 cation which is less than one academic
10 year, the maximum annual loan
11 amount that such student may receive
12 may not exceed the amount that bears
13 the same ratio to the amount specified
14 in subclause (I) as the length of such
15 program measured in semester, tri-
16 mester, quarter, or clock hours bears
17 to one academic year;

18 “(ii) in the case of such a student at
19 an eligible institution who has successfully
20 completed such first and second years but
21 has not successfully completed the remain-
22 der of a program of undergraduate edu-
23 cation—

24 “(I) \$7,000; or

1 “(II) if such student is enrolled
2 in a program of undergraduate edu-
3 cation, the remainder of which is less
4 than one academic year, the maximum
5 annual loan amount that such student
6 may receive may not exceed the
7 amount that bears the same ratio to
8 the amount specified in subclause (I)
9 as such remainder measured in semes-
10 ter, trimester, quarter, or clock hours
11 bears to one academic year; and

12 “(iii) in the case of such a student en-
13 rolled in coursework specified in sections
14 484(b)(3)(B) and 484(b)(4)(B), \$6,000 for
15 coursework necessary for enrollment in an
16 undergraduate degree or certificate pro-
17 gram.

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

22 “(5) CAPITALIZED INTEREST.—Interest capital-
23 ized shall not be deemed to exceed a maximum ag-
24 gregate amount determined under subparagraph (B)
25 of paragraph (2), (3), or (4).”.

1 (b) STUDENT ELIGIBILITY.—Loan limit increases
 2 authorized by the amendments made by this section shall
 3 be available only to students who meet the requirements
 4 of section 484(a) of the Higher Education Act of 1965
 5 (20 U.S.C. 1091(a)).

6 (c) EFFECTIVE DATE.—The amendments made by
 7 this section shall be effective for loans issued on or after
 8 July 1, 2008.

9 **SEC. 3. GRACE PERIOD FOR PARENT PLUS LOANS.**

10 (a) AMENDMENT.—Section 428B(d) of the Higher
 11 Education Act of 1965 (20 U.S.C. 1078–2(d)) is amended
 12 by amending paragraphs (1) and (2) to read as follows:

13 “(1) COMMENCEMENT OF REPAYMENT.—Re-
 14 payment of principal on loans made under this sec-
 15 tion shall—

16 “(A) commence not later than—

17 “(i) 60 days after the date such loan
 18 is disbursed by the lender, except as pro-
 19 vided in clause (ii); and

20 “(ii) if agreed upon by a parent bor-
 21 rower, the day after 6 months after the
 22 date the student for whom the loan is bor-
 23 rowed ceases to carry at least one-half the
 24 normal full-time academic workload (as de-
 25 termined 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

1 deemed to exceed the annual insurable limit on
2 account of the borrower.”.

3 (b) CONFORMING AMENDMENT.—Section
4 428(b)(7)(C) of such Act (20 U.S.C. 1078(b)(7)(C)) is
5 amended by striking “, 428B,”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall be effective for loans issued on or after
8 July 1, 2008.

9 **SEC. 4. SPECIAL RULES FOR PLUS LOANS.**

10 Section 428B(a)(3) of the Higher Education Act of
11 1965 (20 U.S.C. 1078–2(a)(3)) is amended to read as fol-
12 lows:

13 “(3) SPECIAL RULES.—

14 “(A) PARENT BORROWERS.—Whenever
15 necessary to carry out the provisions of this
16 section, the terms ‘student’ and ‘borrower’ as
17 used in this part shall include a parent bor-
18 rower under this section.

19 “(B)(i) EXTENUATING CIRCUMSTANCES.—

20 For loans made on or after July 1, 2008, and
21 before July 1, 2009, a lender may determine
22 that extenuating circumstances exist under the
23 regulations promulgated pursuant to paragraph
24 (1)(A) if an applicant for a loan under this sec-
25 tion is delinquent for 180 days or less on their

1 home mortgage payments and is not more than
2 89 days delinquent on the repayment of any
3 other debt.

4 “(ii) MASTER CALENDAR INAPPLICABLE.—
5 Section 482 shall not apply to determinations
6 made under clause (i).”.

7 **SEC. 5. LENDER-OF-LAST-RESORT.**

8 (a) IN GENERAL.—Section 428(j) of the Higher Edu-
9 cation Act of 1965 (20 U.S.C. 1078(j)) is amended—

10 (1) in the first sentence of paragraph (1), by
11 striking “students eligible to receive interest benefits
12 paid on their behalf under subsection (a) of this sec-
13 tion who are otherwise unable to obtain loans under
14 this part” and inserting “eligible students and par-
15 ents who are otherwise unable to obtain loans under
16 this part (except for consolidation loans under sec-
17 tion 428C) or who attend an institution of higher
18 education in the State that is designated under
19 paragraph (4)”;

20 (2) in paragraph (2)(B), by inserting “, in the
21 case of students and parents applying for loans
22 under this subsection because of an inability to oth-
23 erwise obtain loans under this part (except for con-
24 solidation loans under section 428C),” after “lender,
25 nor”;

1 (3) in paragraph (3)(C)—

2 (A) in the first sentence, by inserting “or
3 designates an institution of higher education for
4 participation in the program under this sub-
5 section under paragraph (4)” after “under this
6 part”; and

7 (B) in the third sentence, by inserting “or
8 to eligible borrowers who attend an institution
9 in the State that is designated under paragraph
10 (4)” after “problems”; and

11 (4) by adding at the end the following:

12 “(4) INSTITUTION-WIDE STUDENT QUALIFICA-
13 TION.—Upon the request of an institution of higher
14 education and pursuant to standards developed by
15 the Secretary, the Secretary shall designate such in-
16 stitution for participation in the lender-of-last-resort
17 program under this paragraph. If the Secretary des-
18 ignates an institution under this paragraph, the
19 guaranty agency designated for the State in which
20 the institution is located shall make loans, in the
21 same manner as such loans are made under para-
22 graph (1), to students and parent borrowers of the
23 designated institution, regardless of whether the stu-
24 dents or parent borrowers are otherwise unable to

1 obtain loans under this part (other than a consolida-
2 tion loan under section 428C).

3 “(5) STANDARDS DEVELOPED BY THE SEC-
4 RETARY.—In developing standards with respect to
5 paragraph (4), the Secretary may require—

6 “(A) an institution of higher education to
7 demonstrate that, despite due diligence on the
8 part of the institution, the institution has been
9 unable to secure the commitment of lenders
10 willing to make loans to a significant number of
11 students attending the institution;

12 “(B) that, prior to making a request under
13 such paragraph for designation for participation
14 in the lender-of-last-resort program, an institu-
15 tion of higher education shall demonstrate that
16 the institution has met a minimum threshold,
17 as determined by the Secretary, for the number
18 or percentage of students at such institution
19 who have received rejections from eligible lend-
20 ers for loans under this part; and

21 “(C) any other standards and guidelines
22 the Secretary determines to be appropriate.”.

23 (b) EFFECTIVE DATE.—The amendments made by
24 subsection (a) shall take effect on the date of enactment
25 of this Act.

1 (c) REVIEW OF INDUCEMENTS LIMITATIONS.—With-
2 in 90 days after the date of enactment of this Act, the
3 Secretary of Education shall review, and as necessary re-
4 vise, the Department of Education’s regulations con-
5 cerning prohibited guaranty agency inducements to eligi-
6 ble lenders (34 CFR 682.401(e)) to ensure that such
7 agency’s do not engage in improper inducements in the
8 expansion of operations of the lender-of-last-resort pro-
9 gram as authorized by the amendments made by this sec-
10 tion. The Secretary shall submit a report on the review
11 and revision required by this subsection to the Committee
12 on Education and Labor of the House of Representatives
13 and the Committee on Health, Education, Labor, and
14 Pensions of the Senate within 180 days after such date
15 of enactment.

16 **SEC. 6. MANDATORY ADVANCES.**

17 (a) IN GENERAL.—Section 421(b) of the Higher
18 Education Act of 1965 (20 U.S.C. 1071(b)) is amended—

19 (1) in paragraph (4), by striking “programs,
20 and” and inserting “programs,”;

21 (2) in paragraph (5), by striking “agencies.”
22 and inserting “agencies, and”; and

23 (3) by adding at the end the following:

24 “(6) there is authorized to be appropriated, and
25 there are appropriated, out of any money in the

1 Treasury not otherwise appropriated, such sums as
 2 may be necessary for the purpose of carrying out
 3 section 422(c)(7).”.

4 (b) EFFECTIVE DATE.—The amendments made by
 5 subsection (a) shall take effect on the date of enactment
 6 of this Act.

7 **SEC. 7. TEMPORARY AUTHORITY TO PURCHASE STUDENT**
 8 **LOANS.**

9 (a) SPENDING AUTHORITY.—

10 (1) AUTHORITY GRANTED.—The first sentence
 11 of section 451(a) of the Higher Education Act of
 12 1965 (20 U.S.C. 1087a(a)) is amended—

13 (A) by inserting “(1)” after “as may be
 14 necessary”; and

15 (B) by inserting before the period at the
 16 end of such sentence the following: “; and (2)
 17 for purchasing loans under section 459A”.

18 (2) CONFORMING AMENDMENT.—Section
 19 451(a) of such Act (20 U.S.C. 1087a(a)) is further
 20 amended by striking “Such loans shall” and insert-
 21 ing “Loans made under this part shall”.

22 (b) TEMPORARY AUTHORITY.—Part D of title IV of
 23 the Higher Education Act of 1965 (20 U.S.C. 1087a et
 24 seq.) is amended by inserting after section 459 the fol-
 25 lowing new section:

1 **“SEC. 459A. TEMPORARY AUTHORITY TO PURCHASE STU-**
2 **DENT LOANS.**

3 “(a) AUTHORITY TO PURCHASE.—

4 “(1) AUTHORITY; DETERMINATION RE-
5 QUIRED.—Upon a determination by the Secretary
6 that there is an inadequate availability of loan cap-
7 ital to meet the demand for loans under sections
8 428, 428B, or 428H, whether as a result of inad-
9 equate liquidity for such loans or for other reasons,
10 the Secretary, in consultation with the Secretary of
11 the Treasury, is authorized to purchase, or enter
12 into forward commitments to purchase, from any eli-
13 gible lender, as defined by section 435(d)(1), loans
14 originated under sections 428, 428B, or 428H on or
15 after October 1, 2003, on such terms as the Sec-
16 retary, the Secretary of the Treasury, and the Direc-
17 tor of the Office of Management and Budget jointly
18 determine are in the best interest of the United
19 States, except that any purchase under this section
20 shall not result in any net cost to the Federal Gov-
21 ernment, as determined jointly by the Secretary, the
22 Secretary of the Treasury, and the Director of the
23 Office of Management and Budget.

24 “(2) REGULATIONS REQUIRED.—The Secretary,
25 the Secretary of the Treasury, and the Director of
26 the Office of Management and Budget shall jointly

1 promulgate emergency regulations and publish such
2 emergency regulations promptly in the Federal Reg-
3 ister concerning the purchases authorized by para-
4 graph (1).

5 “(3) METHODOLOGY AND FACTORS; JUSTIFICA-
6 TION REQUIRED.—Such regulations shall outline the
7 methodology and factors that the Secretary, the Sec-
8 retary of the Treasury, and the Director of the Of-
9 fice of Management and Budget shall consider in
10 evaluating the price at which to purchase loans
11 under sections 428, 428B, or 428H, and shall in-
12 clude a justification of how the use of such method-
13 ology and consideration of such factors used to de-
14 termine purchase price will ensure that loan pur-
15 chases do not result in any net cost to the Federal
16 Government.

17 “(b) PROCEEDS.—The Secretary shall require, as a
18 condition of any purchase under subsection (a), that the
19 funds paid by the Secretary to any eligible lender under
20 this section shall be used: (1) to ensure continued partici-
21 pation of such lender in the Federal student loan pro-
22 grams authorized under part B of this title; and (2) to
23 originate new Federal loans to students, as authorized
24 under part B of this title.

1 “(c) MAINTAINING SERVICING ARRANGEMENTS.—
 2 The Secretary may, if agreed upon by an eligible lender
 3 selling loans under this section, contract with such lender
 4 for the servicing of the loans purchased, provided that—

5 “(1) the cost of such servicing arrangement
 6 does not exceed the cost the Federal Government
 7 would otherwise incur for the servicing of loans pur-
 8 chased, as determined under subsection (a); and

9 “(2) such servicing arrangement is in the best
 10 interest of the borrowers whose loans are purchased.

11 “(d) EXPIRATION OF AUTHORITY.—The Secretary’s
 12 authority to purchase loans under this section shall expire
 13 on July 1, 2009.”.

14 (c) CONTRACTING AUTHORITY.—Section 456(b) of
 15 the Higher Education Act of 1965 (20 U.S.C. 1087f(b))
 16 is amended by inserting “or purchased” after “loans
 17 made” each place it appears in paragraphs (2) and (3).

18 **SEC. 8. SENSE OF CONGRESS.**

19 It is a sense of Congress that, at a time when our
 20 economy is fragile and higher education and retraining op-
 21 portunities are more important than ever—

22 (1) the Federal financial institutions, such as
 23 the Federal Financing Bank and Federal Reserve,
 24 and federally chartered private entities such as the
 25 Federal Home Loan Banks and others, should con-

1 sider, in consultation with the Secretary of Treasury
2 and the Secretary of Education, using available au-
3 thorities in a timely manner, if needed, to assist in
4 ensuring that students and families can access Fed-
5 eral student loans for academic year 2008–2009,
6 and if needed in the subsequent academic year, in a
7 manner that results in no increased costs to tax-
8 payers; and

9 (2) any action taken as a result of such consid-
10 eration should in no way limit or delay the Secretary
11 of Education’s authority to operate the lender-of-
12 last-resort provisions of section 428(j) of the Higher
13 Education Act of 1965 (as amended by this Act),
14 nor the authority to purchase Federal Family Edu-
15 cation Loan Program loans, as authorized by section
16 459A of such Act (as added by this Act).

17 **SEC. 9. GAO STUDY ON IMPACT OF INCREASED LOAN LIM-**
18 **ITS.**

19 (a) **STUDY REQUIRED.**—The Comptroller General
20 shall conduct a study to evaluate the impact of the in-
21 crease in Federal loan limits provided for in section 2 of
22 this Act and section 8005 of the Deficit Reduction Act
23 of 2005 with respect to the impact on—

24 (1) tuition, fees, and room and board at institu-
25 tions of higher education; and

1 (2) private loan borrowing by students and par-
2 ents for attendance at institutions of higher edu-
3 cation.

4 (b) STUDY COMPONENTS.—The study required under
5 subsection (a) shall be conducted for each major sector
6 of institutions of higher education over a 5-year time pe-
7 riod. The report shall specifically analyze the following:

8 (1) Whether, on average, tuition, fees, and
9 room and board increase, decrease, or remain un-
10 changed in each such sector after the increases in
11 Federal loan limits take effect.

12 (2) Whether the amount of private educational
13 loans taken out by students (and their parents) at
14 institutions in each such sector to pay tuition, fees,
15 and room and board increase, decrease, or remain
16 unchanged.

17 (c) REPORT.—Not later than one year after the date
18 of enactment of this Act, the Comptroller General shall
19 provide an interim report to the Committee on Education
20 and Labor of the House of Representatives and the Com-
21 mittee on Health, Education, Labor, and Pensions of the
22 Senate including the initial results of the study conducted
23 under this section. The Comptroller General shall follow

- 1 up with such Committees after the third year and the fifth
- 2 year after such date of enactment.

Passed the House of Representatives April 17, 2008.

Attest: LORRAINE C. MILLER,
Clerk.

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110TH CONGRESS
2^D Session

H. R. 5715

AN ACT

To ensure continued availability of access to the Federal student loan program for students and families.

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