The Chicago Bar Foundation
321 South Plymouth Court, Suite 3B
Chicago, Illinois 60604

tel: 312.554.1204 – fax: 312.554.1203
www.chicagobarfoundation.org

The Chicago Bar Foundation — Ensuring access to justice for all

February 23, 2018

Senate Committee on Health, Education, Labor and Pensions
428 Senate Dirksen Office Building
Washington, DC 20510
Submitted via email: HigherEducation2018@help.senate.gov

Senator Alexander, Senator Murray, and members of the Senate Committee on Health, Education, Labor and Pensions:

As you begin your deliberations regarding the reauthorization of the Higher Education Act, The Chicago Bar Foundation urges you to preserve the Public Service Loan Forgiveness and income-based repayment programs while making some much-needed reforms to the way the federal government handles educational loans and debt more broadly.

We submit these requests understanding the reality that you know well: the amount of student debt has exploded over the past two decades as average tuitions at all levels of higher education have risen at rates well above the inflation rate. Evidence exists that the relatively easy availability of government and private educational loans is simultaneously fueling both of these trends. Moreover, there are increasingly dire consequences for the growing number of graduates struggling with often mortgage-sized debts and increasing risks for taxpayers if these loans go unpaid. However, we feel strongly that reforms on the front end of the system, rather than these back end programs which are working as intended, will lead to a more tenable and beneficial public policy solution that will benefit all Americans.

Our more detailed suggestions for reforms to the system follow below, and we believe the following principles are fundamental to reaching a more comprehensive solution:

- Loans available at reasonable levels for people of all persuasions to pursue higher education
- Loan repayment based on the income of graduates with forgiveness of any remaining balances in a reasonable amount of time
- Continuation of the public service loan forgiveness program for graduates pursuing public service careers
- More market discipline for tuition charges at all levels of higher education
- Accountability for schools
- Accountability for students and graduates

Public Service Loan Forgiveness
We urge you to preserve the Public Service Loan Forgiveness (PSLF) program. PSLF was created by Congress in 2007, and provides critical support for our nation's public sector by offering partial relief from often crushing educational debt for those who make long-term commitments to work in public service. Under PSLF, those who

make ten years of payments on their federal student loans while employed full-time in public service jobs are eligible to have their remaining balance forgiven.

PSLF has had a tremendous positive impact, helping to fill laudable public service jobs in every state amid lagging employment in the public sector and increasing public need. The public sector includes a broad range of occupations, including first responders, teachers, health professionals, and lawyers. For example, in the legal system prosecutors and public defenders promote public safety and the administration of justice. Legal aid lawyers help the elderly, veterans, children and families remain stably housed, employed, and receiving due benefits and services, whether they live in urban or rural communities.

People pursuing public service careers make what is often a significant financial sacrifice to pursue careers in public service. The weight of growing educational debt can easily turn that financial sacrifice into a longer term financial challenge, and PSLF has helped to encourage talented and dedicated individuals to pursue and remain in these careers.

Each year, public service employers report difficulty in recruiting and retaining talented staff, leaving many Americans without critically needed services. While the reasons for the difficulty in recruiting and retaining these professionals can be complex, growing educational debt remains one of the most significant, particularly for people from low-income and disadvantaged communities pursuing occupations that require advanced degrees.

By all accounts, PSLF is a program that is working well and achieving its purpose of encouraging and maintaining careers in public service. The proposed elimination of this program would be treating the wrong symptom of the broader student debt crisis facing our nation. Reforms that address and solve the root causes of exploding educational debt in our country are needed.

The economic impact of eliminating PLSF would be far-reaching. Those in the public service will more acutely feel the crushing weight of their student debt without the prospect of relief. They may be forced to put off buying a home or investing and saving for their future retirement. Quality public servants may leave the public sector and debt-burdened talented graduates may choose not to enter public service, widening the gap in the assistance needed and available to communities. Repeal or arbitrary limitation of PSLF would undermine a vital source of support for the health and wellbeing of communities throughout the country.

Income-Based Repayment

We also urge you to preserve a reasonable income-based repayment option with eventual loan forgiveness for people outside the public sector. While it is true that the current income-based repayment system could benefit from reforms to simplify and streamline the myriad and confusing options available, the core purpose and impact of income-based repayment has reaped similar economic and community benefits to PSLF.

For example, small business entrepreneurs often depend on these income-based repayment options to be able to pursue these opportunities. Small businesses continue to be the principal sources of new jobs in our country and are an integral driver for innovation in the economy. These small businesses often could not get off the ground, let alone grow and thrive, without the flexibility that an income-based repayment option provides.

Broader Reforms for Educational Loans and Repayment Programs

We recognize that preserving the PSLF and income-based repayment programs requires broader reforms in the way government provides educational loans and repayment programs. Below are a number of challenges that have been identified with the current educational debt system, along with corresponding policy reforms that we believe should be part of a comprehensive solution. Along with those solutions, we have identified examples of legislation already introduced that sought to implement all or part of that solution.

<table>
<tr><th>Identified Problem</th><th>Potential Solution</th></tr>
<tr><td>Amount of Available Federal Loans Too High and Can Encourage Larger Tuition Increases by Schools or Irresponsible Behavior by Borrowers</td><td>

Consider a more realistic cap on amount of federal grad school loans available

For example, consider using as measures the median public school tuition and reasonable living expense, perhaps by geographic area similar to the manner in which federal per diem rates are determined (http://www.gsa.gov/portal/category/104711)
When determining a cap, keep in mind degree/program cost differentiation and public v. private cost difference
Already a hard cap on amount of undergrad loans at $57,500

Consider also an overall cap on grad school loans for people who pursue multiple graduate degrees
Require more borrower education (ex: S.1162)
Address concerns about the impact of these caps on low-income students

Caps need to be combined with reforms regarding private educational loans so they do not inadvertently lead to greater private education debt without the same protections (ex: H.R. 1127)
Policies should encourage more scholarships based on need (rather than only merit) and aid as opposed to loans; perhaps, incentivize this policy by requiring some minimum percentage of scholarship aid be need based (ex: S. 1162)

</td></tr>
<tr><td>Repayment and Forgiveness Programs for Federal Loans Too Complicated and Take Too Long for Forgiveness, and Any Forgiveness is Taxable to Borrower</td><td>

Consolidate income-based programs to one available payment plan for federal loans that is based on a reasonable % of income (prospectively, so as to not adversely impact current borrowers) (ex: H.R. 1127)
20-year maximum repayment schedule
Any loan forgiveness at end of term should not be taxable (as is the case with PSLF already)
Consider income-based repayment options that are flexible enough to benefit non-salaried borrowers who are often hardest hit by student debt burdens (ex: H.R. 1127)
Use tax code to incentivize more employers to offer repayment assistance as tax-free benefit (ex: H.R. 795; ex: H.R. 1656)

</td></tr>
</table>

Interest Rates are Too High and Interest Accumulates at Too High a Rate; Inflating the Amount Owed/Forgiven and Resulting in Reliable Borrowers Who Are Not Even Covering the Interest Despite Regular Payments	• Reduce interest rates on student loans and identify alternative sources of funding for programs such as Pell Grants and PSLF (ex: S. 2677-114th) • Make the interest rate calculation more equitable (as is considered in the more recent IBR plans), such as: for borrowers who are properly paying the amount due under their repayment plan each year, the interest charged for that year should not exceed 90% of the amount the borrower is properly paying under IBR.
Not Enough Accountability for Schools Who Raise Tuition at Excessive Rates or Have Poor Employment Outcomes for Graduates	• Require schools to have some "skin in game" in order to receive federal loan payments (ex: S. 2028) • A sliding scale could be implemented wherein certain triggers would require lower performing schools (according to the triggers) to contribute or be cut off from federal loan eligibility depending on the severity • Some triggers to consider including are: o Poor Repayment Outcomes including default, forbearance, and deferment (keeping in mind that default rates are often a lagging indicator and that there are other reasons for each of these to occur in a borrower's lifetime) (ex: S. 2028) o Disparity between cost of education and graduate earning power o Flagging by an accrediting body (see: Dept. of Ed rules) • Be cognizant of schools who feel they are already "in crisis" and trying to downsize/turn back inflated tuition rates and acceptance rates
Public Service Loan Forgiveness Faces Longer-Term Uncertainty As Currently Structured	• Retain 10-year forgiveness schedule to encourage people to pursue public service careers • Perhaps put limits on forgiveness for people above certain income level or consider reasonable restrictions on definition of who is eligible for forgiveness • Caps should be looked at carefully taking into account the reasonable cost of graduate degrees and impact of interest rate accumulation; putting more realistic caps on front end a fairer way to address that than on the forgiveness side
Private Educational Loans Get Same Special Treatment As Federal Loans Against Discharge in Bankruptcy Without the Corresponding Protections and Forgiveness Options	• Take away special bankruptcy protection for private educational loans (ex. S. 1262) • Market discipline will then better limit those loans based on likelihood of repayment

Conclusion
We submit the above comments on behalf of The Chicago Bar Foundation. As the charitable arm of The Chicago Bar Association, the CBF works to improve access to justice for people in need and to make the legal system more fair and efficient for everyone. More than 200 law firms and companies, many thousands of individual lawyers and legal professionals, and scores of other dedicated partners make the CBF's work possible.
We welcome the opportunity to expand upon or clarify these comments and hope to work with you towards a comprehensive solution that ensures the prosperity of all Americans who seek higher education and the opportunities it brings. Thank you for your consideration.

Respectfully,

Greg Boyle
Co-Chair, Advocacy Committee
The Chicago Bar Foundation

Dawn Willis
Co-Chair, Advocacy Committee
The Chicago Bar Foundation