

1 **STUDENT LOAN COMMUNITY PROPOSAL**

2 Section 1. PROPOSED PART K to TITLE IV of the HEA.—The Title IV of Higher Education  
3 Act is amended to include the following new Part K:

4 “Part K.—Competitive Federal Student Loan Program.

5 **SEC. 499A. FEDERAL STUDENT LOAN PROGRAM FOR ACADEMIC YEAR 2010 -2011**

6 **AND BEYOND.**—Beginning on July 1, 2010, and thereafter, all Unsubsidized Stafford,  
7 Subsidized Stafford, PLUS or Consolidation Loans previously made to borrowers under  
8 Part B of this Title shall be made under this Part.

9 **SEC. 499B. STATEMENT OF PURPOSES; TERMS AND CONDITIONS; EFFECTIVE DATE.**

10 (a) **PURPOSE.**—The purpose of this Part is to enable the Secretary --

11 (1) to provide a federally supported loan program for students attending eligible  
12 institutions, beginning on July 1, 2010, that combines the advantages of programs  
13 previously offered under Part B and Part D of this Title; and,

14 (2) specifically, to combine the advantages of the Federal Government’s low cost of  
15 funds with the private sector’s origination, servicing, and default aversion capabilities, and

1 to provide eligible institutions with a choice of loan origination and loan servicing  
2 providers, and borrower assistance and advocacy providers (as provided in section 499H),  
3 thereby allowing student and parent borrowers of loans made under this Part and Part D,  
4 and of loans made under Part B that are acquired by the Secretary, to take advantage of  
5 competition to obtain value-added services, superior customer service, and innovations in  
6 loan delivery.

7 **(b) TERMS AND CONDITIONS OF LOANS**

8 (1) Unless otherwise specified in this Part, loans made to borrowers under this Part  
9 shall have the same terms, conditions, and benefits, and be available in the same amounts,  
10 as loans made to borrowers under Section 455.

11 (2) Institutions of higher education that meet the eligibility requirements to  
12 participate in the Federal Family Education Loan Program under Part B, or the Direct  
13 Student Loan Program under Part D, are eligible to participate in the new loan program  
14 established under this Part.

15 (3) **SPECIAL ALLOWANCES NOT PAID.**—No special allowance shall be paid to  
16 eligible lenders for loans made under this Part.

1           **(4) INTEREST SUBSIDIES NOT PAID TO LENDERS.**—Lenders making loans under  
2 this Part shall not be paid interest subsidies under section 428(a), though borrowers who  
3 would be eligible to have interest paid on their behalf under section 428(a) shall not be  
4 charged interest.

5           **(5) NO LOAN FEES FROM LENDERS.**—The Secretary shall not collect any loan fee  
6 assessed on eligible lenders under Part B from eligible lenders for loans made under this  
7 Part.

8

9 **SEC. 499C. LOAN ORIGINATION FOR STAFFORD AND PLUS LOANS.**

10           **(a) IN GENERAL: SCHOOL CHOICE OF LOAN ORIGINATION PLATFORMS.**—

11 Beginning on July 1, 2010, and thereafter, any institution of higher education may elect to  
12 have Stafford and PLUS loans made to such institution’s eligible students, or parents of  
13 such institution’s students, under this Part originated by eligible lenders as defined in  
14 Section 435.

1       **(b) ORIGINATION BY ELIGIBLE LENDERS: REQUIREMENTS FOR DISBURSEMENT OF**  
2       **LOANS.**—An eligible lender that originates loans made under this Section shall disburse  
3       such loans in accordance with Section 428G.

4       **(c) RECOMMENDATION OF ELIGIBLE LENDERS BY PARTICIPATING**  
5       **INSTITUTIONS.**—Any institution of higher education participating in the student loan  
6       program under this Part may select two or more unaffiliated eligible lenders to originate  
7       loans made to such institution’s students, or families of its students. In selecting eligible  
8       lenders to originate loans under this Part, institutions of higher education shall choose  
9       eligible lenders on the basis of such lenders’ loan delivery technology, customer service,  
10      and servicing quality and effectiveness.

11      **SEC. 499D. FINANCING AND SALE OF STAFFORD AND PLUS LOANS ORIGINATED BY**  
12      **ELIGIBLE LENDERS.**

13      **(a) LOAN PARTICIPATION AGREEMENT.—**

14              **(1) TERMS OF PARTICIPATION AGREEMENT.**—The Secretary and each eligible  
15      lender that originates loans under this Part shall enter into a Loan Participation  
16      Agreement, pursuant to which the Secretary shall purchase a one hundred percent

1 participation interest in each disbursement of each eligible loan made by such lender.

2 The lender shall sell the participation interest in eligible loans subject to the Loan

3 Participation Agreement to the Department no later than 15 days after first

4 disbursement. The Secretary shall fund such participation within one business day of the

5 request by such lender. During the term of the Loan Participation Agreement, the

6 Department shall have beneficial ownership of the loans that are subject to the Loan

7 Participation Agreement, and the eligible lender shall service the loans or contract with a

8 third-party servicer to service the loans in accordance with regulations issued by the

9 Secretary. The Loan Participation Agreement shall provide that the eligible lender who is

10 a party to the Loan Participation Agreement must transfer to the Secretary, no later than

11 the Mandatory Loan Purchase Date, legal title to all loans placed in the Participation

12 facility. The Mandatory Loan Purchase Date shall be no later than 120 days after such

13 loans are fully disbursed.

14 **(2) PAYMENTS TO ELIGIBLE LENDERS.—**

1           **(A) PURCHASE PRICE FOR PARTICIPATION INTEREST.**—The Secretary shall  
2 pay lenders a Purchase Price equal to the principal balance of the eligible loans in  
3 return for the one hundred percent Participation interest in such loans.

4           **(B) LOAN ADMINISTRATION FEE-**

5           (i) In order to compensate the lender for administering disbursed loans, the  
6 Secretary, in addition to the Purchase Price, shall pay lenders a Loan Administration  
7 Fee on eligible loans subject to the Participation Agreement equal to an annual rate  
8 of 0.69 percentage points times the principal balance of the fully disbursed eligible  
9 loans for the number of days of the holding period as defined in (ii). For loans first  
10 disbursed after September 30, 2012, the amount of the Loan Administration Fee  
11 shall be set annually in advance by the Secretary of the Treasury at an amount the  
12 Secretary of the Treasury determines, based on a survey of a broad array of eligible  
13 lenders of loans originated under this Part, represents equitable compensation for  
14 administering disbursed loans.

15           (ii) The holding period is from the day of first disbursement through the date  
16 of transfer of legal title to the loan as described in subsection (b).

1 (b) **TERMS OF LOAN PURCHASES BY SECRETARY.**—

2 (1) **PURCHASE AGREEMENT.**—The Loan Purchase Agreement between the  
3 Secretary and eligible lenders who originate and sell loans under this Part shall  
4 contain terms and conditions consistent with the Master Loan Purchase Agreements  
5 issued by the Secretary under Section 459A.

6 (2) **ORIGINATION FEE.**—The lender shall transfer legal title to the loans to the  
7 Secretary on or before the Mandatory Loan Purchase Date, for no additional  
8 consideration except for the payment of a Origination Fee equal to \$75.00 for such  
9 Loan. The Secretary shall pay the lender \$20 of the Origination Fee at the time the  
10 lender sells a 100 percent participation interest in such loan to the Secretary, and the  
11 remaining \$55 amount of the Origination Fee when the lender transfers legal title to  
12 the loan to the Secretary. The \$75 per loan Origination Fee shall remain in effect for  
13 loans first disbursed on or before September 30, 2012. For loans first disbursed after  
14 September 30, 2012, the amount of the Origination Fee shall be set annually in  
15 advance by the Secretary of the Treasury at an amount the Secretary of the Treasury

1 determines, based on a survey of a broad array of eligible lenders of loans originated  
2 under this Part, represents equitable compensation for originating loans.

3 (c) **FEES SUBJECT TO APPROPRIATION.**—Funding for the Loan Administration  
4 Fee and the Origination Fee shall be provided in annual appropriations under section 458  
5 in advance of the year for which the fees are paid.

6 (d) **AUTHORITY TO SELL LOANS.**- The Secretary, in consultation with the  
7 Secretary of the the Treasury, is authorized to sell loans made under this Part on such  
8 terms as the Secretary determines are in the best interest of the United States.

9

10 **SEC. 499E. LOAN SERVICING.**

11 (a) **CONTRACTS FOR SUPPLIES AND SERVICES.**—

12 (1) **IN GENERAL.**—

13 (A) The Secretary shall provide for the servicing of loans under this Part through  
14 multiple contracts that take into account factors such as price and servicing capability.

15 (B) In addition to contracts under paragraph (a)(1)(A), the Secretary shall award  
16 contracts to not-for-profit and state servicers described in paragraph (a)(2)(E) to allow

1 such servicers to service under this Part and to service loans made at institutions of higher  
2 education within the State of such servicer for loans made under Part D which are first  
3 disbursed on or after July 1, 2010. Unless otherwise provided in this Section, such  
4 servicers shall abide by the terms and conditions, including price, established by the  
5 Secretary under the contracts for loan servicing under this Part and Part D except for any  
6 conditions restricting the size or minimum number of accounts serviced.

7 (C) Such servicing contracts shall provide that the compensation paid to servicers  
8 shall be volume based so that servicers of a lesser number of loans receive higher per loan  
9 compensation in order to fairly compensate them for their higher average costs of servicing  
10 due to fixed costs.

11 (D) Such servicing contracts shall cover origination and subsequent servicing of  
12 consolidation loans among the services provided.

13 (2) **SERVICING.—**

14 (A) **Loans originated by Lenders Awarded Servicing Contracts under this**  
15 **Part.—**Loans originated under this Part by eligible lenders, or affiliates of such eligible

1 lenders, who have been awarded contracts for servicing under this section or under Part D  
2 shall be serviced by such eligible lender or affiliate.

3 **(B) Loans Originated by Other Lenders.**—Loans originated under this Part by  
4 eligible lenders (including without limitation not-for-profit and state servicers described in  
5 paragraph (a)(2)(E)), or affiliates of such eligible lenders, who have not been awarded  
6 contracts for servicing under this Section or Part D shall be serviced by either --

7 (i) such eligible lender, or its affiliate, as long as such lender, or its affiliate, abides  
8 by the terms and conditions, including price, established by the Secretary under the  
9 contracts for loan servicing awarded under this section except for any conditions  
10 restricting the size or minimum number of accounts. The Secretary shall not require  
11 servicers under this paragraph to have a minimum number of existing student loan  
12 accounts to qualify to service loans that it originates. Eligible lenders or their affiliates may  
13 subcontract for the provision of all or part of the services required to be provided as long  
14 as such contractor abides by the terms and conditions; or,

1 (ii) in all other cases, a servicer chosen by the institution of higher education from  
2 among the servicers that have been awarded such a contract by the Department under this  
3 Part or Part D.

4 (C) **Loans Originated under Part D.**—Institutions of higher education that choose to  
5 have loans made under Part D shall choose one or more eligible servicers to provide  
6 servicing on loans made to their students and parents of such students. Eligible servicers  
7 shall be servicers who have been awarded contracts to service loans made under Part D,  
8 including contracts under paragraph 1(B). Such servicers may continue to subcontract  
9 with their existing subservicers, at the time of enactment, for provision of all or part of the  
10 services required under the servicing contracts under this section as long as such  
11 subservicers abide by the terms and conditions of such contracts.

12 (D) **Consolidation Loans.**—Eligible borrowers may consolidate with either (i) a  
13 servicer who services their underlying loans; or, (ii) in the case of a borrower whose loans  
14 are serviced by a servicer who does not originate and service consolidation loans, the  
15 borrower may choose their consolidation servicer among eligible servicers under this  
16 section.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16

**(E) NOT-FOR-PROFIT AND STATE SERVICERS DEFINED.**—For the purposes of this section, a not-for-profit or state servicer is a not-for-profit or state lender that:

- (i) meets the definition under section 435(p); and
- (ii) has satisfactorily met audit requirements while servicing federally-guaranteed student loans made under Part B during academic year 2008-2009, if applicable, or otherwise satisfied the Secretary of its qualifications.

**(b) TERMS OF LOAN SERVICING CONTRACTS-RISK SHARING FOR SERVICERS**

**(1) Risk Sharing-** As part of its servicing obligations, an eligible servicer shall perform activities designed to minimize defaults and to achieve substantial reductions in default rates. If a borrower defaults on a loan made under this Part or Part D at any time in the first four (4) years after such loan goes into repayment, excluding periods of deferment and forbearance, the eligible servicer servicing such borrower’s loan shall reimburse the Department an amount equal to three percent of the total unpaid principal and accrued interest on the loan at the time the loan enters default, provided such servicer has serviced the loan for at least two consecutive years immediately preceding the default. The

1 Department may offset required risk-sharing payments due from eligible servicers from  
2 any payments made to such eligible servicers under their servicing contracts. The  
3 Department shall lessen or waive the risk-sharing requirement for small servicers who  
4 service loans under this Part or Part D if the Secretary determines that the effect of risk  
5 sharing, combined with the other terms and conditions, would preclude small servicers  
6 from performing under such contracts. The Secretary shall establish objective measures on  
7 loan servicing, financial literacy, and default aversion that such small servicers must meet  
8 to be eligible to service loans under this Part or Part D. The Secretary shall publish the  
9 criteria to be used in measuring the performance of small servicers.

10 (2) **Rates for Loan Servicing.**—Servicers submitting bids pursuant to paragraph  
11 (a)(1) of this section must take the risk-sharing requirement in paragraph (a)(1) into  
12 account in formulating their rate proposals to the Department. Servicers may include in  
13 their competitive proposals servicing rates that differ based on the type of loan made to an  
14 eligible borrower under this Part, and the type of the institution the borrower attends,  
15 including but not limited to whether the institution is a two-year institution or a four-year  
16 institution or a non-profit institution or for-profit institution.

1           (3) **Standards.**—The Secretary shall, by regulation developed in consultation with  
2 eligible servicers awarded contracts under this section, prescribe forms and procedures,  
3 electronic data linkages and means of document retention designed to standardize  
4 computer forms and servicing processes, minimize administrative costs and streamline or  
5 simplify rules, to benefit borrowers and reduce program administration costs.

6           (4) **Definitions.**—For purposes of this section, “small servicer” means a lender or  
7 servicer, including its affiliates, that had gross revenue for its most recent fiscal year of less  
8 than \$100 million (excluding any state appropriated funds and federal grants), and that  
9 serviced loans made under this Title that had an aggregate principal balance of less than \$2  
10 billion. The Secretary shall adjust annually the limits for revenue by the annual percent  
11 increase in the consumer price index and principal by the annual percent increase in the  
12 total balance of outstanding federal student loans.

13

14 **SEC. 499F. POST-DEFAULT COLLECTION SERVICES ON LOANS.—**

15       (a) **IN GENERAL.**—The Secretary shall contract with one or more providers of collection  
16 services, including Guaranty Agencies, for collection services for defaulted loans made

1 under this Part and Part D, and for defaulted loans made under Part B that are acquired by  
2 the Secretary.

3 (b) **ALLOCATION OF DEFAULTED LOANS.**—In assigning loans among providers of  
4 collection services, the Secretary shall determine the volume of loans assigned to such  
5 providers of collection services based on the performance of such providers in comparison  
6 to other providers performing default collection services and shall take into consideration  
7 any special collection tools available to state designated Guaranty Agencies.

8 (c) **AUTHORITY TO SELL DEFAULTED LOANS.**—The Secretary is authorized to sell  
9 defaulted loans under this Part to collection agencies, eligible lenders, or other qualified  
10 purchasers on such terms as the Secretary determines are in the best interest of the United  
11 States.

12 **SEC. 499G. COLLEGE ACCESS AND COMPLETION FUND.**

13 (a) **FINANCIAL LITERACY.**—The Secretary shall allocate no less than one-third of  
14 all funding from the College Access and Completion Fund established pursuant to section  
15 \_\_\_ to the States for financial literacy education, including but not limited to providing

1 information to prospective and current students and their families, and to student loan  
2 borrowers, on budgeting and personal financial and debt management, on how to pay for  
3 postsecondary education and on the rights and obligations of student loan borrowers. Such  
4 funds shall be allocated on the basis of the number of full time equivalent students  
5 attending institutions of higher education in each State. States shall grant all funds  
6 allocated to the State under this section for financial literacy to guaranty agencies (as such  
7 term is defined in section 499H(b)) that provide services in the State and to state or not-  
8 for-profit lenders that meet the definition under section 304 of the College Cost Reduction  
9 and Access Act of 2007. To the extent such financial literacy programs funded by the State  
10 are provided at or through postsecondary schools, the institution of higher education shall  
11 select the provider if the State utilizes more than one provider that meets the requirements  
12 of this section.

13 **(b) OUTREACH SERVICES.-** The Secretary shall allocate a portion of funding from  
14 the College Access and Completion Fund established pursuant to section \_\_\_\_ to guaranty  
15 agencies (as such term is defined in section 499H(b)) and state or not-for-profit lenders

1 that meet the definition under section 304 of the College Cost Reduction and Access Act of  
2 2007 to allow these organizations to continue to provide comprehensive outreach services,  
3 materials and Internet-based tools to all students, families and schools in their designated  
4 states to increase postsecondary enrollment and completion. These services include, but  
5 are not limited to, providing information to students, families, school counselors and  
6 community organizations about the importance of attaining a postsecondary education, the  
7 postsecondary opportunities available, the range of career options and the financial aid  
8 available. These organizations also provide mentoring, academic and financial support to  
9 students to enroll and persist in college, with an emphasis on low-income, minority and  
10 first-generation students. In addition to continuing these stand-alone services and  
11 programs, the funds will allow these organizations to continue to provide training and  
12 support to federal, state and local college access and completion programs to leverage  
13 existing resources.

14 **SEC. 499H. BORROWER ASSISTANCE AND ADVOCACY**

1           (a) **PURPOSE.** The federal government intends that students and borrowers receive  
2 high quality, professional and unbiased support services to help assure a successful  
3 postsecondary education experience. Accordingly, the Secretary shall enter into  
4 agreements with Guaranty Agencies under which such Guaranty Agencies shall provide  
5 borrower support services and assist in the proper administration of the student loan  
6 programs.

7           (b) **GUARANTY AGENCY DEFINED.** As used in this section, a Guaranty Agency is  
8 any guaranty agency, as that term is defined in section 435(j), that agrees to provide the  
9 services described in this section in accordance with regulations issued by the Secretary.

10          (c) **BORROWER ASSISTANCE SERVICES.** The services provided by Guaranty  
11 Agencies under this section shall include, but not be limited, to the following services:

12           (1) Encouraging students to refrain from incurring unnecessary student loan debt  
13 (including private education loan debt);

14           (2) Providing or assisting with entrance and exit student loan counseling to  
15 borrowers;

1           (3) Providing resources to assist borrowers in selecting a loan repayment plan and  
2 in applying for any loan cancellation, forgiveness, deferment, or forbearance to which they  
3 may be eligible;

4           (4) Working with borrowers to avoid delinquency and default;

5           (5) Providing counseling to defaulted borrowers on appropriate account resolution  
6 options, including loan rehabilitation;

7           (6) Assisting students and families with student loan issue resolution through the  
8 Guaranty Agency's ombudsman services or the equivalent;

9           (7) Providing training and assistance to institutions of higher education regarding  
10 the programs under this Title;

11           (8) Working with the Secretary to assure proper administration of the federal  
12 student loan programs, including conducting biennial program reviews of participating  
13 institutions, including at least each participating institution of higher education located in  
14 the State for which the guaranty agency is the principal guaranty agency under Part B that

1 has a cohort default rate for either of the two preceding fiscal years that exceeds twenty  
2 percent; and

3 (9) Outreach and support services provided under Part B.

4 (d) **SCOPE of SERVICES.** Guaranty Agencies shall provide borrower assistance  
5 services for student loans made under this Part, and student loans made by the Secretary  
6 under Part D on or after July 1, 2010 and loans made under Part B that are acquired by the  
7 Secretary. Every institution of higher education shall receive services from the designated  
8 Guaranty Agency for the state in which it is located or another Guaranty Agency of its  
9 choice.

10 (e) **ACCESS to DATA.** Subject to the Guaranty Agency's agreement to  
11 comply with applicable privacy requirements, the Secretary shall provide Guaranty  
12 Agencies that provide services under this section with such information pertaining to the  
13 origination, servicing and collection of loans as is needed for the Guaranty Agency to  
14 provide services under this section.

1           (f) **BORROWER SERVICES FEE.** Each Guaranty Agency shall receive payment  
2 from the Secretary for providing borrower assistance and advocacy services under this  
3 section as follows:

4           (1) The fees structure shall be established for each month while a loan is part  
5 of the portfolio of loans for which the Guaranty Agency provides services.

6           (2) The fee structure shall be provided on a per borrower per month basis.

7           (3) Such fees shall be deposited into the Guaranty Agency's Operating Fund  
8 established pursuant to section 422B.

9           (4) Notwithstanding any other provision, the fees in this subsection shall be  
10 established so that the cost does not exceed (A) \$2.25 billion from July 1, 2010, to  
11 September 30, 2014, and (B) \$5.5 billion from July 1, 2010, to September 30, 2019.

12

1 **SEC. 499I. CODE OF CONDUCT**

2 (a) An institution of higher education that selects one or more eligible lenders or  
3 guaranty agencies to originate and/or service loans or provide borrower assistance  
4 services to such institution's students, or parents of its students, may not solicit or accept  
5 any gift from such eligible lenders or guaranty agencies, or their affiliated entities, and  
6 lenders and guaranty agencies are prohibited from offering improper inducements to  
7 institutions of higher education or employees of such institutions in order to be selected to  
8 provide loan origination and/or loan servicing under this Part. For purposes of this  
9 subsection, "gift" and "improper inducement" shall mean any of the payments or other  
10 inducements described in sections 428(b)(3), 435(d)(5), and 487(e); provided however,  
11 the provision by eligible lenders and guaranty agencies, or their affiliated entities, of the  
12 services authorized under this Part shall not be deemed to be a gift or improper  
13 inducement.

14 (b) The Secretary may limit, suspend, or terminate from participation in the loan  
15 program under this Part any eligible lender or guaranty agency that the Secretary  
16 determines, after notice and hearing, has offered or provided a gift or improper

1 inducement to an institution of higher education participating in the program, or to  
2 employees of such institution, in order to be selected by such institution to to provide  
3 services under this Part.

4 Section 2. Amendments to the Higher Education Act.

5 EXTENDED AND GRADUATED REPAYMENT TERMS.—Section 455(d)(1) (20 U.S.C.  
6 1087e(d)(1)) is amended by striking subparagraphs (B) and (C) and inserting the  
7 following:

8 ``(B) an extended repayment plan, with a fixed annual repayment amount paid over an  
9 extended period of time, except that the borrower shall annually repay a minimum amount  
10 determined by the Secretary in accordance with section 428(b)(1)(L) of this title;  
11 ``(C) a graduated repayment plan, with annual repayment amounts established at 2 or  
12 more graduated levels and paid over a fixed or extended period of time, except that the  
13 borrower's scheduled payments shall not be less than 50 percent, nor more than 150  
14 percent, of what the amortized payment on the amount owed would be if the loan were  
15 repaid under the standard repayment plan;"

1 Section 3. **ABCP CONDUIT**.—Notwithstanding any other provision of law, (a) loans made  
2 under section 428C on or after May 1, 2003, and before July 1, 2009, shall be eligible for the  
3 ABCP Conduit established under section 459A. Such consolidation loans shall be subject to  
4 the same terms and conditions established by the Secretary for the ABCP Conduit except  
5 that such loans shall not be sold to the Department if delinquency exceeds 210 days. Such  
6 loans shall be subject to the default prevention, guarantee, and collection provisions of Part  
7 B.

8 Section 4. Effective Date. The amendments made by section 1 shall be effective on July 1,  
9 2010. The amendments made by sections 2 and 3 shall be effective upon enactment.

10