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ENSURING ACCESS TO COLLEGE IN A TURBULENT ECONOMY

FIELD HEARING

OF THE

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

UNITED STATES SENATE

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

ON

EXAMINING ENSURING ACCESS TO COLLEGE IN A TURBULENT ECONOMY, FOCUSING ON THE NECESSARY STEPS TO ESTABLISH INSTITUTIONAL PROTECTIONS ON WHICH FAMILIES CAN DEPEND

MARCH 17, 2008 (BOSTON, MA)

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COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

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ENSURING ACCESS TO COLLEGE IN A TURBULENT ECONOMY

MONDAY, MARCH 17, 2008

U.S. SENATE,
COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS,
Boston, MA.

The committee met, pursuant to notice, at 11:30 a.m. at Northeastern University, Egan Research Center, Raytheon Amphitheater, Boston, MA, Hon. Edward M. Kennedy, chairman of the committee, presiding.

Present: Senator Kennedy.

STATEMENT OF JOSEPH AOUN

Mr. AOUN. Good morning, everyone. My name is Joseph Aoun, and I'm the President of Northeastern University. I would like to welcome you all to our university. I would like to thank the Senator for organizing the hearing here at the university, and thank him for his leadership on this subject.

As you know, we have announced that Northeastern will work as a direct with the Federal Government and help direct lending. Really, Senator, it was your leadership in this domain, and your inspiration and our values that led us to make this decision this weekend. Once again, we welcome you all, and thank you, Senator, for being here.

I would like to thank, also, and welcome The Under Secretary of State for—Under Secretary of Education, I mean. Maybe she had a promotion?

Ms. TUCKER. No. I have enough trouble in Education.

OPENING STATEMENT OF SENATOR KENNEDY

The CHAIRMAN. Thank you, President Aoun, so much for welcoming us here at Northeastern. This is really typical of Northeastern. I was mentioning earlier it wasn't long ago that Northeastern did a very extensive tribute to many of those who had fallen in Iraq. They had chosen different servicemen and women who had served nobly and bravely and courageously, and did a film about their past, their history, their family's history, and their history of service for the country.

They then invited the family members of those who were lost. We had a very meaningful gathering here, and it was typical of Northeastern. I mentioned to the President on so many occasions, with a long life of experience in education, Northeastern has continued to thrive and to be one of our great educational resources,

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in not only Massachusetts, but nationwide, as an extremely interesting and challenging approach in education.

Its sons and daughters go out to so many different opportunities in Massachusetts and throughout New England, and it opens its doors to so many others that would not have the opportunity for education in the areas and degrees that they offer, so I'm very, very grateful to have a chance to be back here at Northeastern.

I welcome the chance to have this forum here, a meeting of our Education Committee. I've been on the Education Committee since I've been in the U.S. Senate. I think all of us in Massachusetts understand the importance of education. We're mindful that education has a special place in the life of the people of our State. John Adams, in 1780, the first Constitution that was written expressly designated the importance of support for education for the people of Massachusetts.

We've taken that admonition seriously, better at some times than others. Horace Mann was a great educator, and had a profound impact here in terms of education in Massachusetts. We've seen the difference a commitment to education can make—we saw it at the end of World War II, the G.I. Bill, the difference that it made for so many of those who served their country—including citizens here in Massachusetts, including members that also served in the Congress.

Sil Conte, a Republican from the Berkshires, was probably the strongest and most effective advocate for continued education, and he always reminded us that for every dollar that was invested in education and the G.I. Bill, $7 was returned to the U.S. Treasury, as this was a sound investment. President Kennedy, in the 1960 campaign, had a very important impact in terms of higher education.

The difference in the 1960 campaign was, on the one hand, President Kennedy offering as part of the program that he offered for the country, that every individual in Massachusetts and across the country who was able to gain entrance into a college or university on the basis of their ability should not be denied entrance because of the size of their wallet or their pocketbook. He believed we ought to be able to put together a combination of grants and some loans—although loans were very limited at that time, 22 or 23 percent of the total funding was loans and the rest was grants, which is completely reversed today—so that any individual would be able to go to college, because of the value of having young, talented men and women that were going to be able to help lead this country.

Whether it's in industry or national security or in the devotion to the institutions of our Nation, now we have seen in the more recent time that we have moved back from that concept. We've moved back from that concept, and we find out that so many of the young people are faced with the challenge of gaining help and assistance through a combination of loans, Federal loans and private loans, to make up the difference.

We see the enormous pressure that has been placed on these families. We see, first of all, this chart here demonstrates from 1993 to 2004, more students must take out loans to finance their education. If we look at the issue of indebtedness, we'll find out that the very important and significant increase in indebtedness from 1993 to 2004 has meant an average debt of about $19,000 in our State, and other States from $17,000 to $21,000. It's in that range for most States, the significant factor being the escalation in the cost of college.

We also see one of the extraordinary burdens that families are facing is that the cost of education has gone up in the past 4 years 59 percent, while family income was increased only 20 percent. This cost increase is particularly meaningful for Massachusetts, because we have seen over the period of recent years the gradual reduction, if we can believe it, in State support for higher education, a 23 percent reduction.

That, I think, has been enormously troublesome. It should be there for those families that need help and assistance. We have also seen the explosion of fees for students over the years. We have seen the increase in the cost of a higher education. We've seen the decrease in support here at the State level. We've seen flattening in terms of salaries and the income of hardworking people.

We're not going to take the time to go through the other kind of pressures that are on families from skyrocketing mortgage payments, fuel costs, and healthcare costs that have taken place over this period.

Families are being squeezed, and families are going through an enormous challenge to continue their support for their children. Young people are being squeezed. Young people are asking themselves, "How much indebtedness can I afford?" We're going to hear from a student who is working three jobs in order to be able to stay in school.

We have to ask ourselves—what is the impact of these financial struggles in terms of the ability of young people to be able to make progress academically? Going to school is about the academic riches of stimulating the mind, as well as the development of other skills that lend themselves to the educational atmosphere and climate.

In my visits to so many schools and campuses, you find out that the young people aren't talking about the books that they've read in class, aren't talking about the teachers, they're talking about their job or their next job or where they're going to get another job.

This is very concerning, particularly when you understand that Massachusetts doesn't have the great natural resources that exist in other parts of the country. We have depended upon the minds, the initiatives, the creativity, the brilliance of the citizens of our State in order to be leaders in this country, in industry and in security, in the arts, and in academic and cultural areas and other areas.

Education is, for all of us, a key force and factor in our lives. At at this time, the purpose of this hearing is to recognize the pressures we face in terms of financing education. Parents are wondering will we just read every day about the stock market, about the credit markets, about the housing markets being in a state of a collapse? They're wondering about actions that have been taken by Congress, are they going to work? Aren't they going to work? What more is going to be done?

In the back of their minds, they're wondering, what about those student loans? Are they going to be available? They're thinking I'm working hard. I'm trying to put my children through college. I'm sacrificing to do it. And if I find out that some action which I have no control over is going to take place, which is going to severely undermine my ability to educate my children, that's not something that I want to see happen. We are expecting our leaders in Congress, in the Senate, and the President to do something about it.

We are here today to hear from some of those who have ideas and suggestions. They can interpret and give us information on what the current problem is, and make recommendations about the things that we ought to be doing.

Our committee, our Education Committee, is committed to ensuring that we take the steps in the United States that are necessary to protect the families here in Massachusetts and in the rest of the country.

We're very appreciative of those who are joined with us here today. We're going to hear from the Under Secretary of the Department of Education, Sara Martinez Tucker. Ms. Tucker is the Under Secretary of Education, and the former President and Chief Executive Officer of the Hispanic Scholarship Fund.

Sara is a founding board member of the National Center for Educational Accountability, the National Scholarship Providers Association. A native of Loredo, TX, *Time Magazine* named her one of the 25 most influential Hispanics in America. She reminded me that she has degrees from—

Ms. TUCKER. Boston College and Notre Dame.

The CHAIRMAN. Boston College and Notre Dame. You're welcome here. You can name all the other factors, but now you've just established yourself as someone worth listening to. We also have with us from the Department of Education Mr. Larry Warder, who has extensive experience with the Federal Student Aid program. We're very grateful, and we'll look forward to hearing from you.

STATEMENT OF SARA MARTINEZ TUCKER, UNDER SECRETARY OF EDUCATION, U.S. DEPARTMENT OF EDUCATION, WASHINGTON, DC

Ms. TUCKER. Thank you, Senator Kennedy, both for your longstanding commitment to education, and for giving us, at the Department of Education, the opportunity to describe what we're doing to ensure uninterrupted access to Federal aid, particularly loans, during these times of economic uncertainties.

You've introduced my colleagues here. And on their behalf, I'd like to also thank Northeastern University for hosting us here today. Senator, we submitted my formal testimony to you last week, but to give us ample opportunity to address your questions or concerns, I thought maybe I would just highlight three different segments from that so that we could move quickly to your questions.

The first is what the Department is doing to ensure uninterrupted access to Federal aid. I think the first thing I would want to say is that I wanted to reassure American families—parents and students—that Federal aid will be there for them in this coming school year. There are two vibrant programs, in spite of these difficult economic times, both the Federal Family Education Loan Program and the Direct Lending Program are here and ready for students and families to access as they make their plans for the coming school year.

In the Federal Family Education Loan Program, FFEL, we do have about 2,000 active lenders ready to originate loans. And to the extent that some lenders that identified areas where they're curtailing their activities or suspending their activities, the schools have been able to lay out other plans with alternate lenders so that their students are cared for. To date, we have not encountered any eligible student who has not had access to the Federal loans.

However, in these times of economic uncertainty, as you pointed out, we must have contingency plans, and we want to demonstrate that we're being proactive in ensuring that all avenues that are open to students and families are planned for and cared for.

The first is with our administration-wide partners, the Domestic Policy Council, the National Economic Council, as well as Treasury. On a daily basis, we're monitoring the markets to ensure the health of lenders.

Second, we've done extensive outreach to ensure that our institutional partners are able to connect with us directly. Secretary Spellings, 2 weeks ago sent a letter out to the 4,100-plus institutions that we have in the FFELP Program. Larry, Mr. Warder, followed up with letters to the financial aid officers. Thus far, again, we have not encountered any problems the schools are having in lining up lenders for their current and future students.

As well, when a lender announces that they're curtailing activity, we're in the process of reaching out to any school that has more than 50 percent of their lending volume with those lenders. Again, we have not encountered any opportunities.

Monitoring on a daily basis, outreach to students and families, and the institutions that support them, and then, finally, making sure that whatever backstops can be created, should there be a problem, are ready, willing, and able to go as soon as we see that problem.

The first is Lender of Last Resort. Federal Student Aid has reached out to all 35 guaranty agencies to see what plans they have in place. We've reviewed all of their plans, and this week, Secretary Spellings will be sending out correspondence to the guaranty agencies, ensuring not only compliance with Federal statute, all Lender of Last Resort procedures, but also ensuring that they're up to date, and as well that they are consistently applied across the different agencies, so that borrower and taxpayer interest are cared for.

We also have the Direct Lending Program that we support through Federal Student Aid. Mr. Warder's team has ensured that we can do two things with regard to direct lending: first, is handle increased volume in direct loans, direct lending by schools; and second, making the transition more easy and more user-friendly for the institutions that choose to make that switch.

With regard to my first point, ensuring uninterrupted access to Federal aid, the daily monitoring of the markets for the health of the lenders, the outreach to the institutions that they have lenders available for their students, and then making sure that if all else fails we have Lender of Last Resort ready to go, and the ability to transfer schools from FFELP to Direct Lending.

The second area that I want to talk about in my testimony, though, is that as you pointed out in your floor testimony is the concern over the private loans, and to the extent that we have students that have had to take out a second loan, a private loan, the Department is doing a couple of things.

First, we're reaching out to families, we're reaching out to students, to make sure they understand Federal Aid First. We've released this new brochure, Federal Aid First, a user-friendly way of helping parents and students understand how to maximize the Federal aid first, and then the unsubsidized loans, and then the subsidized loans, and then reminding parents and students that they have access to the PLUS Loans. For parents of undergraduate students, dependent students can take out loans with the Federal Government's support up to the full cost of attendance, as well as graduate students. We want to make sure they exhaust all their Federal opportunities before they move to the private loans.

Last, as you've addressed in your opening remarks, the bigger issue for us is the cost of attendance and what's happened to students and families that are wanting to go to school over the last 15 years. In the last 2 weeks, I traveled to the University of Houston, Mount Vernon High School, and the University of Denver, and met with students. I also hosted the leaders of the Big 12 Conference schools in my office in Washington, DC.

To a person, they did not indicate that they were having any problem lining up their Federal loans. What they pointed to, though, was the cost of attendance. As we look at the Federal numbers, they match up nicely or mirror what you've seen here in Massachusetts. In the last 15 years, the cost to a family for attending a 4-year public institution has risen at five times the increase in median income for families.

The extent that these students are able to put documents like this together, as the Big 12 visited Washington, DC, their opening pitch, and they wanted to make sure that I knew, was a decline in family income of 2 percent, an increase in tuition and fees of 40 percent, and an increase in debt load of 66 percent.

Of course, after they presented this to me, their request was for more Federal aid. As I mentioned to them, in this same 15-year window, total aid available to students has actually increased by 300 percent. In the last 15 years, annual aid going out to students from all sources has gone from just under $60 billion to around $160 billion, and our Federal investment has gone from about $32 billion to just under $100 billion per year. While we've added or increased aid available to students, enrollment rates and degree attainment rates have stayed relatively flat.

From a student perspective, they have a right to be concerned. As you pointed in your charts, if you're in the bottom 50 percent of earners in this country today, after you cobble together nine different sources of aid—be they institutional, State, Federal—you still only get half to two-thirds of the total cost of attendance paid for, too complex a system for families today.

If you look at the pressure on families to come up with what's missing, families in the lower 50 percent of income earners in the United States have to dedicate 20 to 30 percent of their family's income to complement the balance that's not covered by aid. This is a time where we must do more to reassure students and families that college is possible for them.

In closing, I'm reminded of a story that I'd like to share about a student, to the extent that you mentioned this young man is going to testify today and has three jobs, and how it gets in the way of his academics, the student leader from Iowa State University told me on Thursday in my office, Mrs. Tucker, what will the Federal Government be doing about the brain drain in Iowa?"

When I heard "brain drain" I said, "Could you help me a little bit more?" She said too many graduates from Iowa's colleges are graduating with such significant debt loads that when they take their jobs, given the cost of living in Iowa, they're taking other jobs in—they're taking similar jobs in other cities in the Midwest that pay more. We're not able to hold onto our college graduates in Iowa, because we can't pay enough with jobs so that the students can afford their student loans.

My hope would be, Senator Kennedy, as I close, that we remember this young woman, and as we reconcile the House and Senate versions of the Higher Education Act, that we take this opportunity to step back and look at Federal student aid and address how to make it less complex, that we target more resources to those that need it the most, so that we can have more access to and success in higher education for the American public.

And, with that, I'd like to say thank you again, and open it up to any questions or comments that you may have of us.

[The prepared statement of Ms. Tucker follows:]

PREPARED STATEMENT OF SARA MARTINEZ TUCKER

Thank you for inviting me here today, and thanks to Northeastern University for hosting this hearing. New England, and Boston in particular, are home to some of the oldest and most prestigious colleges and universities in the Nation. This is an especially appropriate venue to discuss what we're doing to ensure that students and families can access and afford higher education opportunities. I share your concern and appreciate your vigilance on this issue.

First of all, let me assure you . . . and especially students and families . . . that Federal student aid will continue to be available. As your recent letter to Secretary Spellings noted, Mr. Chairman, disruptions in the private lending market have "so far not negatively affected students' ability to access Federal loans." That's what we're seeing also.

Student loans are more than a $400-billion enterprise, involving multiple Federal agencies, guaranty agencies, and secondary markets.

Federal loans and other Federal aid comprise one piece of this sector. Of 18 million college students, more than 10 million receive financial aid from the Department.

The two sources of Stafford loans are the Direct Loan program and the Federal Family Education Loan program—what we call FFEL. More than 2,000 originating lenders participate in FFEL. As recent media reports have noted, a small number of these lenders have reduced their participation or stopped originating new loans.

As you know, these actions are largely a result of broader stress across credit markets and the economy as a whole. Even in the cases where lenders have reduced participation in FFEL, other lenders have stepped in to meet student needs. The Department is in regular contact with schools. In our extensive outreach, no institutions have notified us that any eligible student has been denied access to Federal loans. And earlier this week, the Consumer Bankers Association reaffirmed that banks plan to continue making both guaranteed and private loans for the coming school year.

Of course, we all understand the anxiety that students and families experience when they hear news accounts suggesting that Federal student loans could be at risk. We also understand that credit markets are under stress, and conditions may change rapidly.

For that reason the Department of Education—in consultation with other offices and agencies across the executive branch such as the Domestic Policy Council, the National Economic Council, and the Treasury—is taking the following steps:

• First, we are monitoring the situation closely—just as you are doing. We're examining market conditions on a daily basis and working with the lending community . . . including the many stakeholders involved in Federal aid . . . to assess any potential impact on students.

This first step will provide us with information on how best to proceed. For example, we are tracking the volume of loan originations for both FFEL and the Direct Loan program against previous years. We know that originations will peak, as they always do, in July and August before the school year starts. If origination trends shift, we will be prepared to act.

We are also tracking inquiries daily into the Direct Loan program to be prepared for any significant shift in loan volume between the programs. Again, rest assured that we will be ready should such a shift occur.

• Second, we're engaging our customers—students, families, and institutions—by helping them understand all their options. Recently, we sent letters to college presidents and financial aid officers to assure them of the continued availability of Federal loans . . . and to ask for their help tracking developments, including any reduction of lender participation at their schools.

In cases where the institutions are relying heavily on a single lender that chooses to reduce participation in FFEL, we have actually communicated with these institutions to ensure that their students will continue to be served, be this through a single lender or other new lenders.

• Third, we're reviewing the options and tools available should the situation warrant their use. For example, some are suggesting that we shift more of the Federal aid volume to the Direct Loan program. Whether to participate in the FFEL or Direct Loan programs are choices that schools make. The Administration continues to support having two strong Federal student loan programs. Currently, 850 schools already authorized to make Direct Loans have chosen to remain with FFEL as their primary program. We stand ready to support them in whatever choices they make, now and in the future.

Congress included the Lender of Last Resort provisions in the Higher Education Act to provide a way for the Federal Government to ensure, should the need arise, that students and families can continue to access FFEL loans. These provisions are called "last resort" for a good reason—they're the final option for eligible students unable to access Federal loans. At present, the FFEL and Direct Loan programs continue to meet student needs. Lender of Last Resort provisions remain available, and guarantee agencies are already using their authorities as needed.

Private loans can also be an important resource for students and families. However, many who use private loans haven't exhausted their Federal aid. To inform them of the more affordable Federal options, we've created materials like this Federal Aid First brochure—user-friendly guides on how to apply for and receive Federal aid.

As early as 2006, the Secretary's Commission on the Future of Higher Education called for streamlining the entire financial aid system by addressing the interrelated issues of cost, financing and consumer information. As you work to reauthorize the Higher Education Act, I hope you will take this opportunity to simplify the current system, which is burdensome and complex, and make it more responsive to students and families.

Already, we've worked together to dramatically increase Pell Grants, to address the needs of 5.8 million low-income students. We achieved the largest increase in budget authority in 30 years, and the President has once again asked to increase the maximum annual award in his 2009 budget, to $4,800 per year.

Post-secondary education grows more important by the day, and ever more necessary in our global knowledge economy. Times of economic uncertainty are all the more reason that Americans will look to higher education to acquire new skills and knowledge. Together, we can help more of them do so.

Federal student loans are an important part of this effort, and the steps the Department is taking will help ensure that they remain available. Market conditions are dynamic, not static. As you said in your letter to Secretary Spellings, Mr. Chairman, while "we expect that overall credit market conditions will soon improve . . . it is only prudent to prepare now to ensure that these conditions do not negatively impact students . . ."

We at the Department look forward to working with you to ensure that students can continue to access and afford the invaluable opportunities of higher education.

The CHAIRMAN. Well, thank you, particularly for your last references about what we're doing to provide some relief to families because you know, in our Higher Education bill last year, we took three major steps; first to expand the Pell Grant, which affects 5 million young people, by increasing the Pell Grant by $500 next year to $4,800 in the 2009 Budget, as you can see—

Ms. TUCKER. Yes.

The CHAIRMAN [continuing]. It has been essentially flat since 2000. Now, we've raised it up to $4,800, and we're on a pathway to continuing to increase the Pell Grants by over $1,000 by 2012. But second, what has been most important, we set a limitation that no student will have to pay more than 15 percent of their income to repay their student loan.

For those individuals who have $70,000 or $80,000 of loans and want to work with special needs children for $35,000, they'll only have to pay 15 percent of their discretionary income. And third, after a period of years, that loan will be forgiven in its entirety.

We're taking the sense of idealism that is out there among the young people here at Northeastern and around the country that want to give something back to their community, and have established a regime that if they work in public service or for a non-profit, they can have loan forgiveness; but even if they don't work in public service, they get the limitation of 15 percent. That is a small down payment, and we made some other adjustments in terms of the interest payments, as well. These other three, I think, are enormously important, and I think they make a difference to students.

One other very important problem that is all too common for these students is that they are not taking advantage of the full amount of Federal aid and assistance that's available to them. Why is that important? If they have to borrow at the private rate, they're paying a great deal higher interest rate than if they borrow at the government rate. And yet, our best estimate is that about $10 billion in government financial assistance rather than private is not being used.

That is why, in our Higher Education Reauthorization—which we are working through with the Administration, and expect will be one of the few pieces of legislation that will probably get through—we have important provisions, dealing with a financial literacy program, so students understand financial aid options early in their high school career; a requirement that financial aid advisors at the colleges counsel students before they take out high-cost private loans; and third, a requirement that private lenders notify their students who may be eligible for lower-cost loans or aid through the institutions.

That can save students billions of dollars, and it is something that can be done, and done now. I don't think we have different opinions, really, with the Administration on these issues. I think we'll have strong support, and we have a good prospect of getting those done.

Now, Ms. Secretary, you've reached out to the schools—this is good news, from what you've told us. You see, this is just one newspaper—it talks about the buyout on Wall Street loans, the JP Morgan Chase troubles. It talks about what is happening to discount rates and target rates, and all of the housing rates, and people are wondering, what will happen because many families use the increased value of their home to finance the education of their children.

That's true in this State. It's true in States across the country. They've seen the escalation of the value of their homes, and they've put that aside in order to use it over a period in the future. And when they see the value of their homes threatened, mortgages threatened, then they really wonder what this is going to mean in terms of educating their children, in terms of the future and indebtedness and access. And that's something that we are very, very conscious of.

Now, you talk about what is the one surety—the Government Loan Program, the Direct Loan Program. It'll be there. It's guaranteed. It's solid. There's no worry about that. The Lender of Last Resort, with legislation included in our higher education bill, will be there, as well.

Now, let me ask you. In 1998, we had some concern about what the circumstances were, and at that time, the Department of Education contracted to make sure that the Lender of Last Resort would be able to be implemented, to make sure that it was going to be guaranteed, and do what it was meant to. Are you looking at the past precedent to make sure that if we have to go to the Lender of Last Resort, that we not only have a framework, but a real framework, one that's going to be effectively bulletproof in terms of protecting families, to make sure that it's going to be there and work?

Some have said that in 1998, when we had that guarantee in contract, we set that up to effectively give absolute assurance that it would be there. We haven't done that yet this time. And we want to know if you are going to do it, then why not do it now?

Ms. TUCKER. Thank you, Senator Kennedy. Yes. As I mentioned, we have reached out to all 35 guaranty agencies, and as we looked at Secretary Riley's plan, two things that I think that need to be pointed out: the first is the volume of student lending that has to be, in essence, carried out—as you, yourself, has said, the growth in loan volume is extraordinary, and so more and more guaranties have to be lined up; the second, though, is that the role of Sally Mae has changed dramatically since 1998 to today.

As we look at the statute, the guaranty agencies have the statutory responsibility to either line up in Lenders of Last Resort or themselves serve as the Lenders of Last Resort. I think it's important to note that 25 out of the 35 guaranty agencies today have Lender of Last Resort loans out.

The important role for the Department of Education is—No. 1, to make sure that all of the guaranty agencies have Lender of Last Resort procedures that are consistent with statutory requirements, that are up-to-date, and that are consistently applied so that we protect the borrower and the taxpayer. Those letters will go out this week to ensure that the guaranty agencies have those plans in place to meet the spike that we see that happens in July and August, when the originations of the student loans take place.

The CHAIRMAN. Well, that's going to be enormously important, and we're going to be interested in working with you to make sure that, with those letters that are going out, that we're setting up the system that is going to be the absolute guarantee, which this was intended to be. We'll work with your Council and others, I'm sure, and with the House, as well.

You said you've reached out to these private lenders. How many private lenders have responded?

Ms. TUCKER. We reached out to the schools, the institutions. Then, when a lender has indicated either curtailing or suspending loan activities, we are in the process of reaching out to the schools that had maybe 50 percent or more of their loan volume with those lenders.

Again, our relationship is with the institutions. We have met with lenders within the last month, and are hoping to have another meeting later this week, but our aggressive outreach has been to the institutions and to the guaranty agencies that guarantee the loans.

The CHAIRMAN. All right. And how many of those now? How many of the schools have you reached out to?

Ms. TUCKER. We've reached out to—Secretary Spellings has reached out to 4,100 schools—4,155, I think is the exact number——

Mr. WARDER. Yes, that's right.

Ms. TUCKER. Four-thousand, one hundred and fifty-five schools. My colleague, Mr. Warder, then followed up with the financial aid officers at those 4,155 schools.

The CHAIRMAN. And how many have you heard from, or how many—

Ms. TUCKER. We've heard—60 of the schools reacted so far to let us know that they have no problems. While we haven't heard from the great majority, our assumption has been that if they were in trouble, that they would let us know immediately. Nonetheless, the conversations with them are ongoing.

The CHAIRMAN. Well, the 60 out of 4,155 is something that needs continued work on to draw our——

Ms. TUCKER. Right.

The CHAIRMAN [continuing]. Conclusions about the magnitude of this problem. Do you plan to take additional steps to collect the information more broadly, particularly to determine whether lenders are making decisions——

Ms. TUCKER. Oh, absolutely.

The CHAIRMAN [continuing]. Not to lend to certain types of schools—which would be inappropriate, if not illegal under the program?

Ms. TUCKER. We have reached out to all of the schools that have been cut off. Particularly, I think, the concern is around the proprietary schools. And thus far, those schools have had no trouble lining up other lenders to serve their students.

The CHAIRMAN. Well, just out the 60 or so—do you have a projection about what number you're going to hear from over the period of these next——

Ms. TUCKER. Our understanding is that these schools are currently talking to lenders, lining up their lenders for the coming school year. And so, we're going to continue reaching out to them. We've reached out to them, for example, to distribute this brochure, Federal Aid, to make sure that they have it out for their students, to help the students understand how to maximize Federal dollars first.

To the extent that we have ongoing communications from Federal Student Aid, yes, we are monitoring that situation with the schools very closely.

The CHAIRMAN. Now, but there's still—this is a small number that have gotten back to you, and you have this 50 percent sort of a framework, what happens when you have, let's say, two lenders each do 30 percent?

Both of them bail out, so that's 60 percent or if they're each 35 percent, maybe 70 percent. And if you're up at a 50 percent cutoff, how do we know that we're meeting the needs of the students?

Ms. TUCKER. I'm going to let Mr.——

The CHAIRMAN. How did we decide to go to 50 rather than, say, 30?

Ms. TUCKER. With other lender activities that we've got going, just under 1,000 schools, we know, have 80 percent of their volume with just one lender. Of course, that change is coming up, but the 50 percent was a threshold that the Federal Student Aid figure would be a good start. Let me let Mr. Warder elaborate on that.

Mr. WARDER. We use 50, because generally it's the—those that have less than 50 do have alternative sources lined up, and they have other relationships now. If we find that we have a school that had two lenders, because we do have—we know who the lenders are by school, and we know their volume—we would then reach out to them, as well, if they lost 50 percent or more.

The CHAIRMAN. So what you're saying is if you had one that was, what, 50 percent and one at 25 percent, you'd be looking at the 25 percent , as well, or——

Mr. WARDER. Well, we'd be looking at the school.

The CHAIRMAN. All right.

Mr. WARDER. So they would be then losing 75 percent of their prior years' lending capacity, so we'd be reaching out to them to see if they could line up other FFELP lenders.

The CHAIRMAN. Just to clarify, what are you telling me about the number of schools that may have, say, 40 and 20, or 35 and 30? They're not getting looked at? Is there—

Mr. WARDER. It would——

The CHAIRMAN. How many of those schools are there?

Mr. WARDER. If both of those lenders stop lending, we would then talk to them. So far, we haven't had that situation yet.

The CHAIRMAN. You're telling me that if it reached 50 percent total, you'd be talking to the school.

Mr. WARDER. Yes.

The CHAIRMAN. Now, one of the points that you mentioned in your speech, in your presentation, Secretary, was the fact that if the students at the school wanted to go to direct lending, as we've seen at Northeastern, too—I, myself, have been a strong supporter of that program, and it has grown in spite of the fact that there have been efforts, and we won't take the time at this meeting to go over them, but to try and, I think, undermine that whole program—but, nonetheless, students have the opportunity, to go into the Direct Loan Program.

They have the opportunity with the Direct Loan Program to have loan forgiveness for public service. I want to ask you, how difficult is it for them now, if you have these—I don't have the number. What did you say—2,000? How many loan programs do you have now that are for colleges?

Ms. TUCKER. For college?

The CHAIRMAN. Yes. How many lenders are there?

Ms. TUCKER. Lenders. We have 1,952 lenders that are actively originating loans. Then, we have 2,200 that are servicing loans or doing other things with loans.

The CHAIRMAN. So the student has the choice of the 1,900?

Ms. TUCKER. Yes. The student has the choice of——

The CHAIRMAN. OK.

Ms. TUCKER [continuing]. The 1,900.

Mr. CHAIRMAN. They don't have the choice to choose the Direct Loan program as one of those 1,900, do they?

Ms. TUCKER. With the Direct Lending Program, the relationship is, of course, with the Federal Government, with the Department of Education and Treasury.

The CHAIRMAN. The student doesn't have that kind of choice, do they? I mean, when you offer FFEL the Direct Loan program is not available——

Ms. TUCKER. Yes.

The CHAIRMAN. You have to set up machinery to see all of those. If they wanted to say now that they wanted to get in the Direct Loan Program—it's not included in—

Ms. TUCKER. It's not in the——

The CHAIRMAN [continuing]. Those 1,900.

Ms. TUCKER. [continuing]. One thousand, nine hundred and fifty. No. It is not.

The CHAIRMAN. Now, wouldn't it be——

Ms. TUCKER. The school——

The CHAIRMAN [continuing]. Convenient? Wouldn't it be valuable to have the opportunity for students to be able to choose to get into that program?

Ms. TUCKER. The school makes the choice on whether they're direct lending or FFELP lending. In fact, we have about 300 schools that are participating in both direct lending and FFELP lending. We have an additional 839 schools that have the authority to switch to direct lending, and have not done so yet; although, we've got 60 that have switched in the last—3 weeks?

Mr. WARDER. Yes.

Ms. TUCKER. That have switched in the last 3 weeks. What Federal Student Aid is doing is ensuring that if a school makes that decision to switch, then not only can they do it easily, but that we also have the capacity to handle the loans from those schools.

The CHAIRMAN. Why couldn't the student make the judgment decision and the choice, instead of the school?

Ms. TUCKER. The statute is set up so that the school makes the choice.

Mr. WARDER. Sir, the Direct Loan Program is set up so that each school that wants to participate signs an agreement with the Department of Education, whereby they say, "We want to do direct lending," and then that's what they do.

The CHAIRMAN. Of the ones that are set up, the 800 that you said could move toward that, how long would it take them to do that?

Ms. TUCKER. I'm going to let Larry be more specific, but the way we've got the software configuration right now, it would take 5 days internally, for us, to get them ready. After that, it would be whatever the school would need to do to make sure that they can go operational.

Mr. WARDER. That's correct. Our process, even if they didn't have authorization, we can get them authorized and able to operate within 5 to 10 days. The problem is, what is the administrative procedures and the software that the school has? How much change do they have to make? I think Northeastern could probably answer that question better than we can.

Ms. TUCKER. As an example, though, Penn State last week announced—and what they told us is—we were done with them, with Penn State—it'll take them 30 to 45 days to do the work at their end.

The CHAIRMAN. Is that your general estimate in terms of the computer configuration?

Mr. WARDER. Yes. That's the general rule. And I'm sure——

The CHAIRMAN. Two weeks here.

Ms. TUCKER. Here, yes.

Mr. WARDER. Well, it's even better than we thought.

The CHAIRMAN. Good, good. Well, I think what we're getting at here is that we want to try and make this as student-friendly as possible, and family-friendly as possible, and to work with the Department to make sure that we're, to the extent that we can, knocking down administrative barriers, so that students and families are going to be able to get the best deal that they can at this difficult time. I think that's really what we're interested in, and we want to try and work with you on these items.

The Fed has taken some really unprecedented actions in the recent days to stabilize the financial markets. Is the Secretary talking to Treasury Secretary Paulson about how these actions might help students and protect students?

Ms. TUCKER. Absolutely. In fact, we're meeting with Secretary Paulson on Thursday. The Secretary and I are meeting with him at 11 o'clock on Thursday morning. Even before that meeting, as I mentioned in my testimony, on a daily basis, staff from Treasury and my team, as well as the Domestic Policy Council and the National Economic Council, are looking at market activity to see if any interventions are warranted, and staying on top of that to ensure—

The CHAIRMAN. What are you going to talk about? What are you going to say to him and what's he going to say to you?

Ms. TUCKER. We're going to—as I mentioned, we have a scorecard that the Federal Student Aid Team and my team have put together that we review with metrics on a daily basis. We'll be sharing with him the metrics, as we see them.

The CHAIRMAN. All right.

Ms. TUCKER. Then, making sure that we have a common understanding of all the tools and resources that are available to us, and

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then, how we would respond as an Administration, should they kick in.

We don't anticipate that it'll happen, but just in case, we want to make sure that everybody's got a common context on what needs to take place.

The CHAIRMAN. Well, we will—you know, we invite you with the Secretary to give us—I'm sure they're interested over in the House, as well, about what happens in that meeting, and we will—we might submit to you some suggestions in areas that we might have that might be useful and worthy to discuss.

Ms. TUCKER. In fact, we'd love to do that. Secretary Spellings is reaching out today to the four of you, the two on the Senate side and the two on the House, about maintaining regular communications, ongoing communications, with you. I know you'll be hearing from her shortly.

The CHAIRMAN. All right. Just in a final wrap-up now, what could you tell us, just in sort of a final wrap-up, in terms of families here, in Massachusetts, and generally New England, that have this concern? They're troubled by the loss of what they call the SEOGS and the work-study programs, which they have used in the past to help students that are needy to do some additional work-study. I know the Administration has sought not to extend those. We're going to be working on that, and working to extend them, because it makes a difference to particularly hardworking students.

Tell me precisely. What can you tell a family or students here who are borrowers and involved in the Student Loan Programs, how anxious should they be? How worried should they be? And, in terms of what has happened in the financial markets in these last few days, what you would anticipate?

I'm also a member of the Joint Economic Committee, and most of the guidance that we're getting there is that there's still going to be some heavy weather ahead.

Ms. TUCKER. Yes.

The CHAIRMAN. In terms of the financial markets, we'd like to know—people can take a challenge and can take problems, but they like to know what's coming and like to be at least as prepared as possible to deal with this. We have every intention of doing as much as we possibly can to make sure that it's going to be minimal. What can you tell us, Secretary, just finally, tell the families here in Massachusetts——

Ms. TUCKER. I——

The CHAIRMAN [continuing]. About this issue?

Ms. TUCKER. Thank you, Senator Kennedy. For the families of Massachusetts, and for families of the United States, what I'd like to say is we greatly appreciate the economic uncertainty that we're under; but rest assured, the Federal Government will not be interrupted in supporting students with their college dreams.

For the coming school year, Federal aid will be available. Whether it's the FFELP Program or the DL Program, the Consumer Bankers Association reached out last week to all financial aid administrators to let them know that the Federal money—I mean, the lending capacity was there, both for the guaranteed program as well as for private loans.

The FFELP community is active, reaching out to financial aid administrators and letting them know that the FFELP money will be there, as well as private loans. And, to the extent that we need to kick in Lender of Last Resort or that we need to convert to direct lending, we as an Administration stand ready to support students to ensure that the money they need for college this fall will be available to them.

The CHAIRMAN. Well, we thank you very much for your statement and comment. I think there's a great number of activities that we need to do to be prepared on this. It isn't just sort of programming.

It's making sure that we are going to have real protections for families, and that's going to take, some activities on all of our parts to make sure that those guarantees, whether it's guaranteed or a Lender of Last Resort, we've got to make sure that the system is in place, it's reliable and dependable, and we have to make sure that young people are going to know now what's out there, what's available, at the best possible price.

We're going to have to make sure that these financial institutions are going to—which underpin certainly a good part of the whole private loan program—we have to monitor those, and monitor those closely, because so many of the families here in Massachusetts are depending on them.

We can certainly hope for the best, but we have to certainly act—we're talking about education, and families with scarce resources are hard-pressed to try and make this work. We have to make sure that we're going to give them our best shot in ensuring that those families' dreams are going to be achieved.

I want to thank you all very much for joining with us.

Ms. TUCKER. Thank you.

The CHAIRMAN. We noticed a little green button that you have up here. If you notice, I haven't been taking my eye off of it.

Ms. TUCKER. Well, for us Mexican-Americans, the Irish did a lot to help us with——

The CHAIRMAN. There you go.

Ms. TUCKER [continuing]. Independence, and so I had to say thank you.

The CHAIRMAN. Thank you. Thank you very, very much. Thank you. Thank you very, very much. Our next—thank you. Our next panelist will be Eileen O'Leary. Good morning, Eileen.

Ms. O'LEARY. Good morning.

The CHAIRMAN. She's the Assistant Vice President and Director of Student Financial Services at Stonehill College. Her primary duties include handling the student financial aid for the university. She is also a former President of the Massachusetts Association of Student Financial Aid Administrators.

Deanne Loonin is the Director of Student Loan Borrower Assistance, National Consumer Law Center. Deanne is a staff attorney with the National Consumer Law Center, and Director of the Student Loan Borrower Assistance Project. She's a co-author of numerous publications and reports, including the NCLC's publication, Student Loan Law and Guide to Surviving Debt. Prior to coming to the NCLC, Deanne worked as a legal aid attorney in Los Angeles.

Tom Graf is the Executive Director of MEFA, the Massachusetts nonprofit student lender. Tom joined the Massachusetts Educational Finance Authority in 1999, where he serves as the Executive Director. For more than 30 years, MEFA has provided student loans to families across the Commonwealth. Prior to joining the Authority, Tom was Deputy Budget Director at Fiscal Affairs Division, and Director of Legislative Affairs and Fiscal Affairs for the Office of the Governor of the Commonwealth of Massachusetts.

And Eliaquin Gonell—is that——

Mr. GONELL. Yes.

The CHAIRMAN. Did I do ok? Thank you. Is a student at Salem State College. He is a junior at Salem State College, where he is majoring in history, with a concentration in legal study. For the past summers, Eliaquin has been a staff member for the TRIO Program, working to help hundreds of low-income and at-risk youth. Good for you.

He is currently involved in organizing an up-and-coming statewide Massachusetts Student Association, working with students from public institutions across the Commonwealth—to unite campuses and advocate for college accessibility and affordability at the State level. Eliaquin is a first-generation American. His parents emigrated from the Dominican Republic. He's the first of his family to attend college. Delighted to—it's a pleasure to have you.

Mr. GONELL. Thank you.

The CHAIRMAN. Eileen, well, it's good to see you again.

Ms. O'Leary. Thank you, Senator.

The CHAIRMAN. Thank you very much for all of your good work and leadership, in terms of college accessibility for students. It's been a great help to all of us in the Congress for a long period of time. We're delighted to have a chance to see you again.

STATEMENT OF EILEEN O'LEARY, FINANCIAL AID DIRECTOR, STONEHILL COLLEGE, EASTON, MA

Ms. O'LEARY. Thank you. Thank you very much for this opportunity to provide testimony today at the field hearing of the HELP Committee.

I've worked at Stonehill College in the financial aid area for nearly 25 years. What we find now is that, unfortunately, we've arrived at a confluence of events which is being used by some to characterize the Federal Student Loan Programs as in crisis, including the sub-prime mortgage debacle, the unfeasibility of financing Federal education loans through asset-backed securities markets, changes to illegal inducement and preferred lender list regulations, and reduction in lender profits in FFEL.

Fear mongering and misinformation, whether intentional or not, is unfortunate, and may prove extremely harmful to students just as so many of our high school seniors decide not just what college to attend next year, but if they should go to college at all.

First and foremost, as a financial aid administrator with 25 years' experience, I can state with complete confidence that all eligible students can get Federal student loans now, and will be able to do so going forward. While lenders may be experiencing problems in securing capital or adjusting to the post-CCRAA world, this should not translate into problems for students. The Secretary of

Education, other members of the Department, and many in the FFELP industry, the national higher education associations, as well as most financial aid administrators concur.

I recently conducted an informal survey of Massachusetts schools, and every responding financial aid administrator indicated that they have not experienced an inability for their students to get FFELP loans this year, and they expect no change for next year. While a few have been notified that one or more of their historical lenders will reduce or stop FFELP participation, there are other lenders who have filled the resulting gap.

However, we must err on the side of caution and be prepared. In the extremely unlikely event that FFELP schools do experience difficulties obtaining Federal student loans, Congress has already established two fail-safe means to ensure access, and we've spoken about them earlier this morning.

First, Congress created the Lender of Last Resort to allow guaranty agencies to secure capital from the government to use to cover any shortfalls. Secretary Spellings and Martinez-Tucker have stated that the Department is putting these mechanisms into place now. Second, Congress has already created the most efficient and reasonable means of ensuring against capital shortfalls in FFEL. In 1992, Congress created the Federal Direct Student Loan Program. Direct lending provides the same Federal loans to students as does FFEL; it is simply an alternative delivery system with capital provided by Treasury directly instead of through private lenders.

Some believe that the Department cannot handle a major increase in DL volume, and we should remember that at its inception direct lending increased its market share from zero to one-third in 2 years, and as a new, unproven program, with no previous infrastructure. The Department proved it was extraordinarily capable of handling a large increase in volume then, and one would expect that after 15 years of improved technology and experience, it could rapidly and smoothly expand from its present market share of 20 percent.

One of the efficiencies introduced by the Department over the DL Program's history is its movement to the Common Origination and Disbursement system, or COD. COD is used by every school to process Pell, ACG Smart, and the new TEACH Grants. Therefore, every school in the country is already up and running on a system necessary to process direct loans. Schools who believe their students may not continue to be well-served through FFELP can move quickly into DL if they so choose.

Today, nearly every college's management system software is DL-processing capable already. A school determined to shift from FFELP to DL has only to make the decision and follow the short course. The Department has stated that it's capable of doubling direct loan volume immediately, without any system or contract or upgrades, since they are currently underutilizing capacity. In addition, over a few months, they are confident that direct loan volume could increase to 60 percent of market share with relatively minor accommodations. Further increase would require some systems and contractor upgrades.

There's been much misinformation about direct lending promulgated by those with a vested interest in its demise. In my experience, and that of over 1,100 other successful direct loan schools, it's a better alternative to FFELP for many reasons, which I've included in my written testimony. I will only mention one now, and it is that the Department of Education does not redline students at any school, and provides funds to all eligible students, and that's not always the case in FFELP.

Finally, I would urge you to work with the Secretary of Education on these issues on a continuing basis. It is obviously not enough that the Department's capable of handling a sudden significant increase in direct loan volume. It must set the stage now to handle any major influx. I would suggest that the Secretary proactively inform FFELP schools of the necessary steps to move to direct lending if they so choose.

The Secretary should write to FFELP college presidents and financial aid directors, and place simple instructions on the Department's Web site, as well. She should reassemble her team of internal experts to work with new DL schools to get them up and running in the shortest timeframe possible, a method that was highly successful in the beginning of the program.

The Department has certainly proven itself capable of bringing up new programs quickly and efficiently, most recently, operationalizing both ACG and Smart on short notice. I have no doubt that with preplanning now, students will see no disruptions in Title IV Loan fund disbursements under any required Lender of Last Resort or direct loan expansion.

I thank you for the opportunity to present testimony at the field hearing this morning, and I'd be pleased to answer any questions you have.

[The prepared statement of Ms. O'Leary follows:]

PREPARED STATEMENT OF EILEEN K. O'LEARY

Good morning Senator Kennedy and distinguished panel members. Thank you very much for the opportunity to provide testimony today at this field hearing of the U.S. Senate Health, Education, Labor, and Pensions Committee. Your willingness to hold this hearing to bring clarity and calm to the question of Federal student loan availability is very much necessary and appreciated.

My name is Eileen O'Leary and I am Assistant Vice President and Director of Student Financial Services at Stonehill College in Easton, MA, where I have worked for nearly 25 years. I have operational and administrative experience with nearly every Federal title IV financial aid program and have counseled thousands of students seeking financial assistance to pay for their dream of earning a college education. I have administered the Federal Pell, ACG, SMART and SEOG programs; the Federal Perkins Loan program and Federal Work-Study programs; and I have processed student loans through both the Federal Family Education Loan Program (FFELP) and the Federal Direct Student Loan program (DL). My professional career has been very rewarding and I am grateful to Congress for its ongoing commitment to providing access to higher education. I am especially gratified by your recent bold and definitive action in passing the College Cost Reduction and Access Act of 2007 (CCRAA) in which you chose students over private sector profits, providing the single largest increase to the Pell Grant in recent history, as well as reduced fees and interest rates on student loans and numerous other student benefits such as public service loan forgiveness, TEACH Grants, and the income-based repayment option.

Unfortunately, we have arrived at a confluence of events which is being used by some to characterize the Federal student loan programs as "in crisis." These events are:

- the crisis in the credit markets resulting from the sub-prime mortgage debacle which may affect the availability of capital for private (non-Federal) student loans;

• the credit market situation making unfeasible the financing of Federal education loans through the asset-backed securities market, particularly effecting the not-for-profit FFELP lenders; and
• the recent reduction in lender profits in FFELP through CCRAA.

The executive director of the FFELP trade group America's Student Loan Providers has stated in The Daily Beacon that "If conditions continue in the credit crisis, it's not unimaginable that next fall some families will find it difficult to find a *Federal student loan*."

Congressman Kanjorski (D–PA), in his March 4, 2008 press release "expressed concern that many lenders will soon decide . . . to leave the student loan market."

Many media outlets have reported—either through carelessness or misinformation—that there will not be sufficient capital or indeed lenders to provide students with Federal student loans going forward. In fact, the *Wall Street Journal* has reported that students with poor credit "will likely have a harder time getting a government backed Federal loan."

Such blatant fear-mongering and misinformation (whether intentional or not) is unfortunate and may prove extremely harmful to students across the country, just as so many of our high school seniors currently decide not just what college to attend next year, but if they should go to college at all.

Congress, schools and FFELP lenders alike seek to help qualified students get a college education. However, any attempt to foster the belief in a Federal student loan crisis is harmful, unconscionable, and counter to the national goal of increasing the number of college graduates. Thus, while citizens need to know the facts, these facts should be clearly stated with no attempt to cause panic or to misinform.

First and foremost, as an experienced financial aid professional, I can state with complete confidence that **there is no Federal student loan crisis—all eligible students can get Federal student loans now and will be able to do so going forward.**

While lenders may be experiencing problems in securing capital or adjusting to the post CCRAA world, this does not translate into problems for students. Students will still be able to obtain Federal student loans!

I do not believe that the HELP Committee's goal is to ensure the continued viability of every player in the FFELP industry. It is, as the title of this hearing states, to *Ensure Access to College*. It is all about students—nothing more, nothing less.

I fully realize that the financial markets are in crisis and many FFELP lenders are experiencing major shifts in their methods of securing capital, in their personnel requirements as they operationalize the recent changes to inducement and lender list regulations, and in the economies required under compressed profit margins.

However, lender difficulties do not translate into an inability for students to get Federal loans for which they are eligible.

Members of the U.S. Department of Education, the FFELP industry, national higher education organizations, and other financial aid administrators concur.

1. Al Lord, Vice Chairman and CEO of Sallie Mae, the largest FFELP lender stated in his March 3, 2008 letter to financial aid directors that while:

> "These issues . . . have created uncertainty among many who rely on student lending . . . my purpose in sending this letter is to remove the uncertainty. The capital market disruption is the lenders' problem; Sallie Mae does not want it to be yours."

2. JP Morgan Chase bank has announced that it will continue to make Federal student loans and is voluntarily cutting interest rates and fees on federally-backed student loans in order to gain greater market share.

3. Mark Kantrowitz, the publisher of Finaid.org, a Web site sponsored by Citibank, a FFELP lender, has disseminated a list of lenders who have announced that they are leaving the FFELP program, or temporarily suspending new loan originations. His list of "drop-outs" includes fewer than two dozen lenders, some of whom were simply consolidation companies looking to make fast money—a process that is no longer attractive to students given the change from variable to fixed interest rates on Federal student loans. Since over 2,000 unique lenders made FFELP loans this year, the loss of a few dozen is inconsequential. Many of the remaining 1,900-plus lenders will certainly be willing to take on the added market-share.

4. Mike Reardon, CEO and President of Citibank stated on February 22, 2008, that:

> ". . . this is an unprecedented and challenging time for the FFELP community. The recent and upcoming legislative changes are significantly impacting how we manage our business. Congress has required us to do more with less and we are rising to the challenge."

5. C.E. Andrews, President of Sallie Mae has stated on January 29, 2008 that "The changes we have announced reinforce our ability and commitment to provide the right saving- and paying-for-college solutions to our schools, students, and families."

6. Mike Dunlap, President and CEO of Nelnet wrote to financial aid directors on January 23, 2008, that:

> "Nelnet is a stable business partner because of our financial strength. We have made decisions for the long term and have the capital, cash, and revenue we need to serve you and be successful."

7. Secretary of Education Margaret Spellings has stated in her recent letter to college presidents that:

> "While a few lenders have chosen or may choose to re-evaluate their continued participation in this program, we expect other lenders will actively compete for this loan volume and ensure that a competitive, efficient, and comprehensive FFEL Program continues to provide a variety of lending options, foster innovation, and improve customer service."

8. Anita Weier of the *Capital Times* reported that Richard George, president and CEO of Great Lakes Higher Education Guaranty Corporation, has stated that: "there should not be any impact on Federal title IV loans" as a result of the "student loan troubles." Mr. George was further quoted in Weier's *Student Loans are Safe Here* article that: "lenders being affected by the spillover of the sub-prime mortgage loan crisis are largely nontraditional lending companies that have auctioned securitized student loans."

9. "We're concerned, as everybody is, because there is turmoil in the financial markets, but so far we haven't found it in the student loan office . . . I'm afraid people are panicking with no reason to," stated Larry Warder of the U.S. Department of Education in that same article.

10. The University of Wisconsin—Madison director of student financial services also stated in the Weier article that student loans will not be much of a problem at her institution. "We are not in a panic mode at all."

11. The Executive Director of the Iowa College Student Aid Commission, Karen Misjak stated in a March 6, 2008 press release that "Many of our lender partners, both local and national, have stepped up to the plate to ensure that access . . . remains attainable and affordable."

12. Joe Belew, president of Consumer Bankers Association in his March 10, 2008 message to financial aid administrators stated that:

> "There have been numerous reports of lenders throughout the country announcing that they will no longer be making Federal Family Education Loans or that they will be reducing or stopping the lending of private education loans. We are writing to let you know that despite a series of negative developments . . . banks plan to continue making both FFELP and private loans in academic year 2008–2009."

He also elaborated that while some lenders will cease making FFELP loans, "some banks plan to expand their lending in the upcoming academic year to ensure that students have the funds they need."

13. Dr. Phil Day, President and CEO of the National Association of Student Financial Aid Administrators (NASFAA) in his March 11, 2008 letter to membership stated that:

> "NASFAA is not aware of any student being denied a Federal student loan due to market conditions . . . Even in instances where student loan providers have suspended their loan programs, other loan providers have stepped in to fill any vacancies."

14. The Project on Student Debt has confirmed that "Federal student loans are and will remain widely available to students and families at all income levels."

Currently, there are about 3,500 approved lenders in the Department of Education's database of eligible FFELP lenders. This means that there are approximately two schools for every lender. We also know, based on Department of Education records, that over 2,000 unique lenders are defined as "active" since they made loans to students during this academic year. Through media reports as well as lender statements, we can ascertain that less than two dozen of these lenders to date have decided to cutback or cease lending activities for the next academic year. This is a mere 1 percent of active lenders. There is no doubt that some of the remaining lenders will see this as an opportunity to increase their market share, and indeed a few have already indicated that they are ready and able to do so. These numbers also tell us that in any given year, all eligible lenders are not necessarily actively participating in FFELP, for unique business reasons unrelated to the current capital market crisis. These past hiatus' from lending have never caused a panic or lack of FFELP loan availability for students.

I recently conducted an informal survey of Massachusetts colleges, universities and trade schools and every responding financial aid administrator indicated that they have not experienced an inability for their students to get FFELP loans this year, and expect no change for next year. While a minority have been notified that one or more of their historical lenders will reduce or stop FFELP participation, there are other lenders who have filled the resulting gap. They reported only that some loan terms have changed—not because of the credit crisis, but due to the smaller profit margins resulting from CCRAA. (As you know, the reduction in special allowance payments has resulted in the reduction of some lender-defined benefits enjoyed by some borrowers and instead Congress has moved these excess profits into significantly higher Pell Grants for *all* eligible needy students.)

(It must be noted that we will, in all likelihood, see a tightening of credit requirements for private, non-Federal, alternative loans that are not federally guaranteed. Most typically, students with bad credit will be unable to obtain alternative loans with high interest and exorbitant fees at schools with high default rates and low graduation rates—loans that are not dischargeable, even in bankruptcy or death. I for one do not believe this is a bad thing.)

We must, however, err on the side of caution and be prepared. In the extremely unlikely event that students at FFELP schools do experience difficulties obtaining their Federal student loans, Congress has already established two fail-safe means to insure access.

First, Congress created the "Lender of Last Resort" option to allow guaranty agencies to secure capital from the government to use to cover any shortfalls of available funding for FFELP loans. While it has never been necessary to resort to this fallback position to date, the U.S. Department of Education is putting the mechanisms in place to do so if necessary, according to the Secretary of Education, Margaret Spellings. This means that if lenders in general are unable to secure sufficient capital to meet the needs of students, then the Department of Education will insure that capital through the established guaranty agencies across the country.

Second, Congress has already put into place the most efficient and reasonable means of insuring against capital shortfalls in FFELP and disruptions for students. In 1992 Congress created the Federal Direct Student Loan Program (DL). Direct Lending provides the same Federal loans to students as does FFELP; however, operationally it is an alternative delivery system for getting students their Federal loan proceeds. The capital is not provided by the private lending industry as in FFELP; instead, the Federal government provides the loan capital for DL directly from Treasury. There are currently about 1,100 schools across the country whose students receive their loan funds through the DL delivery method instead of through FFELP. This accounts for about 20 percent of all student and parent Federal loan volume. In fact, DL has the largest market share of Federal student loans of any lender in the country, including the largest FFELP lender, Sallie Mae.

Some FFELP lenders have stated that the Department of Education is not capable of increasing volume in DL if FFELP partially or fully fails. It appears, however, that it is basically the lenders who have this opinion, and that opinion is apparently based on no more than wishful musings. We must remember that at its inception, Direct Lending increased its market share from zero to one third of the market over a 2-year period, as a new, unproven program with no previous infrastructure. The U.S. Department of Education proved it was extraordinarily capable of handling a large increase in volume then, and one would expect that after 15 years of improved technology and experience, it could rapidly and smoothly expand from its present market share of 20 percent. There is no basis in fact to assume that the Department is not fully capable of exceeding its initial success.

One of the efficiencies introduced by the Department over the Direct Lending program's history is its movement to the Common Origination and Disbursement system, or COD. COD is the system used by every college, university, and trade school in the country to process Pell Grants, ACG, SMART, and the new TEACH grants. Therefore, every school is already up and running on the system necessary to process direct loans. Movement to Direct Lending, if necessary, is not akin to a systems change for schools, but rather an expanded use of the current Federal aid delivery system. Direct loans are simply Pell Grants with a promissory note.

Schools who believe their students may not continue to be well-served through FFELP can move quickly into the DL program if they so choose. For a school already approved for title IV program eligibility, the steps are few and simple: A change to the Program Participation Agreement (an on-line process) to include DL, expansion of use of EdExpress or similar file transfer method for COD, and internal process adjustment and training. After 15 years of Direct Lending, nearly every enterprise system used by schools are DL-processing capable already. A school determined to shift from FFELP to DL has only to make the decision and follow the short-course.

While some acknowledge that the Department, over time, could handle a significant increase in direct loan volume, they have expressed concerns about an ability to do so in the short term. However, I have been advised by the Department that it is capable of doubling direct loan volume immediately, without any system or contractor upgrades since they are currently underutilizing capacity. In addition, over approximately 2 months, they are confident that direct loan volume could increase to 60 percent of market share (from the current 20 percent) with relatively minor accommodations and adjustments. To increase further would require some systems and contractor upgrades. These upgrades, however, could be accomplished relatively quickly.

There has been much misinformation about Direct Lending promulgated by those with a vested interest in its failure. In my experience, and the experience of over 1,100 other successful direct loan schools, it is a better alternative to FFELP for many reasons, including the following:

- The Department of Education does not redline students at any schools and provides funds to all eligible students. This is not always the case in FFELP.
- Direct Lending provides a simple, one-stop shopping alternative with great customer service to students and families.
- Direct Lending provides a high level of transparency and simplicity, reducing administrative time and expense.
- The streamlined process is easy for families to understand and navigate.
- While in FFELP borrowers may have multiple loan servicing agents and loans may be sold several times over the life of the loans, Direct Lending maintains a single point of service for the life of the loan.
- Direct Lending provides ease, predictability and reliability of obtaining funds to assist in cash flow predictions at the institutional level.
- Perkins Loans consolidated into Direct Lending do not lose their grace period.
- DL borrowers can change repayment plans at any time without loss of benefits; this is not always true in FFELP.
- Borrowers can take advantage of the new Public Service Loan Forgiveness available only in the DL program.

Stonehill College's experience with Direct Lending can best be expressed in our latest estimated cohort default rate: 0 percent. The DL servicer is available, helpful, and committed to reducing defaults. They are highly successful, with the cohort default rate lower than in FFELP for every applicable year but one in the last 10 years.

Finally, I would urge you to work with the Secretary of Education on these issues.

It is obviously not enough that the Department is *capable* of handling a sudden, significant increase in direct loan volume. It must set the stage now to handle any major influx of schools.

Over the past 8 years, the Department has not been actively advancing the Direct Loan Program, allowing a comfortable status quo to evolve. However, in the unlikely event that FFELP does degenerate and more schools decide to move quickly to Direct Lending, the Secretary must be prepared and that preparation should begin immediately.

I would suggest that the Secretary pro-actively inform schools in FFELP of the steps necessary to move to Direct Lending if they so choose. These steps must assume current title IV eligibility and provide simple and concise instructions for approval and training both on-line and in person. I would advise that the Secretary immediately and conspicuously place these simple instructions on the Department's IFAP Web site.

She should re-assemble her team of internal experts to work with new direct loan schools to get them up and running in the shortest timeframe possible to avoid disruptions to students, a method that was highly successful in the beginning of the program. This will allow schools to have a single-point-of-contact at the Department when it has implementation questions.

If needed, both the Lender of Last Resort option and Direct Lending must be fully ready to relieve any FFELP emergency that may evolve, without delays. The Department of Education has certainly proven itself capable of bringing up new programs quickly and efficiently most recently operationalizing both ACG and SMART on short notice. I have no doubt that with pre-planning now, students will see no disruptions in title IV loan fund disbursements under any required Lender of Last Resort or Direct Loan expansion.

I thank you again for the opportunity to present testimony at this Field Hearing. I urge you to continue to do your good work, insuring access to higher education for all qualified students, regardless of the financial circumstances into which they are born. I would be pleased to answer any questions that you may have.

The CHAIRMAN. Fine. We'll come to the questions in just a moment—Deanne.

STATEMENT OF DEANNE LOONIN, DIRECTOR OF THE STUDENT LOAN BORROWER ASSISTANCE PROJECT, NATIONAL CONSUMER LAW CENTER, BOSTON, MA

Ms. LOONIN. Thank you, Senator Kennedy, for inviting us here today, and for your many years of support for students. My name is Deanne Loonin, and I offer my testimony here on behalf of the National Consumer Law Center's low-income clients.

The National Consumer Law Center is a nonprofit organization based here in Boston, specializing in consumer issues on behalf of low-income people. Our Student Loan Borrower Assistance Project provides information about student loan rights and responsibilities for borrowers and advocates.

The most important point I want to make today is that, with respect to student loans, the sky is not falling. It's destructive to students and their families to suggest that it is. As a society, we face many challenges in improving access to higher education. There is a very troubling gap at access and in college completion rates, based on economic class and race. We also face the challenge of expanding access, as you mentioned, during a time of less State support for public institutions and other support for public institutions, and skyrocketing costs.

These are all serious concerns, some perhaps appropriately characterized as at a crisis level, but access to Federal student loans is not on this list. I won't belabor this point, because others have made it well here, but we agree that despite the current volatility in the credit markets, students and parents should have no problems accessing the existing Federal student loan programs.

I want to focus a little bit more on the private loan side. In contrast, there may be some disruption in the availability of private student loans, particularly the highest-cost loans. However, this too is hardly a crisis. Rather, a tighter market for private student loans, if it occurs, should help pull aside the curtain and show the reality that in the long run expensive credit does not promote equal access to education. The road to equal access should not be paved with predatory loans.

To the extent there is a crisis for students today, it is that heavy reliance on loans to finance education means that many students come out of college buried in debt. These problems are compounded by draconian collection powers that allow the government to pursue student loan borrowers to their graves, and even seize social security payments. Again, not to belabor the point, but we agree that the Department of Education has shown every indication that it is monitoring the Federal loan side, and has wisely tried to alleviate panic, and we hope that Congress will follow that lead.

With respect to private loans, there is some volatility in the market and there have been some changes, mainly in response to the growing private loan failure rate. Regardless, I want to be sure that the changes to date are not overstated. Some lenders have announced they are getting out of the private student loan business, or more commonly that they will stop making loans to the highest risk borrowers. This has not yet developed into a larger trend, and it may be that the lenders will curtail business mostly in poorly-performing schools, including many proprietary schools.

This is not only a needed market correction, but an opportunity to curb predatory student lending, which is harming the very students we most want to help get into and succeed in college. Tightening, if it occurs, is likely to shake out loans that never should have been made and that are harming students. It could also force schools and lenders to think twice before pushing these high-priced products.

Private student loans are almost always more expensive than the strictly-regulated Federal loans. There are some decent products out there for sure, particularly for prime borrowers, but the borrowers with the lower credit scores or limited credit histories get the most expensive loans. Private loans also do not have the same range of protections for borrowers that government loans have. Charging the highest rates and adjusting the rates to the most vulnerable consumers has been a recipe for disaster in the mortgage lending industry. We're afraid that similar trends are emerging for private student loans.

In some cases, the loans are so expensive that they are destined to fail. In addition, many borrowers run into unexpected life traumas, such as disabilities or family breakups, that ruin their dreams of upward mobility. Regardless, the student loan debt that was supposed to be an investment in their futures is dragging them down. We will not attain our goals of expanded access to education if the highest-risk students are forced to rely on the types of private loans we reviewed in our recent March 2008 report.

The details of that report are summarized in the written testimony, but I just wanted to mention a few. We found that many of the loans were extremely high-priced. For example, the highest initial rate was close to 19 percent. The average was 11.5 percent for the loans in our survey. Then, there's high fees, origination and other fees, that compound the problem. Other problems we found have received less publicity, but are just as harmful. For example, 61 percent of the loans we surveyed had mandatory arbitration clauses. All had provisions that required borrowers to defend lawsuits or bring claims in the State where the lender is located, not where the borrower lives.

The idea of relying on private loans to make college affordable is even more harmful for students when you take into account the lack of relief or a safety net if the borrowers run into trouble down the road. Relief is rarely available for these borrowers. Private loan creditors may offer flexible repayment, the kind of flexible repayment you talked about that you and others recently passed with the Federal loan programs, but they are not required to do so.

In our experiences representing borrowers in financial distress, lenders have not been willing to cancel loans or offer reasonable settlements. Private lenders generally do not cancel student loan debt, even upon death of the original borrower or cosigner. Unlike the Federal loan programs, long-term flexible repayment or income-based repayment options are rare. And, due to the 2005 congressional change, these very high-cost loans are just as difficult to discharge in bankruptcy as the Federal student loans.

In conclusion we are in a time of change, not crisis. Change understandably makes people nervous, but it is not a cause for panic. I urge you and the committee and others to keep the focus on helping students pay for school without taking on unsustainable debt burdens, rather than preserving an imperfect status quo because a few lenders are not making the profits they are accustomed to making.

Thank you for the opportunity to testify today.

[The prepared statement of Ms. Loonin follows:]

PREPARED STATEMENT OF DEANNE LOONIN

Mr. Chairman and members of the committee, the National Consumer Law Center (NCLC) thanks you for inviting us to testify today on ensuring access to college. We offer our testimony here on behalf of our low-income clients. The National Consumer Law Center is a nonprofit organization specializing in consumer issues on behalf of low-income people. We work with thousands of legal services, government and private attorneys, as well as community groups and organizations, from all States that represent low-income and elderly individuals on consumer issues.[1] NCLC's Student Loan Borrower Assistance Project provides information about student loan rights and responsibilities for borrowers and advocates. We also seek to increase public understanding of student lending issues and to identify policy solutions to promote access to education, lessen student debt burdens and make loan repayment more manageable.[2]

INTRODUCTION: THE SKY IS NOT FALLING

As a society, we face many challenges in improving access to higher education. There is a very troubling gap in access to higher education and college completion rates based on economic class and race. Despite the widespread availability of student loans, low-income families are still about 32 percent less likely to send their children to college than families with higher incomes. Further, students from low-income families attend public 4-year institutions at about half the rate of equally qualified students from high-income families.

We also face the challenge of expanding access during a time of decreased financial support for public higher education institutions, including community colleges. These problems are exacerbated by skyrocketing college costs and concerns about the preparation levels of high-risk students entering college.

These are all serious concerns, some perhaps appropriately characterized as at a "crisis" level. Access to Federal student loans is very clearly not on this list. Despite the current volatility in the credit markets, students and parents should have no problems accessing the existing Federal student loan programs. In contrast, there may be some disruption in the availability of private student loans, particularly the highest cost loans. However, this is hardly a crisis. Rather, a tighter market for private student loans, if it occurs, should help pull aside the curtain and show the reality that in the long-run, expensive credit does not promote equal access to education. Private loans are not a solution to the problem of rising costs.

To the extent there is a crisis for students today, it is that heavy reliance on loans to finance education means that many students come out of college buried in debt. These problems are exacerbated by draconian collection powers that allow the government to pursue student loan borrowers to their graves and even seize Social Security payments.

ACCESS TO FEDERAL STUDENT LOANS IS SECURE

The overall economic crisis has not, will not and should not affect access to Federal loans. A few lenders have recently left the business, but there are still over 2,000 lenders participating in the guaranteed loan programs. The few institutions

[1] In addition, NCLC publishes and annually supplements practice treatises which describe the law currently applicable to all types of consumer transactions, including *Student Loan Law* (3d ed. 2006 and Supp.).

[2] *See* the Project's Web site at *http://www.studentloanborrowerassistance.org*.

that have experienced problems have been able to line up new lenders. Even the Pennsylvania Higher Education Authority, in its press release announcing its exit from the Federal guaranteed loan program, stated that its decision should have minimal effect on students. Some banks, particularly those that are not reliant on outside investors to raise capital, see an opportunity to move more aggressively into federally backed student lending.

Even if more lenders start pulling out of the Federal guaranteed loan programs, there is adequate back-up to protect students. These safeguards include the Federal Direct loan program and lender as last resort provisions. If a borrower's current lender leaves the program, the borrower will still be able to get virtually the same loans through the Direct loan program or from other FFEL lenders. Borrowers may have to pay slightly more if some of the current incentives are reduced or eliminated, but the additional costs should be minimal and in many cases offset by reductions in interest rates for subsidized loans. Further, the recent expansion of PLUS loans to graduate and professional students makes Federal loans even more available to borrowers.

There is no reason to prop up lenders simply to preserve the status quo. The heavy subsidies in the guaranteed loan program evolved in response to lenders' initial reluctance to participate in the program when it was first created. Times have changed. Federal guaranteed loans have been and will continue to be a profitable business. In addition, the Direct Loan program, created in the 1990's, helps ensure that borrowers have other choices.

The Department of Education has shown every indication that it is monitoring the situation and has wisely tried to alleviate panic. Congress should follow their lead. It is destructive to mislead students and their families about a crisis that does not exist.

THE DANGERS OF PRIVATE STUDENT LOANS

Private student loans are made by lenders to students and families outside of the Federal student loan program. They are not subsidized or insured by the Federal Government and may be provided by banks, non-profits, or other financial institutions. The borrowing limits in the Federal loan programs, the skyrocketing cost of higher education and aggressive lender marketing have fueled the growth of private student loans. Although still a smaller percentage of overall student loans, the yearly growth of private loans is outpacing that of Federal loans. Private loans now comprise about 24 percent of the Nation's total education loan volume.

Private student loans are almost always more expensive than the strictly regulated Federal loans. This is especially true for borrowers with lower credit scores or limited credit histories. Private loans also do not have the same range of protections for borrowers that government loans have. Further, borrowers are more likely to borrow unaffordable amounts since, unlike most Federal loans, there are no loan limits for private loans.

A main reason for the increased supply of private student loans is the profitability of this business. The private loan market has been profitable primarily because originators sell the loans with the intention of packaging them for investors. The market for securitized student loans jumped 76 percent in 2006, to $16.6 billion, from $9.4 billion in 2005. Student loan asset-based securities (ABS) accounted for about 9 percent of total U.S. ABS issuance in 2005.

Lenders must sell a certain amount of loans in order to generate sufficient pools of loans to sell to investors. As a result, creditors make and sell loans to borrowers, but with the specific goal of selling them to investors. Loan products are thus developed for the re-packaging rather than to provide the most affordable and sustainable products for borrowers.

Charging the highest rates and adjusting the rates to the most vulnerable consumers has been a recipe for disaster in the mortgage industry. Similar trends are emerging for private student loans. In some cases, the student loans are so expensive that they are destined to fail. In addition, many borrowers run into unexpected life traumas such as disabilities or divorces that ruin their dreams of upward mobility. Regardless, the student loan debt that was supposed to be an investment in their futures is dragging them down.

We work with borrowers every day to help them address these problems. If you ask our client John D. whether there is a crisis, he would not point to a lack of access to credit, but rather the fact that the credit he did get is ruining his future plans. A few years ago, he took out a Federal loan and a high-cost private loan to attend a local proprietary school. John withdrew after one semester because the program the school promised he would be able to take was not being offered. John is

23 years old and suffers from severe depression. He has been unable to recover and go back to school and now faces a lawsuit for collection of his private loans.

You will likely hear similar sentiments from the approximately 2,500 former students of Silver State Helicopters, a Nevada-based for-profit flight school that recently went into bankruptcy. Most of these students received private loans to cover costs and are stuck with incomplete educations from a school that has closed, while also facing demands from lenders insisting on repayment.

Similarly, Patrick K. was 22 years old in 2006, just a semester away from graduating from the University of Rhode Island, when his life changed forever. He suffered a terrible accident, falling down a long escalator and suffering severe brain damage. His parents, doctors and nurses have fought hard to keep him alive, but the prognosis is not good. Patrick is in a minimally conscious state and is incapable of consistent communication, fully dependent upon others for all of the activities of daily life. Patrick's family has struggled to find resources to pay for his care. They are also using up their retirement and other resources to retrofit their home so that it will be accessible for Patrick when they bring him home.

Patrick took out Federal loans to finance his education and also worked during the summers to earn money for college. His Federal loans were discharged based on permanent and total disability. He also used private loans to help fill the gap. To get a better rate, his mother co-signed on the loans. Because Patrick's Mom co-signed, they were able to get a decent interest rate. The problem is the lack of a safety net when this tragedy occurred.

NCLC REPORT ON THE HIGH COST OF PRIVATE STUDENT LOANS

In a March 2008 report, NCLC reviewed 28 private loans issued between 2001 and 2006, looking for warning signs and potential problems.[3] Key findings included:

1. Pricing

All of the loans in our survey had variable rates. The lowest initial rate in our sample was around 5 percent and the highest close to 19 percent. The average initial disclosed annual percentage rate (APR) for the loans in our survey was 11.5 percent.

Some of the margins were shockingly high. Multiple loans in our survey had margins of close to 10 percent. The average margin was about 4.8 percent. A borrower taking out a loan with a margin of 4.8 percent at the time the report was written would have an initial interest rate of 7.25 percent plus 4.8 percent or 12.05 percent. As a comparison, the average margin for 1-year adjustable rate mortgage loans in 2006 was 2.76 percent.

None of the loans we examined contained a rate ceiling. A few set floors. These floors are particularly unfair for borrowers in an environment of declining interest rates. Nearly all of the loan notes we examined stated explicitly that the borrower's school was a factor in pricing the loan. Pricing based on institution has raised concerns about possible discrimination against borrowers in protected racial groups.

2. Origination and Other Fees

There are no limits on origination and other fees for private student loans. According to the loan disclosure statements we reviewed, there were origination charges in all but about 15 percent of the loans. For those with origination fees, the range was from a low of 2.8 percent up to a high of 9.9 percent. The average in our survey was 4.5 percent. Most of the lenders in the private student notes we surveyed reserved the right to charge additional fees for other services.

3. Flexible Repayment Plans

Private loan creditors may offer flexible arrangements, but they are not required to do so. None of the loan notes we surveyed specifically provided for income-based repayment. A few stated that borrowers would be able to choose alternative repayment plans in certain circumstances. However, the specific criteria and circumstances were not spelled out in the agreements. Only a few mentioned that graduated repayment was possible. In these cases, the loan contract stated that these plans would be offered only *if available*. There is no information provided about when such plans are available.

In our experience representing borrowers through the Student Loan Borrower Assistance Project, we have found private lenders to be universally inflexible in granting long-term repayment relief for borrowers. Even in cases of severe distress, the

[3] *See* National Consumer Law Center, "Paying the Price: The High Cost of Private Student Loans and the Dangers for Student Borrowers" (March 2008), available at: *http://www.studentloanborrowerassistance.org/uploads/File/Report__PrivateLoans.pdf*.

creditors we have contacted have offered no more than short-term interest-only repayment plans or forbearances. This experience holds true for both for-profit and non-profit lenders.

4. Postponing Payments

As with flexible repayment, private loan creditors are not required to offer forbearance or deferment options. In most of the loan notes in our survey, the lenders provided an in-school deferment option. However, interest generally accrued during this period and borrowers were given the choice of paying the interest while in school or approving capitalization once they enter repayment.

No forbearance rights were specified in nearly half of the loans in our survey. Creditors may offer these plans, but they do not inform borrowers about available choices ahead of time in the loan notes. All of the lenders who provided forbearances explained that the option was available for no more than 6 months, regardless of the number of forbearances requested. A number of lenders in our survey disclosed that they would charge fees to process forbearance and deferment requests. The fees were generally up to $50 for forbearances.

5. Work-Outs and Cancellations

In our experiences representing borrowers in financial distress, lenders, including non-profit lenders, have not been willing to cancel loans or offer reasonable settlements. The lenders have said they will cancel loans only in very rare circumstances. Private lenders generally do not discharge student loan debt upon death of the original borrower or co-signer. A number of loans in our study stated explicitly that there will be no cancellation if the borrower or co-signer dies or becomes disabled.

6. Mandatory Arbitration Provisions

In our survey, mandatory arbitration clauses were contained in 61 percent of the loan notes. These clauses are just one example of lenders' systematic strategy to limit a borrower's ability to challenge problems with the loans or with the schools they attend. Mandatory arbitration clauses are very controversial and are hallmarks of predatory loans.

7. Default Triggers

Borrowers are in default on Federal loans if they fail to make payments for a relatively long period of time, usually 9 months. They might also be in default if they fail to meet other terms of the promissory note. There are no similar standardized criteria for private loan defaults. Rather, default conditions for private student loans are specified in the loan contracts. In most cases, borrowers will not have a long period to resolve problems if they miss payments on a private student loan. Private loans may go into default as soon as one payment is missed. In many cases, lenders reserve the right to declare defaults if in the lender's judgment, the borrower experiences a significant lessening of ability to repay the loan or is in default on any other loan they already have with the lender, or any loan they might have in the future.

8. The Holder Notice and Other Borrower Defenses

In order to minimize risk and make the loans more attractive for investors, private lenders have aggressively sought to limit a borrower's ability to raise defenses to the loan based on violations of the law or that the lender breached the contract or that the consumer does not owe the amount claimed. These rights are extremely important in the private loan context where many creditors have close arrangements with schools that allow them to market their private loan products. There have been very serious problems with some of these schools, including examples of schools that were not properly licensed or certified, pressuring borrowers to take out private loans.

Some lenders have sought to evade potential liability in these cases. They have done so in a number of ways. Many simply do not include the Federal Trade Commission (FTC) holder notice in the loan notes.[4] Nearly 40 percent of the loans in our survey followed this potentially illegal approach. Other lenders include the notice but attempt to deny borrowers its benefits by placing contradictory clauses in the notes. In our survey, 90 percent of the notes that included the Federal Trade Commission (FTC) notice undermined it in some way by attempting to prohibit borrowers from raising defenses.

[4] The FTC notice states that any holder of a consumer credit contract is subject to all claims and defenses which the consumer could assert against the seller. The notice must be inserted whenever the seller finances a sale or a creditor has a relationship with the seller and that creditor finances the sale. 16 CFR § 433.2.

These efforts to evade liability are harmful to future borrowers as well. Contrary to the basic purpose of the FTC holder notice, the lenders are placing the responsibility to police the schools on the students. Yet students have no recourse if they are given erroneous information by the schools.

9. Misleading and Deceptive Information About Borrower Bankruptcy Rights

Student loan creditors have pushed hard to limit the safety net for borrowers who get in trouble. One of the most notable examples is the 2005 Congressional decision to make private student loans as difficult to discharge in bankruptcy as Federal loans. This was a severe blow to consumers. The rationale for limiting bankruptcy rights for Federal borrowers is also suspect, but is even less reasonable for private loan borrowers. These borrowers are often stuck with very high rate loans and fees. In contrast, most other unsecured debt is dischargeable in bankruptcy.

Lenders have argued that the bankruptcy provision was necessary to encourage lenders to offer private loans at reasonable rates. In fact, there is no evidence that loans were more expensive prior to the bankruptcy change or less expensive afterwards. Volume has grown steadily throughout the years without regard to borrower bankruptcy rights, which have only been limited for private loans since 2005.

Regardless of the rationale for the bankruptcy limitations, 61 percent of the loan notes in our survey included a clause that mischaracterized a borrower's rights in bankruptcy. While it is useful for borrowers to know that they may have trouble discharging the loans in bankruptcy, it is not useful, and potentially a violation of consumer protection laws, to mislead borrowers about their rights.

10. Venue Restrictions

All of the notes in our survey stated that any actions initiated by the lender or consumer would have to be filed in the lender's home State. These clauses are yet another effort by lenders to avoid potential liability and prevent borrowers from challenging improper or illegal behavior. Clearly most borrowers with limited resources will be unable to file lawsuits far from where they live. These clauses apply not only in cases where borrowers are affirmatively suing lenders, but also if the lender is suing the borrower.

MARKET VOLATILITY AND PRIVATE STUDENT LOANS

There is no question that there is volatility in the private credit market. The causes and solutions are less clear. In fact, much of the volatility should be viewed as a market response to the growing private loan failure rate. Regardless, the changes to date in the private market should not be over-stated. Some private student lenders have announced they are getting out of the business or more commonly that they will stop making loans to the highest risk borrowers. This has not yet developed into a larger trend and it may be that the lenders will curtail business mostly in poorly performing schools, including many proprietary schools.

This is not only a needed market correction, but an opportunity to curb predatory student lending, which is harming the very students we most want to help get into and succeed in college. Tightening, if it occurs, is likely to shake out loans that never should have been made and that are harming students. It could also force schools and lenders to think twice before pushing these high-priced products.

POLICY RECOMMENDATIONS

Higher education is the gateway to a secure economic future for many Americans. It is no secret that access to higher education is diminished by soaring costs. More and more, students are risking their financial futures by taking out expensive loans to finance education. Unfortunately, market failures and abusive lending practices are stripping the benefits of higher education from millions of students. This is especially true in the private student loan market where there is little regulation despite the high cost of these loans and lack of protections for borrowers.

Below is a policy framework to help preserve access to affordable higher education by addressing problems with private student loans.

Any new student financial assistance legislation should be based on the following principles:

- Eliminate unsustainable loans and develop fair underwriting standards;
- Eliminate incentives for schools and lenders to steer borrowers to abusive loans;
- Improve disclosures so that borrowers can know the true cost of private loan products and understand the difference between private and government loans;
- Require accurate and accountable loan servicing;
- Ensure effective rights and remedies for borrowers caught in unaffordable loans;

- Preserve essential Federal and State consumer safeguards; and
- Improve assistance to distressed borrowers.

CONCLUSION

We are in a time of change, not crisis. Change understandably makes people nervous, but it is not a cause for panic, especially since there is no evidence that the changes in the Federal loan programs are hurting students and their families.

Rather than responding to economic changes by preserving an imperfect system, it is time to improve access to higher education by fixing what is wrong with student financial aid. This requires recognition that the road to equal access will not be paved with predatory loans.

Thank you for the opportunity to testify today.

The CHAIRMAN. Thank you.

Mr. Graf.

STATEMENT OF THOMAS GRAF, EXECUTIVE DIRECTOR, MEFA, BOSTON, MA

Mr. GRAF. Good afternoon, Senator Kennedy, and distinguished members of the panel. Thank you for the opportunity, and I thank Northeastern for the opportunity to appear before you today and to discuss the access to college in a turbulent economy.

My name is Tom Graf, and I serve as the Executive Director of MEFA, Massachusetts Educational Financing Authority. I'm honored to testify on behalf of MEFA for the Commonwealth. It's a self-financing, not-for-profit authority dedicated to meeting the challenges of financing higher education.

For nearly 30 years, MEFA has served the Commonwealth well by hundreds of thousands of families with over $2.6 billion in low-cost student loans, the greatest impacting of which have been private alternative loans, designed to augment those offered through the Federal Government's FFELP, Stafford, and direct lending programs. Just this year alone, MEFA provided over 42,000 students and families with affordable loan proceeds in excess of $500 million.

MEFA was created by the State Legislature in the early eighties at the request of colleges and universities to provide families with that stable source of capital to fund their higher education costs. There was little doubt over this extended period that needy families have come to depend on MEFA as a trusted education financing partner. Indeed, MEFA has sought to make college education more affordable for students and families.

Underlying MEFA's programs has been a far-reaching education campaign to provide families with guidance through the entire financing process. Providing quality information to assist families has been essential to MEFA's message, and has emerged as a critical component during these unsettling economic times. While MEFA counsels families that every dollar saved is a dollar less in debt service, a growing number of families have come to depend on MEFA's low-cost loans.

It's important to note that all MEFA loans are school channel loans, certified by the Financial Aid Office. Moreover, working in tandem with colleges and universities has contributed to MEFA's historically low default rate, which remains less than 1 percent. At this time, I would like to turn my remarks to the challenges facing the student loan entities across the country.

There is little doubt that the unprecedented disruption in the capital markets, which began with the sub-prime mortgage crisis, has impacted student loan lenders. Market instability continues as investor confidence has been strained, creating a broad and far-reaching liquidity crisis. Today, liquidity necessary to fund student loans has nearly evaporated. There's also a number of lenders who have experienced difficulty in raising capital funds for the upcoming academic year. I remain concerned that parents will have fewer loan choices at a much higher cost.

I want to show you today MEFA is working diligently to raise capital to fund loans for next year. Indeed, today's challenges are the most daunting MEFA has experienced in its nearly 30 years. At stake, MEFA's ability to provide families with affordable financing programs to maintain access to higher education. While MEFA continues to monitor closely the widespread dislocation in the markets, how much capital MEFA is able to secure is an open question, even though MEFA has one of the most well-regarded programs in the country.

Indeed, MEFA has distinguished itself as a premiere education financing authority on Wall Street, and over the years developed nationally recognized programs promoting access and affordability. Notwithstanding, I must underscore these are challenging economic times, and access to capital markets has been difficult if not impossible for not-for-profit lenders.

In the face of this continued economic instability, MEFA will steadfastly maintain its commitment to working with families in need of private student loans. MEFA remains hopeful and diligent in its efforts that it will raise the necessary capital to assist families in meeting next year's costs.

In closing, let me assure you MEFA is unwavering in its commitment to make higher education accessible and affordable, through community education programs, college savings plans, and low-cost financing options. We have the courage to pursue every possible funding solution that enables families to access MEFA loans for decades. We will do so with vigor in the weeks ahead to help families achieve their dream of a college education.

I thank the Senator and his staff for the opportunity, and I look forward to working with you, and answering any questions.

[The prepared statement of Mr. Graf follows:]

PREPARED STATEMENT OF THOMAS M. GRAF

Good Morning Senator Kennedy and distinguished members of the panel.

Thank you for the opportunity to appear before you today to discuss access to college in a turbulent economy. My name is Thomas M. Graf, and I serve as the Executive Director of MEFA, The Massachusetts Educational Financing Authority. I'm honored to provide testimony on behalf of MEFA, the Commonwealth's self-financing, not-for-profit State authority dedicated to assisting parents, students, colleges, and universities in meeting the challenges of financing higher education. For nearly 30 years, MEFA has served the Commonwealth well by providing hundreds of thousands of families with over $2.6 billion in low-cost student loans, the greatest percentage of which have been private alternative loans designed to augment those offered through the Federal Government's Stafford and Direct Lending Programs. Just this academic year alone, MEFA provided over 42,000 students and families with affordable loan proceeds in excess of $500 million.

The Massachusetts Educational Financing Authority was created by the State legislature in the early eighties at the request of colleges and universities to provide families with a stable source of capital to fund higher education costs. There is little doubt over this extended period that families and colleges and universities have come to depend on MEFA as a trusted education financing partner. Indeed, MEFA has sought to make a college education more accessible and affordable for Massachusetts students and families, as well as those from across the Nation pursuing the outstanding higher education opportunities here in the Commonwealth.

MEFA has created industry-leading education financing programs and has established a reputation for providing cost-saving programs combined with quality service. Underlying MEFA's programs has been a far reaching education campaign to provide families with guidance at every step throughout the financing process, beginning with the Commonwealth's innovative college savings plans for parents of young children preparing for future education expenses. Providing college planning and financing information to assist families has been central to MEFA's message and has emerged as a critical component during these unsettling economic times. And while MEFA counsels families that every dollar saved for college is a dollar less in debt service, a growing number of families have come to depend on MEFA's low-cost private loan programs, once they have exhausted Federal loan eligibility.

It is important to note that all MEFA loans are school channel loans, certified by the financial aid office, and as such, MEFA works closely with colleges and universities. Moreover, working in tandem with colleges and universities has contributed to MEFA's historically low cumulative gross default rate that remains well below 1 percent.

At this time, I'd like to turn my remarks to the challenges facing not-for-profit student loan entities across the country. There is little doubt that the unprecedented disruption in the capital markets, which began with the sub-prime mortgage crisis, has impacted student loan lenders. Market instability continues as investor confidence has been strained, creating a broad and far reaching liquidity crisis. Today, liquidity necessary to fund student loans has nearly evaporated. Thus, as has been widely reported in the press, a number of education lenders have experienced difficulty in obtaining capital to fund student loans for the remainder of the 2008 spring semester, along with difficulty in raising capital to fund loans for the upcoming academic year. I remain concerned that parents may have fewer loan choices at a higher cost.

I want to assure you today, MEFA continues to offer students and families low-cost loans for the 2008 spring semester, and most importantly is working diligently to raise capital to fund loans for the 2008–09 academic term. Indeed, today's challenges are the most daunting MEFA has ever faced. At stake is MEFA's ability to provide families with affordable financing programs to achieve and maintain access to higher education.

While MEFA continues to closely monitor the widespread dislocation in the capital markets in pursuit of funding opportunities, how much capital MEFA is able to secure remains an open question, even though MEFA has one of the strongest and most well-regarded programs in the country. Indeed, MEFA has distinguished itself as a premier education financing authority on Wall Street, and over the years developed nationally recognized programs promoting college access and affordability. Notwithstanding, I must underscore these are challenging economic times and access to the capital markets has been difficult, if not impossible for not-for-profit lenders.

It is important to understand in the face of continued economic instability, that MEFA will steadfastly maintain its commitment to working with Massachusetts colleges and universities and most importantly families in need of private student loans for the upcoming academic season. MEFA remains hopeful and diligent in its efforts that it will raise the necessary capital to assist families in meeting next year's education costs.

MEFA has and will continue to encourage families needing 2008–09 financing beyond Federal loan eligibility to regularly visit MEFA's Web site. In addition, MEFA provides toll-free telephone services and e-mail communications offering college financing advice. Again, MEFA remains hopeful that private education loan funds will be available to meet college costs in the fall and to that end, anticipates announcing 2008–09 loan availability later this spring, well in advance of the fall semester.

In closing, let me assure you that MEFA is unwavering in its commitment to make higher education accessible and affordable through community education programs, college savings plans, and low cost financing options. MEFA has the courage to pursue every possible funding solution that enables families to access MEFA loans for decades to come. We will do so with vigor in the coming days and weeks ahead to help families achieve the dream of a college education.

Thank you for the opportunity to appear before you today. On behalf of the MEFA Team, we look forward to working with you and members of your staff to promote access to higher education through affordable financing programs.

The CHAIRMAN. And we'd be glad to hear from you.

STATEMENT OF ELIAQUIN GONELL, STUDENT, SALEM STATE COLLEGE, SALEM, MA

Mr. GONELL. I would just first like to quickly say I just flew in from Washington, DC, where I attended a legislative conference with college students that is being held by the United States Student Association. I told them I would have to leave early to be here at this hearing, and they wanted me to make sure that I told you that we, the students of America, are very gracious that there are people in power that understand we are not the sole beneficiary of our education, that indeed it is our society as a whole that benefits from a well-educated populace.

I would like to extend a great big thank you from the hundreds of student leaders and advocates from across the country with whom I attended this conference.

The CHAIRMAN. Thank you very much.

Mr. GONELL. I am a first-generation American, as well as a first-generation——

The CHAIRMAN. What are they—what's the subject of their meeting down there?

Mr. GONELL. How to—it's pretty much the stuff where they're teaching us how to better advocate for students' higher education needs.

The CHAIRMAN. Good.

Mr. GONELL. I am a first-generation American, as well as a first-generation college student. I am now in my third year at Salem State College, studying political science, secondary education, and history. When I graduate next year, I intend to pursue a job teaching in public education. I believe that an effective public education system is imperative in maintaining a confident society for our future. I want to teach, because I know the importance of educating our youth. And, like many students in my class and many people in my generation, I hope to use my education to give back to my community.

These days, I find myself working three jobs, as you said—one as a sales clerk in Salem, NH; one as a desk receptionist at the College Residence Hall; and, I am also a Resident Assistant. Through these three jobs, the emotional backing from my family, and with the help of financial aid, including the Pell Grant and Federal student loans, I am able to live a relatively happy life as a young guy in pursuit of his college education.

That is not to say, however, that I am not constantly pressed by the hardships that come with living this sort of fast-paced and often stressful lifestyle. This is why I have become more involved in student advocacy, using what little free time I do have to get involved and try to change the situation for students.

Students across the country face serious challenges figuring out how to pay for college. With college costs continuing to rise, the students turn increasingly to loans. As a result, the average American college student acquires just under $20,000 in debt by the time they graduate. In this current economy, many families are asking students to cover more and more of their college tuition. I, along with thousands of other college students across the country, can honestly say that without financial aid, my college education would not be a reality.

Coming from the inner-city, I know that the high and ever-rising cost of education has been the No. 1 reason preventing thousands of my peers from giving a higher education a chance. In the last 2 years, Congress has taken much-needed measures to help students afford college. Last summer, Congress passed the College Cost Reduction and Access Act, legislation authored by you, Senator Kennedy.

The bill will lower interest rates for more than 5 million students with need-based Federal student loans. It increases the Pell Grant for low-income students, like myself, by nearly $400 this year. Finally, it includes a new loan repayment system that allows students to repay their loans according to their income. For public servants or nonprofit employees, using this income-based repayment, the government will forgive your loans after 10 years in repayment.

While more must be done to keep up the State and Federal investment in higher education, the College Cost Reduction and Access Act is the largest investment made to higher education in the last 50 years. The fact of the matter is that the best loan opportunities for students continue to be available from the government. The best way to make college affordable for students is not through private loans with higher interest rates and unforgiving policies. The road to college affordability is paved by lowering tuition costs, increasing the amount of State and Federal grants, and encouraging students to apply for government loans.

The College Cost Reduction and Access Act shows that we're on the right track. Thank you.

[The prepared statement of Mr. Gonell follows:]

PREPARED STATEMENT OF ELIAQUIN GONELL

My name is Quin Gonell and I am a first generation American as well as a first generation college student. I am now in my third year at Salem State College studying history, political science, and secondary education. When I graduate next year I intend to pursue a job teaching in public education. I believe that an effective public education system is imperative in maintaining a competent society for our future. I want to teach because I know the importance of educating our youth and like many students in my class and many young people in my generation, I hope to use my education to give back to my community.

These days I am working three jobs, one as a sales clerk in Salem, NH, one as a desk receptionist at the college residence hall, and I am also a Resident Assistant. Through these three jobs, emotional backing from my family, and with the help of financial aid, including the Pell Grant and Federal student loans, I am able to live a relatively happy life as a young man pursuing his college education. That is not to say, however, that I am not constantly pressed by the hardships that come with living this sort of fast paced and often stressful lifestyle. This is why I have become more involved in student advocacy, using what little free time I have to get involved and try to change this situation for the students.

Last year, I ran for Student Government at Salem State and was appointed chair of the Governmental Relations Committee. Through this position I have been able to organize a visit by Salem State Students to a legislative conference in Washington, DC. I have been able to support the growing Public Higher Education Network of Massachusetts and help organize the up and coming Massachusetts' Statewide student association. I have also been able to shed much light among Massachusetts' students, on the progress that was made in Washington last summer.

Students across the country face serious challenges figuring out how to pay for college. With college costs continuing to rise, students turn increasingly to loans. As a result the average American college student acquires just under $20,000 in debt by the time they graduate. In this current economy many families are asking students to cover more and more of the cost of their college education. I, along with thousands of other college students across the country, can honestly say that without financial aid, my college education would not be a reality. Coming from the inner city, I know that the high and ever rising cost of college has been the No. 1 reason for preventing thousands of my peers from giving higher education a chance.

In the last 2 years, Congress has taken much-needed measures to help students afford college. Last summer Congress passed the College Cost Reduction and Access Act, legislation authored by Senator Kennedy. The bill will lower interest rates for the more than 5 million students with need-based Federal student loans. It increases the Pell Grant for low-income students like myself by nearly $400 this year. Finally, it includes a new loan repayment system that allows students to repay their loans according to their income. For public servants or non-profit employees using this Income-Based Repayment the government will forgive your loans after 10 years in repayment. While more must be done to keep up the State and Federal investment in higher education, the College Cost Reduction and Access Act is the largest investment made to higher education in the last 50 years.

The fact of the matter is that the best loan opportunities for students continue to be available from the government. The best way to make college affordable for students is not through private loans with higher interest rates and unforgiving policies. The road to college affordability is paved by lowering tuition costs, increasing the amount of State and Federal grants, and encouraging students to apply for governmental loans. The College Cost Reduction and Access Act shows that we're on the right track.

The CHAIRMAN. Thank you very much, Eliaquin. Thank you for taking the time and being involved with the Student Association. I remember meeting you down in Washington, when we were working on this legislation, and you and your associates played a very, very important role in terms of achieving that legislation. So, your advocacy is making a difference, and we're grateful for your presence here now.

Let me start off by asking, if we have these—which we do—the availability of Federal funding at a lower rate than the private funding, what do the members of the panel think that we could do to help and assist students that are out there now? Our best estimate is more than $10 billion in unused Federal aid is out there and is not being used—grants and Federal loans at lower interest rates than the higher rates that are charged in the private sector. What more should we be doing?

I mentioned that we are looking at a few ideas already. We've got the financial literacy programs, and we also have the financial advisors at colleges who counsel students before they take out the high-cost private loans, and the requirement that private lenders notify students that may be eligible for lower rate Federal loans. Those are just some ideas that are out there, but we've got people here who are on the firing line and know this stuff like the back of their hands.

What do you think—would you think those ideas would be useful? What other kinds of ideas do you have? What suggestions do you have? Eileen?

Ms. O'LEARY. Well, Senator, we've seen a shift in responsibility for borrowing for meeting costs in excess of what Federal financial aid has been able to provide, and the shift has been from parents often being able to support their students while in school to the students taking out alternative private loans. And I think there are a few reasons behind that.

One is great marketing, and another is that parents are not always able in this economy to take current income and use it to help their students, and so they feel as if their backs are against the wall, and they need to push the loan burdens on their students instead. I think that a strong marketing program on behalf of the Department of Education to help parents understand the Parent PLUS Loan Program as an option, especially if Congress could see clear to allow for deferment of payments during the in-school period.

Right now, PLUS Loan repayments begin right away, so that can make it difficult for parents who may have more than one child in college, or others coming up to college who are very expensive to raise. If they were able to defer until after the college period, then there may be more who would be willing to take on the Federal PLUS Loan as an obligation, rather than pushing the students into the private loan markets.

Mr. GRAF. Senator, if I may suggest that—it may be contrary to what a few are saying—it's not all cases where private loans are the highest cost. In fact, not-for-profits like MEFA and others across the country often offer a cost at a much less or a less than some of the other loans out there. For instance, in this past year, our loan, a private loan, was less than the Stafford Loan, and less, significantly less, than the PLUS Loan.

We see a real role for not-for-profits in the arena. What is happening is because of the liquidity crisis, the ability to access those funds is much more difficult and much more costly. We spoke earlier about some solutions maybe on the housing level being applied to the student loan level, and I think that is certainly worth looking into. I think not-for-profits have created a good niche in the lending arena, and that could be a way to play this out through this difficult time.

The CHAIRMAN. Well, I'm going to ask you to give us some ideas about that conversation that Secretary Spellings is going to have with Secretary Paulson next week. I'm going to ask you to give us maybe a few ideas about subject matter that you think they ought to talk about at that meeting. I don't know whether you want to say anything briefly, but if you can give us some in writing as well—we've got a day or two to write it up.

Mr. GRAF. Yes. I think there's a couple of areas, and I wouldn't be presumptuous enough to suggest what the Secretary should say to the Treasury Secretary, but certainly the liquidity in the market is hurting lenders, not-for-profit lenders, with the loans that are secured with older debt. As the auction market has frozen or collapsed, our cost of debt has gone up significantly. Some liquidity will alleviate that problem, would allow us to access additional capital on a go-forward basis where we could continue to offer the kinds of services.

It's not just loans that we offer. It's a wide range of services—counseling, savings plans, payment plans, working with students all the way through—only after they've exhausted their Federal loan options would we ever suggest a private loan. I'd also suggest that one of the things that allows us, Senator, to give that great benefit is the tax-exempt bond cap that the Federal Government bestows on States. That's extremely competitive here in our State and many other States. As you know, it's capped per capita. You did increase that several years ago to inflation, I believe, and it's been going up, but much slower than the need.

If there's some way that tax-exempt bond cap could be dedicated to not-for-profits for education loans, I think that would go a great distance to solving some of the problems we'll have next year and the years to come.

The CHAIRMAN. I was just thinking of the combination of both the Federal and the State, how that's worked out. I guess there's room for both. That's something we'll pass on to the Governor——

Mr. GRAF. Thank you.

The CHAIRMAN [continuing]. As well. Let me ask, Eliaquin, how did you hear about loans, student loans? Graduating from high school did you have a good financial aid officer? Did you pursue it yourself? What was the pathway you took in terms of taking out these loans? How did that all develop?

Mr. GONELL. Well, I would have to apologize, because this is going to sound like a shameless plug for your office, but——

The CHAIRMAN. I think I can take it.

Mr. GONELL. I was—pretty much the only people that were helping students in my high school have access to FAFSA and helping students fill out the FAFSA and Federal loans were the TRIO Programs.

The CHAIRMAN. Yes. Very good.

Mr. GONELL. They were very aggressive at that. They were very helpful. I would even venture to say that, if not for them, there—I know of many, many students—

The CHAIRMAN. You went through the TRIO Program. Did you go through TRIO?

Mr. GONELL. They helped me fill out my FAFSA, but I was never a member of the actual program. I then went on to work for the program, though. I would venture to say that many students would not have gone to college if not for that help that they received.

The CHAIRMAN. Now, that is just a superb program. I think we have 58 of those programs going in Massachusetts. The difference it's made in terms of the graduation rates and benefits to society we wanted to do what we could do. I mean, it's just a real issue of willingness to prioritize and to make a difference with that program.

Let me ask Deanne, those loans you were talking about, those 19 percent and 11 percent loans, I know that still rings in my ears. You know, we took a long time to try and get rid of that 9.5 percent subsidy in the Federal guaranteed loan program. I mean, for anyone in the business community, how would you like that deal? You've got the loan guaranteed, and then you get 9 percent on top of it. I mean, it was a great deal for the banks—and we lost hundreds of millions of dollars on this loophole.

It's just mind boggling when you're finding out these things —but what's your own view—how bad is this? Now, as you mentioned, on the Bankruptcy bill, which I opposed, that we passed some years ago, we have now—we're getting the Federal Government to collect for the credit card companies and, if these kids don't pay up on it, their credit for their lifetime is impacted in a very adverse way. And it's at a time of enormous delicacy in terms of their ability to handle this sort of thing, because they've got all these other kinds of pressures in their lives.

Give us just a little bit of your own assessment. We have seen the growth of the private loan market. We've got the chart above. The growth of the private sector loans, over the public—oh, yes. We do. We have that one that shows the lines all flat.

This says that student aid has not kept—I didn't want to get in a difference with the Secretary on it, but this is a chart here that shows what the cost of college has been. And then, the bottom lines, the pink is the Federal grant aid, you see, going back to 1987. It's just basically a very, very, very meager increase. We have the unsubsidized Stafford Loans that have gone along relatively flat, and we have the other Federal student loan programs that basically have sort of gone along flat.

But the private loans have moved in to make up the difference for the most part. What can you tell us—how concerned should we be with all of this? The banks offering private loans make the case that they're playing a very important role. I heard Eileen talk about the pressure that's on the families. All of us understand the fact the State has cut back on help and assistance. The pressure that's on the family, there's no real good assistance to make up the dufference—the Federal Government is not working at increasing aid to keep up. We've taken very, very small, minor steps on this. We're all trying, but it's been very modest, and I'm hopeful we'll take larger steps.

What can you tell us about these private loans that we ought to know?

Ms. LOONIN. Sure. Thank you. There is a range, as the MEFA program explained, but the loans that I was talking about, we looked at a range in our survey. Some were as low as 5 percent, and then, as I said, some were as high 19 percent. The important point, I think, is that those very high rate loans are going to the highest-risk borrowers, so often independent students, sometimes older, working adults, those who cannot find cosigners or don't have a parent or someone else who can cosign for them. That rate, for example, on that 19 percent, that's a variable-rate loan. That was the initial rate. That's going to go up.

When we look at those loans, and again, the average in our study was about 11.5 percent, we look at those loans, we see who they're going to. To the highest-risk borrowers, to those who we really want to encourage—in a lot of ways—the most to go to college, but who are on the margins economically and otherwise may not succeed. We know when we look at those that a large number of those are going to fail. When I say a loan fails, I think of a failure for a person, really, is what it is. Those are the people who we work with.

We work with people—what some people call sort of the back end. What happens—there's so much more we can do to help prevent the problem, to work at the front end, but the back end, there are a lot of people who cannot afford those loans. We're seeing that happening now. What that means is people like some of my clients, who are being sued now or facing lawsuits, facing collection efforts, don't have the kind of relief I mentioned, flexible relief available, including bankruptcy relief.

Some of those people, some of my clients, have said, "This has been such a stress," or it's such a horror for them, they're not going to try school again. They're not going to go back to education again, even though that's really what, of course, we want the loans to be, a tool for access. So, no, it's not all of the loans that are out there, but it's a huge problem, and again, it's something that we want—we're concerned about it, and we hope that to the extent that there is reliance on these private loans, that we'll look at those back end issues, too, and look at what kind of relief there is for borrowers.

The CHAIRMAN. Well, as you pointed out, it's enormously distressing, because they drop out and to try to get those individuals involved and engaged and self-sufficient in pursuing an education is really the point—it's really working at cross purposes to put them in such a bad position with such high rate loans, and that's something that we have to focus on.

We have Clantha McCurdy, who is the Vice Chancellor for Student Financial Assistance. Clantha works at the Massachusetts Board of Higher Education—helped put together the Board's 2006 Task Force Report on student financial assistance. I just wanted to ask you, we heard from Under Secretary Tucker that the U.S. Department of Education had been in touch with colleges, and had heard from some of them about lenders leaving the FFEL Program. Has the Massachusetts Board of Higher Education done similar outreach?

Ms. MCCLURDY. Not at this point, in the sense of making contact with the institutions. We've relied heavily on our State association, and we've been monitoring this issue, and on top of it. I would say that our concern, though, is primarily on how this issue may impact all of our students, because the report that you just referenced, a couple of years ago, we found that 88,000 students in Massachusetts had an unmet need on the average of $4,500.

As costs continue to rise, our concern is if students who need to find money to fill that gap after exhausting all Federal, State, and institutional resources, what then will happen? We expect that a number of students who will fall in this category may be those who cannot find credit-worthy cosigners, and if so, they may be challenged in this area, and they'd have to rely on the high-cost loans, as the panel and others have discussed this morning.

The CHAIRMAN. Well, that's enormously important, an important point. We have a chart showing an example of unmet need. Let's look at a typical family. Expected family contribution $8,000 to $10,000, and a cost of college of $17,000—you still have unmet need after grants and loans of $2,600. Is this the point that you're making?

Ms. McClurdy. Yes. And we found our unmet need, average unmet need, is $4,500.

The CHAIRMAN. Four-thousand and five hundred dollars. This is a reality that's taking place out there. But what's the answer? I mean, is it an increase Federal loan limits? This is, I think, all of us are aware that there are dual arguments on that, but what's your assessment?

Ms. McClurdy. Well, I think, certainly, if loan limits were increased, that would be helpful. From where we sit, we'd like to see more grant aid that's available to students, and I think in representing my colleagues here, I think we would all agree that if there were a larger pool of Federal and State resources to eliminate the need for students to increase their loan debt, that would be favorable, and the direction to head into.

Senator, whatever you can do to help us out, that would be wonderful.

The CHAIRMAN. There you go. Thank you very much. I'm glad I called on you. Just finally on this other point, from the State point of view, are you going to take a look at the schools and colleges, and talk to the financial aid directors to see what's happening out there? Would you—and would you let us know what you're finding out?

Ms. McClurdy. We will certainly do that. And I'd really like to say thank you for being proactive with this issue, because at the drop of a hat the climate could change, and we really want to be prepared to help our students and their families.

The CHAIRMAN. Well, I thank you for mentioning that. In the Budget Act that we passed last week, I had an amendment on that to make sure that we do have a solution—I mean, it's one thing to have a plan. They had a plan for Katrina, and it didn't work out. You need something more than just a plan. You've got to have the ability for immediate implementation—that's what is absolutely essential. That's what we want to have on deck, in place.

Now, if we don't need it, that's fine. If it is necessary, we don't want to be unprepared—we've had sufficient warning, in terms of housing, and sufficient warning across the board in other areas, and we have some very important advantages, but we sure don't want to have a problem on our watch. We'll do everything we can to avoid it.

I want to thank all of the panel, and all of our audience. I think that this has been a good meeting, and I think that we tried to understand the problem better. This is a complex issue. I think there's certainly a different situation in the loan programs than exists in the housing market, but I think there's also a recognition that we ought to be prepared, and we ought to be ahead of the game. The lesson of these past months is that the unexpected has happened.

When we're talking about education and families, we have the responsibility to take the steps to make sure that if we're going to face unexpected needs, that we're going to have in place to the greatest extent possible the institutional protections that a family can depend on.

That's certainly what our objective is. We're going to be active and involved in following this issue, but today we had some excellent suggestions, good recommendations. We have every intention of following up with Secretary Spellings as she meets with the Secretary of Treasury. We'll continue to report to the students up here in Massachusetts as to what's happening, and obviously, to the universities.

This has been a useful and helpful meeting. We thank all of those who worked with us to make it so. Our committee will stand in recess. Thank you.

[Additional material follows.]

ADDITIONAL MATERIAL

PREPARED STATEMENT OF PHILIP DAY, ED.D.

Mr. Chairman and members of the committee, on behalf of the National Association of Student Financial Aid Administrators (NASFAA), I am pleased to offer this statement. I am Dr. Philip Day, President and CEO of NASFAA. Formed over 40 years ago, NASFAA represents student financial aid administrators at some 3,000 postsecondary institutions across the nation.

Our association illustrates the diversity of our higher education enterprise with members from private and public institutions, community colleges, 4-year schools, proprietary schools, and graduate/professional institutions. At these schools, NASFAA represents approximately 12,000 financial aid professionals who are dedicated to helping families apply for and receive the funds they need to send their students to college. Each year, financial aid professionals help more than 16 million students receive funding for postsecondary education. Given the complexity of the State, Federal, and institutional aid programs, it is necessary to have someone with that kind of expertise guiding students and families through the process.

I want to begin by complementing the work of you, Mr. Chairman, and the members of the committee for all you have accomplished providing additional numbers of students with opportunities to gain a postsecondary education. The College Cost Reduction and Access Act (CCRAA) is magnificent testimony to your commitment to the title IV programs.

Just to name two examples of that commitment found in the CCRAA are the substantial increases in the Pell Grant maximum award and establishment of the Teach Grant program. These two programs illustrate your devotion to serving the needs of students expeditiously and creatively. We applaud mandatory spending increases for the Pell Grant. We likewise welcome inventive programs like the TEACH Grant that seek to help meet the unique needs of specific students.

The Committee on Health, Education, Labor, and Pensions will soon complete reauthorization of the Higher Education Act. S. 1642, The Higher Education Amendments of 2007, also contributes to your record of success. S. 1642 authorizes year-round Pell Grants, simplifies the granting of deferments and allows for better consumer information on the impact of consolidation loans, and simplifies the FAFSA.

Again, Mr. Chairman, I thank you and the committee for your accomplishments in the 110th Congress that will help so many students and families. This is a record of success you can justly be proud of and NASFAA salutes your efforts and contributions to making college affordable and making the student aid process more effective and simpler.

Today's hearing is timely. Last week I wrote to my membership. Here is what I told them.

> "Alarming reports in the media about disruptions in the credit markets that are affecting student loans have many families worried that they won't be able to get student loans in the fall. I have assured financial aid administrators, students, and parents that the likelihood of disruptions in Federal student loans remains low.
>
> To date NASFAA is not aware of any student being denied a Federal student loan due to market conditions.
>
> Some news reports fail to distinguish between Federal and private student loans, but understanding the difference between the two is crucial. The vast majority of student borrowers use Federal student loans. Federal student loans—like Perkins, Stafford, and PLUS loans—that are backed by the Federal Government. Federal student loans are not dependent on borrowers' credit scores; the repayment terms and conditions are specified by Federal law, and are better than private loans. Interest rates and fees on Federal student loans will not increase. Low-cost Federal student loans are still available. Even in instances where student loan providers have suspended their loan programs, other loan providers have stepped in to fill any vacancies.
>
> A far smaller group of students rely on private student loans or other forms of consumer financing like home equity loans. These students turn to private loans if they cannot cover their cost of attendance with Federal, State, and institutional financial aid—including Federal loans. Like other consumer loans affected by the subprime mortgage meltdown, private student loans will be costlier for some borrowers at some institutions this academic year. However, students and parents should only use private education loans as a last resort. Before borrowing private loans, students should exhaust all the Federal, State and institutional financial aid available to them."

NASFAA understands that what is happening in the student loan market is fluid. The liquidity that exists today to continue funding Federal student loans could be gone tomorrow if the markets worsen. Of particular concern are the liquidity problems that State and non-profit secondary market lenders face. Unlike traditional banks, nonprofit State agencies that operate secondary markets raise capital through bond auctions. As you know, these bond markets are currently frozen and they are unable to raise enough money to provide additional liquidity to other lenders. Their inability to raise capital serves as another warning sign that all is not well in the student loan markets.

Nonprofit loan providers fill an important niche in the student loan market and often times purposefully target low-cost loans to specific, underserved populations or offer specific loan benefits to particular populations such as future teachers, nurses and military veterans. These are the students and families that are oftentimes overlooked by other lenders and the types of students the Federal student aid programs were created to help. A total departure by State agencies and nonprofit lenders would be detrimental to students and parents, especially those attending schools that lenders have deemed "at-risk." While Federal student loans remain available for the majority of students, we are hearing reports that some loan providers are shying away from schools with students who need low-cost loans the most. It is conceivable that, if the nonprofit lenders are unable to offer loans this fall, the students who would be harmed most would be from our community colleges, proprietary schools, and other urban-based public and private institutions. Special measures may be necessary to assist these nonprofit, state-based organizations to ensure their continued presence in the Federal student loan market.

If conditions worsen to the point where the availability of Federal student loans becomes threatened, the following alternatives are in place.

- The Department of Education could utilize the "Lender of Last Resort" provision, where federally-designated guaranty agencies would line up lenders to continue making loans to students or would be given funds directly from the government to disburse to students.
- A school that has a problem accessing Federal student loans through the Federal Family Education Loan Program (FFELP) can join the Federal Government's Direct Student Loan program (DL), where the government lends the money directly to students without using any lender.

To ensure a smooth financial transition into college this next academic year, NASFAA advises students and families to apply for financial aid early by using the Free Application for Federal Student Aid (FAFSA). We are telling students to work closely with their school's financial aid office to complete the financial aid process—including applying for Federal student loans—as early as possible. Students and parents with any questions or doubts about the availability of student loans or other forms of financial aid should always contact their financial aid office for specific information.

There are also things that legislators and the Department can do to ensure there are no disruptions in Federal student loans. Schools who are interested in moving to the Direct Loan Program face many system conversion costs. Given that we are only 5 months away from the beginning of fall term, other schools question whether there is enough time to move into the Direct Loan Program. We advocate the Department take extraordinary steps to ensure that such a transition is as seamless as possible for schools.

Lender-of-last resort provisions should also be examined to ensure that students have direct access to Federal loan funds without some of the roadblocks currently stipulated in regulation. For example, current ED regulations allow guarantors to require proof that a borrower has been denied a loan by as many as two lenders before a lender-of-last resort loan can be approved. This requirement requires diligence and an understanding of the student loan process, which puts an undue burden on the student borrower. Another example is the requirement that a guaranty agency act on the borrower's lender-of-last resort application within 60-days. Certainly, we believe most agencies would not take 60-days. But, the lender-of-last resort statutory and regulatory provisions should be reexamined in light of their possible widespread use.

As we move forward, NASFAA will continue to research and identify workable solutions that should be taken to ensure the continued availability of Federal student loans.

Let me say a word or two about private educational loans. Approximately 25 percent of student loan volume comes from these educational loans. Those loans are made when a student's financial aid package (Federal grants, work/study, and loans, plus any State aid or school-based grants) is insufficient to cover their educational costs.

Our members are telling us that private educational loans are changing for some borrowers. The credit score needed to secure these loans are rising. Interest rates and origination fees are also increasing. Access to private loans could be a problem in certain sectors of higher education, such as proprietary schools, community colleges and urban-based colleges and universities, all of whom serve a disproportionately large number of high-risk, economically disadvantaged students. Correspondingly, and to the best of our knowledge, most traditional colleges are not experiencing access problems.

We believe that as a nation we should do everything in our power to decrease the need and growing dependence on private student loans. To that end, NASFAA recommends fully funding the Pell Grant Program to prevent the neediest students from having to borrow at all. We also believe the campus-based programs should be funded at sufficient levels to help middle-income families. Finally, we believe the Federal student loan programs' annual and aggregate loan limits should be significantly increased to reduce reliance on private educational loan borrowing and keep borrowers within the safety of the Federal loan programs. In order to accomplish that objective **we want to strongly express our support for Senator Kennedy's amendment offered on the Budget Resolution to modify the provision establishing a Higher Education Reserve Fund to allow for increases in the Federal loan program's loan limits. Thank you, Mr. Chairman!**

These actions will go a long way towards fulfilling the promises made by the Higher Education Act when it was signed into law nearly 43 years ago.

When President Johnson signed the Higher Education Act into law on November 8, 1965, he said,

> "[W]hen you look into the faces of your students and your children and your grandchildren, tell them that you were there when it began. Tell them that a promise has been made to them. Tell them that the leadership of your country believes it is the obligation of your Nation to provide and permit and assist every child born in these borders to receive all the education that he can take. . . And tell them that we have opened the road and we have pulled the gates down and the way is open, and we expect them to travel it. And when we meet back here again a few years from now, there will be many more than the 1,300 and the 5,500 that will be here seeking and receiving the knowledge that is an absolute necessity if we are to maintain our freedom in a highly competitive world."

My members know all too well how far away we are from achieving the goal of equal opportunity to postsecondary education for low- and middle-income families and students. But we are getting closer. Our focus, first and foremost, must be on meeting the financial needs of the disadvantaged. I know we all share President Johnson's commitment to make his dream our Nation's reality.

I pledge NASFAA's support—along with the 12,000 aid administrators that I represent—to assist you, Mr. Chairman, and to assist your colleagues as you address the issues involved in today's hearing. You must cajole when cajoling is necessary. You must act when action is necessary. I do not believe the American people will tolerate a meltdown in access to Federal student loans similar to what they're seeing in other credit markets.

The good news is that tools are available at your and the Department of Education's disposal to deal with any disruptions in Federal student loans, no matter how unlikely that may be. While the law has solutions in place, it is critical that we test these solutions and prepare for the worst case scenario today. In addition, new tools can be created as needed to meet specific needs that the Congress believes are appropriate to prevent problems. Waiting until the height of the lending season in July through September is not an option. All parties should meet to discuss solutions and develop plans to prevent a possible train wreck this fall. We look forward to working with you to ensure all our citizens credit needs are met in paying for a postsecondary education.

AMERICAN COUNCIL ON EDUCATION (ACE),
GOVERNMENT AND PUBLIC AFFAIRS,
WASHINGTON, DC 20036,
March 14, 2008.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC 20510.

DEAR SENATOR: I write to thank you for your plans to hold a hearing on Monday in Boston on issues related to the availability of student loans. We share your unease about this issue and deeply appreciate your leadership on it.

I raise this issue as a possible area of concern whenever I meet with college and university officials. Most recently, I discussed it with roughly 20 presidents that I spoke to at the Southern University Conference last weekend in Georgia. While there was widespread awareness of a potential problem, none of the schools expressed alarm on behalf of their own institution. This is consistent with the feedback I have received on this issue since the first of the year when I began to flag it for presidents and senior administrators.

Popular discussion about the availability of student loans next fall tends to conflate two different issues. The first is the impact of the subsidy cuts that Congress approved last year as part of the College Cost Reduction and Access Act (CCRAA) of 2007 and their impact on the Federal Family Education Loan program (FFELP). When Congress was considering CCRAA, lenders indicated that the reduction in subsidies might lead them to reduce borrower benefits, stop lending to some schools, or leave the FFELP program altogether.

To date, around 30 of the more than 2,000 student loan providers have announced their intention to abandon or suspend participation in the FFELP. Each of these developments is noteworthy, as was the case a couple of weeks ago when the Pennsylvania Higher Education Assistance Authority announced that they would temporarily suspend participation in FFELP loans, prompting the announcement of a switch out of FFELP into the Direct Loan Program (DLP) by the Pennsylvania State University. All of our campuses are carefully monitoring the situation, and all are engaged in some degree of contingency planning.

I have discussed this issue with Diane Jones, the Department of Education's Assistant Secretary for Postsecondary Education. She has assured me that they are monitoring the situation, proactively reaching out to schools that are impacted by lenders leaving the program, and discussing the issue with their counterparts at the Treasury Department, among others. She has indicated that the Department is poised to step up its lender-of-last resort capabilities through both the existing FFEL mechanisms and preparing to facilitate an easy and seamless transition into the DLP for any school wishing to make such a change.

Indeed, the direct lending program does provide a backstop. According to the Department, more than 850 schools are approved as direct lenders but are not currently participating in the program. If necessary to ensure access to Federal student loans, these schools can move quickly into direct lending —as Penn State has just done.

The second dimension of the issue relates to loans made directly between lenders and student borrowers without any guarantee by the Federal Government. These private loans are a new and largely unregulated part of educational finance. Indeed, colleges may not even be aware that their students have accepted such loans. Unsecured loans for college tuition began to emerge about a decade ago. They have grown very rapidly. According to the best estimates, such loans increased from, $1.6 billion in 1996 to $17.1 billion in 2006, a gain of almost 1,000 percent.

There is an obvious parallel with the rapid expansion of the sub-prime mortgage market in recent years. And, just tighter credit markets have forced mortgage lenders to abandon practices that were popular a short while ago, so have lenders who make private loans altered their lending rules. We know that changes are taking place but it is too soon to see what they are with enough clarity to design public policy solutions.

Most of the concern on this score is among private colleges and universities and trade schools who may feel a pinch in so-called gap loans—loans necessary to fill the gap between Federal loan limits and cost of attendance. Some lenders have indicated that they will no longer make private loans to students in proprietary schools and this will be a hardship to those schools and their students if other lenders do not step forward to meet the demand. Private colleges and universities are concerned about the extent to which gap loans may also dry up for their students, but the picture will not come into clear focus until June or July when loan processing for the fall semester reaches its peak. In short, much depends on whether the credit markets relax or contract in the next couple months.

Right now the most basic question may well be the steps that the Federal Government should take if the lack of access to private label loans becomes a severe problem and threatens the ability of a large number of students to begin or continue their education.

For now, I think you are pursuing exactly the right course of action—first, by holding a hearing to gather information; second, by asking Secretary Spellings to assess and test the options she has available if intervention becomes necessary; third, by working with Senator Dodd to examine the situation from the standpoint of the Banking Committee; and finally, by providing for a budget reserve fund against the possible need to increase loan limits or take other steps the might be needed to amend the Stafford loan program.

The advantage of your approach is that it allows time to assess the problem precisely and to identify which solution, if one is needed, is best suited to the exact problem that needs to be solved.

I would be happy to have ACE help in whatever way you feel would be useful. We will continue to monitor this situation very carefully and will stay in close contact with your staff to let them know what we learn. We will continue to compare notes on this situation with the Department of Education. Finally, if it becomes apparent that there is a need for legislative action, we will work with you to identify targeted solutions to address the problem.

Student loans are absolutely critical to access to higher education in the United States. A serious interruption in the availability of loans will create great hardships for students, families and institutions. While I do not believe that the situation at present calls for Federal action, we must watch this situation very closely.

Thanks again for all that you are doing on this issue and so many others. Please let me know if there is anyway that I can be helpful to you. Best wishes.

Sincerely,

TERRY W. HARTLE,
Senior Vice President.

CAREER COLLEGE ASSOCIATION (CCA),
WASHINGTON, DC 20036,
March 17, 2009.

I am Harris Miller, president of the Career College Association, and I am pleased to submit this statement to the committee. We commend the committee, particularly Chairman Kennedy and Ranking Member Enzi, for their leadership and vision in responding to this far-reaching challenge to higher education students.

The Career College Association (CCA) is a voluntary membership organization of accredited, private postsecondary schools, institutes, colleges and universities that provide career-specific educational programs. CCA has more than 1,400 members that educate and support over 1 million students each year for employment in over 200 occupational fields. CCA member institutions provide the full range of higher education programs: masters and doctoral degree programs, baccalaureate degree programs, associate degree programs, and short-term certificate and diploma programs. All CCA members must be licensed by the State in which they are located; accredited by a national or regional accrediting body that is recognized by the U.S. Department of Education; and approved by the U.S. Department of Education. Many also participate in other Federal, State and local education and workforce training programs.

MAKING IT IN AMERICA

Although the history of career-oriented schools in America can be traced back to colonial times, from a macroeconomic perspective, the need for career education has never been greater than it is today. We are a country of almost 150 million working adults. College-going is on the rise in the last 50 years, but there is still plenty of room for progress. According to Census data, well over one-half of adults 25 years or older lack a college degree. In fact, almost half of adults have never been to college. And approximately three-quarters lack a baccalaureate or higher degree. According to the Organization for Economic Cooperation and Development, the U.S.

has dropped from first in the world in terms of college graduates to tenth in a single generation.[1]

At the same time we're losing this ground, we know that postsecondary education is very important to attaining high value, high paying jobs and careers. This is particularly true in an era in which high speed telecommunications, lowered trade barriers and State sponsored advances in public education have begun to erase what economists refer to as the comparative advantages between nations. To stay ahead of the global competition, Americans need a high degree of skill attainment.

Unfortunately, millions of our fellow citizens lack these advanced skills. And to be frank, the "same old/same old" approach to the problem—the commonly shared belief in our society that only a traditional college degree is the only real ticket to upward mobility—is both harmful and wrong. Career education, driven by the transformative power of the free enterprise system, holds the key to moving our workforce to where it needs to be.

The American people appear to agree. In academic year 2006–07, there were almost 2,700 career colleges representing almost 40 percent of all title IV eligible institutions. The number of degree-granting title IV-eligible career colleges climbed 22 percent between academic year 2000-2001 and 2005–06, offering students a wider range of educational alternatives. And students seized the opportunity. Annual enrollment at 4-year career colleges increased 25 percent between academic years 2003–04 and 2006–07 and, between fall 2005 and fall 2006, 4-year degrees conferred by career colleges increased 20 percent, compared to the 3.4 percent increase for all types of 4-year institutions during that period.[2]

GATHERING STORM

So times should be good in the career education sector. Instead, storm clouds are gathering over the U.S. economy, the American people and higher education institutions of every stripe. Whether we are already in a recession, approaching a recession or just coping with a very chilly economic cool down, I will leave it to others to assess. I do know that the economy shed over 100,000 jobs last month, the highest such loss in 5 years. One of the biggest factors roiling the economic waters has been the slowdown in the housing market, a market on which many consumers have relied to make their major spending decisions and to draw overall confidence in the future.

In particular, turbulence in the subprime mortgage marketplace has spilled over into the $85 billion student lending marketplace. Of this total, about 75 percent of lending involves federally backed student loans and, because Federal student lending program ceilings have not kept pace with tuition increases, another 25 percent involves non-federal private or alternative lending. Because it is backed by the Federal Government, the Federal Family Education Loan Program (FFELP) and Plus Loan programs should be stable sources of education financing, regardless of conditions in other markets.

Unfortunately, this is not the case. More than 25 lenders have announced plans to either leave or curtail their participation in Federal education loan programs, and another nine have indicated that they will cease making private student loans. On the Federal loan side, these lenders represent about 10 percent of all loan volume to higher education students. Factoring in the potential disruption caused by failures in the private bond market, the impact on access to capital in the Federal student loan market could be three times this high.[3]

While it is true that schools that are unable to find FFELP lenders can shift to the Direct Loan (DL) program for their students, we must be cognizant of the practical obstacles to a sudden shift of thousands of schools and millions of students in a very short time period.

We must also realize that from the students' perspectives, loans from the DL program can be more expensive than those from many of the FFELP programs, because the FFELP lenders often offer the students discounts. As one of my school Presidents recently explained to me, when he shows students a chart comparing the costs to the students of direct loans and FFELP loans, they always choose the FFELP loans.

But the problems affecting the FFELP and Direct Loan programs are not the whole story. It is indisputable that the private loan market for lower income students has collapsed. Many students today cannot obtain the financing they need to pay for the gap between the total cost of higher education and what the Federal

[1] Organization for Economic Cooperation and Development, Education at a Glance, 2007.
[2] U.S. Department of Education, national Center for Education Statistics, IPEDS.
[3] Mark Kantrowitz, FinAid.org.

student aid programs will cover. Irrespective of the conditions and capabilities in the FFELP and Direct Loan programs, the inability to obtain gap financing will critically injure access for lower income students right now.

So exactly during a time when tens of thousands of Americans may be looking to improve their skills in order to become more competitive, lending conditions in student loan markets are starting to bar the door.

That's a problem for prospective students, their families, institutions, employers and the economy overall.

Access to adequate financing is important to many college and university students. To career college students, it is absolutely critical. A substantial percentage of career college students come to higher education without the financial and other supports of typical college students. For these students, life is not 4 years cloistered on a college campus. Career college students are predominantly working adults. Thirty-seven percent are minorities and almost 50 percent are the first generation in their families to pursue higher education. Over 50 percent of dependent career college students come from families with income of less than $40,000. More than 75 percent of students are employed while enrolled in career colleges. Not surprisingly, many need student loans to see them through.

LENDERS PULLING BACK

I said the storm clouds are gathering. Within our sector, the downpour has not yet started and, with prudent action now on the part of stakeholders, it does not have to start. We do not need wait to have students on the street to take action. Those who listen carefully can hear the sound of thunder not very far away. Career college students enroll on a year-round basis, so our institutions are beginning to experience and report the lending practice changes now. We believe traditional colleges and universities, who generally start their classes in the fall, will be encountering the same situation for their students shortly.

The Career College Association has polled its members twice since the beginning of the year to ascertain the impact of perturbations in the student lending marketplace; the first in January, the second early this month after several student lenders had announced they were pulling out of or substantially cutting back on student lending and after the credit market situation deteriorated. The results represent a broad cross-section of the CCA membership. Top line findings include:

- *Gap financing is becoming harder to find*. According to the initial results of the March survey, 55 percent of respondents indicate that lenders have ended private, non-federal loans to students. Back in January, less than 40 percent of the respondents said they had been so notified.
- *Lender pullbacks from the Federal student loan market are spreading*. With respect to the Federal Family Education Loan (FFEL) program, in January, slightly less than one-fourth of respondents had been informed their lenders would no longer make FFEL loans to their students; that percentage has grown to 37 percent.
- *Lenders are changing their programs to reduce benefits to students*. One-fourth of the respondents in January indicated there would be some additional costs pushed onto institutions and/or students. Now 55 percent of respondents report benefit reductions to borrowers.
- *Concern among schools is growing*. Sixty-six percent of those answering the survey in January expressed concern about their students' future ability to access both Federal and non-Federal loan funds to finance their education. Today the "concern rate" among career colleges is over 80 percent. Almost 60 percent said the loan access situation has deteriorated since January.

If left unaddressed, tens of thousands of higher education students may find themselves unable to obtain adequate loans for college this summer and fall. In particular, students who need private loans because the Federal aid does not cover their higher education costs, creating a need for "gap financing," are at risk. This would be a disaster, forcing these individuals to defer and perhaps abandon their pursuit of a certificate, diploma or degree. Just the difference in earning (and therefore tax paying) potential between the holder of a 2-year degree and a high school diploma will end up costing the Federal Government billions of dollars.

The student lending shortfall will hurt career college students, but it will also hurt any student not lucky enough to be born into comfortable circumstances and a healthy line of credit, whichever type of institution they attend. You may find a few such students at America's most prestigious colleges and universities. You will find most of these students at community colleges, historically black colleges, State colleges and universities, even some traditional private colleges and universities (facing their own funding challenges in many States that have budget deficits) and career colleges.

RESTORING CONFIDENCE

Just as not one circumstance precipitated the student loan credit crunch, not just one initiative is likely to solve it. Luckily, there are several creative solutions that would go far toward restoring confidence and liquidity to lending markets. The most important overall philosophy is to reduce the need for students, especially students who may not have strong credit or a parental cosigner, to obtain private loans by increasing the amount of government backed loans available. The simple reason students have moved to more expensive—and, these days, more problematic private loans—over the past few years is that the Federal student loan programs and grants have not kept up with the costs of higher education.

We have learned of several promising ideas available to address these problems. There are perhaps others that can be explored. Congress could raise the aggregate limits on Stafford loans and, particularly the limits on unsubsidized Federal student loans. Aggregate limits on Stafford loans have been in place since 1992.[4] During that time, student loan limits have not reflected the rate of general inflation. We emphasize raising unsubsidized Stafford lending limits because according to the Office of Management and Budget analysis, unsubsidized Stafford loans have a negative subsidy rate, which means *they generate revenue for the Federal Government*. When I mention this fact to most people, they seem skeptical, but the data are clear. This additional revenue to the government that would come from an increase in unsubsidized Stafford loans could then be used to increase further Pell grants, thus reducing the need for student borrowing. Just as importantly, raising the lending limits in the Federal student loan program would decrease the dependence of working class and low-income students on more expensive private loans, even assuming such are available.

Congress could also broaden the Plus Loan program to include all undergraduate students, not just those with parental borrowers, as under current law. Tens of thousands of hard working young adults, no longer living as dependents, are denied the ability to seek lower interest, federally backed Plus Loans because they do not have parental borrowers. They are not graduate students and thus are not eligible for the Graduate Plus program. College students come from all walks of life, and quite often these pathways to higher education do not include more affluent parents, ready and able to either provide college funding or to help secure the credit necessary to make it happen. Indeed, more than one-half of those attending college are "non-traditional" students. Enlarging the Plus Loan program would better reflect and serve the student population as it exists today and would likewise diminish the need for students to rely on more costly commercial loans.

Also, as with unsubsidized Stafford loans, PLUS loans have a negative subsidy rate, which again means they generate revenue for the government. This surplus could also be used to increase Pell grants.

A key caveat, however, is that if Congress increases the Federal aid available to students as we and many others recommend, it is critical they also address the 90/10 issue as it applies to this new form of aid for career college students. We have several ideas on how to do so, which we would be pleased to discuss with the committee. But, in sum, it would be patently unfair and counterproductive to replace private loan funding, which has allowed many career colleges to meet the 90-10 rule, with new government loan funding, which would make it impossible for these schools to comply with the rule. The cure to the threats to access for lower income students must not kill that access.

Many career schools would like to provide "gap" funding, the difference between Pell Grants and Federal loans and the cost of the education, to their students because lenders are leaving the student loan market. Current 90-10 rules make it difficult or impossible for career schools to begin a program to loan funds, because currently only the amount of money paid back by student borrowers in a given year is counted toward 90-10 compliance. Career colleges would like to offer scholarships, as do traditional colleges and universities, to students with special academic achievements or difficult financial needs based on clear criteria, but do not do so because of the current 90/10 interpretation. 90-10 rules need to be revised to allow institutional loans and institutional scholarships to be applied to the mandated 10 percent of non-Federal monies. We are pleased that the House version of the Higher Education Act reauthorization provides a solution to the institutional loan issue and the Senate version provides a solution to the institutional scholarship issue, and hope the conferees will include both provisions in the final bill.

Finally, the Higher Education Act reauthorization now in conference contains language that potentially could make it impossible for schools to arrange recourse loans

[4] Mark Kantrowitz, FinAid.org.

for their students. We believe an important clarification is in order in the final bill because we do not believe it is Congressional intent, based on conversations we have had with committee members, to eliminate recourse loans. Recourse loans are a common and acceptable form of consumer financing for individuals that present higher credit risks. As applicable to higher education, students with low credit scores who need private loans may still gain access to credit to finance their education if the educational institution is willing to share in the risk with the lender. The bill contains broad prohibitions on lender inducements that are being read by some lenders to prohibit recourse loans. We look forward to working with the committee to get the necessary clarification.

CONCLUSION

Higher education is critically important to building and maintaining a globally competitive 21st century American workforce. Unfortunately, inflation has placed a college education beyond the means of typical families either to fund out of savings or to pay out of cash flow. Instead, Americans look to the credit markets to gain the necessary financing. These sources of college funds are now at risk, placing access to higher education itself at risk for thousands of working class and low-income individuals.

Years ago, the typical hard working American could carve out a comfortable middle class lifestyle with a broad back and a willingness to use it. Today, employers are looking for the kind of skills needed to drive a services economy. High school is no longer sufficient to produce these skills. America may seek to leave no child behind, but many young people do not graduate from high school. In fact, almost one in every three students who enter ninth grade do not walk across a high school stage with their class 4 years later.[5]

In the face of a rising storm, vision and common sense often begin to become distorted. In the credit markets, conventional wisdom that seemed reasonable and rational only a few months ago appears to make little sense today. Yet with the passing of the storm comes the clarity of fundamental truth and abiding knowledge.

We know, for instance, that America has seen wrenching economic transformations in the past. The ingredients of success may change as the economy changes but the ability to strive for upward mobility, fairly and without social or political constraint, remains unchanged. We know the race is on to bring higher value products and services to a global marketplace. Comparative advantage is diminished in a flatter world but our willingness to compete is woven into the national fabric. We know that this fabric must stretch to include not just the elite few but all who will work and contribute to America's place in the world. And we know that higher education is the only avenue for producing the requisite skills to sustain a broadly accessible American middle class.

From this perspective, the course is clear. Do what is necessary to preserve the greatest access to higher education for the greatest number of American people.

HARRIS N. MILLER,
President.

[Whereupon, at 12:35 p.m. the hearing was adjourned.]

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[5] John Bridgeland et al., *The Silent Epidemic*, March 2006.