

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 5715) TO ENSURE
CONTINUED AVAILABILITY OF ACCESS TO THE FEDERAL STUDENT
LOAN PROGRAM FOR STUDENTS AND FAMILIES

APRIL 15, 2008.—Referred to the House Calendar and ordered to be printed

Ms. CASTOR, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 1107]

The Committee on Rules, having had under consideration House Resolution 1107, by a record vote of 8-4, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 5715, the Ensuring Continued Access to Student Loans Act of 2008, under a structured rule. The rule provides one hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor. The rule waives all points of order against consideration of the bill except clauses 9 and 10 of rule XXI. The rule provides that the amendment printed in Part A of the Rules Committee report accompanying the resolution shall be considered as adopted and that the bill, as amended, shall be considered as read. The rule waives all points of order against provisions of the bill, as amended. (This waiver does not affect the point of order available under clause 9 of rule XXI (regarding earmark disclosure).

The rule provides that no further amendments to the bill, as amended, shall be in order except those amendments printed in Part B of this report. The further amendments made in order may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The rule waives all points of order against the further amendments printed in this report except for clauses 9 and 10 of rule XXI. The rule provides one motion to recommit with or with-

out instructions. The rule provides that, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker.

EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of the bill (except for clauses 9 and 10 of rule XXI) includes a waiver of clause 4(a) of rule XIII requiring a three-day layover of the committee report, a waiver of clause 3(a)(1)(B) of rule XIII requiring a recital on the cover of the report that it contains supplemental, minority, or additional views, a waiver of clause 3(c)(2) of rule XIII requiring a Congressional Budget Office cost estimate in the committee report on any legislation containing new budget authority, new spending authority, new credit authority or a change in revenues, and a waiver of clause 3(d)(2) of rule XIII, requiring the inclusion of an estimate by the committee of the costs that would be incurred in carrying out the bill or joint resolution in the fiscal year in which it is reported and in each of the five fiscal years following that fiscal year. The waiver of all points of order against provisions in the bill includes a waiver of clause 4 of rule XXI prohibiting appropriations in legislative bills.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 471

Date: April 15, 2008.

Measure: H.R. 5715.

Motion by: Mr. Hastings (WA).

Summary of motion: To make in order and provide appropriate waivers for an amendment by Rep. McKeon (CA), #11, which adds a Sense of Congress that the implementation of the PLUS loan auction should be delayed until July 1, 2010.

Results: Defeated 4–8.

Vote by Members: McGovern—Nay; Hastings (FL)—Nay; Matsui—Nay; Welch—Nay; Castor—Nay; Arcuri—Nay; Sutton—Nay; Dreier—Yea; Diaz-Balart—Yea; Hastings (WA)—Yea; Sessions—Yea; Slaughter—Nay.

Rules Committee record vote No. 472

Date: April 15, 2008.

Measure: H.R. 5715.

Motion by: Mr. Sessions.

Summary of motion: To make in order and provide appropriate waivers for an amendment by Rep. Franks (AZ), #1, which expresses a Sense of Congress regarding the passage of the College Cost Reduction Act.

Results: Defeated 4–8.

Vote by Members: McGovern—Nay; Hastings (FL)—Nay; Matsui—Nay; Welch—Nay; Castor—Nay; Arcuri—Nay; Sutton—Nay; Dreier—Yea; Diaz-Balart—Yea; Hastings (WA)—Yea; Sessions—Yea; Slaughter—Nay.

Rules Committee record vote No. 473

Date: April 15, 2008.

Measure: H.R. 5715.

Motion by: Mr. McGovern.

Summary of motion: To report the rule.

Results: Adopted 8–4.

Vote by Members: McGovern—Yea; Hastings (FL)—Yea; Matsui—Yea; Welch—Yea; Castor—Yea; Arcuri—Yea; Sutton—Yea; Dreier—Nay; Diaz-Balart—Nay; Hastings (WA)—Nay; Sessions—Nay; Slaughter—Yea.

SUMMARY OF AMENDMENT CONSIDERED AS ADOPTED

The amendment further clarifies the authority of the Secretary of Education to purchase loans, and ensures that loan purchases will result in no net cost to the federal government by including the Secretary of the Treasury and the Director of the Office of Management and Budget in the decision making process and thereby ensures compliance with the new PAYGO rules.

SUMMARY OF AMENDMENTS MADE IN ORDER

(Summaries derived from information provided by sponsors.)

1. Miller, George (CA): The Manager's amendment makes technical and conforming changes; states that loan limit increases available under this Act are available only to students meeting the requirements of section 484(a) of the HEA; targets the loan limit increases to those students and families in most need; in regard to school-wide lender-of-last-resort eligibility, specifies that the Secretary of Education shall determine whether a school qualifies and provides criteria for the Secretary to consider in making the determination; specifies that funds received by lenders from loan sales be used to originate new loans; clarifies that the Secretary has the authority to enter into forward commitments to purchase new loans; and clarifies that, at the discretion of the Secretary, a loan purchased by the Secretary may continue to be serviced by the current lender. (10 minutes)

2. Petri (WI): The amendment requires the Secretary of Education to review and revise as necessary the regulations concerning prohibited guaranty agency inducements to eligible lenders. (10 minutes)

3. Castle (DE)/Welch (VT): The amendment requires the General Accountability Office to conduct a study of the impact of raising loan limits on (1) tuition, fees, and room and board at institutions of higher education; and (2) private loan borrowing for attendance at institutions of higher education. (10 minutes)

4. Castor (FL): The amendment temporarily classifies medical bill payment delinquencies of up to 180 days an extenuating circumstance which shall not interfere with parents' ability to receive PLUS loans for their children's tuition. (10 minutes)

PART A—TEXT OF AMENDMENT TO BE CONSIDERED AS ADOPTED

In section 459A of the Higher Education Act of 1965, as added by section 7 of the bill, strike subsection (a) and insert the following:

“(a) AUTHORITY TO PURCHASE.—

“(1) AUTHORITY; DETERMINATION REQUIRED.—Upon a determination by the Secretary that there is an inadequate availability of loan capital to meet the demand for loans under sections 428, 428B, or 428H, whether as a result of inadequate liquidity for such loans or for other reasons, the Secretary, in consultation with the Secretary of the Treasury, is authorized to purchase from any eligible lender, as defined by section 435(d)(1), loans originated under sections 428, 428B, or 428H on or after October 1, 2003, on such terms as the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget jointly determine are in the best interest of the United States, except that any purchase under this section shall not result in any net cost to the Federal Government, as determined jointly by the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget.

“(2) REGULATIONS REQUIRED.—The Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget shall jointly promulgate emergency regulations and publish such emergency regulations promptly in the Federal Register concerning the purchases authorized by paragraph (1).

“(3) METHODOLOGY AND FACTORS; JUSTIFICATION REQUIRED.—Such regulations shall outline the methodology and factors that the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget shall consider in evaluating the price at which to purchase loans under sections 428, 428B, or 428H, and shall include a justification of how the use of such methodology and consideration of such factors used to determine purchase price will ensure that loan purchases do not result in any net cost to the Federal Government.

PART B—TEXT OF AMENDMENTS MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GEORGE MILLER OF CALIFORNIA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

In section 2 of the bill—

(1) redesignate subsection (b) as subsection (c); and

(2) after subsection (a) insert the following new subsection:

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

In section 428H(d) of the Higher Education Act of 1965, as amended by section 2(a) of the bill—

(1) in clause (i) of paragraph (2)(A), strike “\$14,000” and insert “\$12,000”; and

(2) in subclause (II) of paragraph (4)(A)(i), strike “clause (i)” and insert “subclause (I)”.

In section 3 of the bill—

(1) in subsection (a), insert “of the Higher Education Act of 1965” after “428B(d)”; and

(2) in subsection (b), insert “of such Act” after “428(b)(7)(C)”.

In section 4 of the bill, insert “of the Higher Education Act of 1965 (20 U.S.C. 1078–2(a)(3))” after “428B(a)(3)”.

In section 428B(a)(3) of the Higher Education Act of 1965, as amended by section 4 of the bill, strike subparagraph (B) and insert the following:

“(B)(i) EXTENUATING CIRCUMSTANCES.—For loans made on or after July 1, 2008, and before July 1, 2009, a lender may determine that extenuating circumstances exist under the regulations promulgated pursuant to paragraph (1)(A) if an applicant for a loan under this section is delinquent for 180 days or less on their home mortgage payments and is not more than 89 days delinquent on the repayment of any other debt.

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

In section 5(a) of the bill—

(1) in paragraph (1), strike “students and parents” and insert “eligible students and parents”;

(2) in paragraph (3)(A), strike the comma after “paragraph (4)”; and

(3) in paragraph (4), strike paragraph (4) of section 428(j) of the Higher Education Act of 1965 added by such paragraph of the bill and insert the following:

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

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

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

“(B) that, prior to making a request under such paragraph for designation for participation in the lender-of-last-resort program, an institution of higher education shall demonstrate that the institution has met a minimum threshold, as determined by the Secretary, for the number or percentage of students at such institution who have received rejections from eligible lenders for loans under this part; and

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

In section 459A of the Higher Education Act of 1965, as added by section 7 of the bill—

(1) in subsection (a)(1), insert “, or enter into forward commitments to purchase,” after “is authorized to purchase”;

(2) in subsection (b)—

(A) strike “shall be used” and all that follows through the period and insert the following: “shall be used (1) to ensure continued participation of such lender in the Federal student loan programs authorized under part B of this title, and (2) to originate new Federal loans to students, as authorized under part B of this title.”;

(3) redesignate subsection (c) as subsection (d); and

(4) after subsection (b), insert the following new subsection:

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

“(1) the cost of such servicing arrangement does not exceed the cost the Federal Government would otherwise incur for the servicing of loans purchased, as determined under subsection (a); and

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

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE PETRI OF WISCONSIN, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of section 5 of the bill, add the following new subsection:

(c) REVIEW OF INDUCEMENTS LIMITATIONS.—Within 90 days after the date of enactment of this Act, the Secretary of Education shall review, and as necessary revise, the Department of Education’s regulations concerning prohibited guaranty agency inducements to eligible lenders (34 CFR 682.401(a)) to ensure that such agency’s do not engage in improper inducements in the expansion of operations of the lender-of-last-resort program as authorized by the amendments made by this section. The Secretary shall submit a report on the review and revision required by this subsection to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate within 180 days after such date of enactment.

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CASTLE OF DELAWARE, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of the bill, add the following new section:

SEC. 9. GAO STUDY ON IMPACT OF INCREASED LOAN LIMITS.

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

(1) tuition, fees, and room and board at institutions of higher education; and

(2) private loan borrowing by students and parents for attendance at institutions of higher education.

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

(1) Whether, on average, tuition, fees, and room and board increase, decrease, or remain unchanged in each such sector after the increases in Federal loan limits take effect.

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

(c) REPORT.—Not later than one year after the date of enactment of this Act, the Comptroller General shall provide an interim report to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate including the initial results of the study conducted under this section. The Comptroller General shall follow up with such Committees after the third year and the fifth year after such date of enactment.

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CASTOR OF FLORIDA, OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

In section 428B(a)(3)(B) of the Higher Education Act of 1965, as amended by section 4 of the bill, insert “or on medical bill payments” after “home mortgage payments”.