Congress of the United States
Washington, D.C. 20515

February 2, 2023

Delivered via E-Mail

The Honorable Miguel Cardona
Secretary
U.S. Department of Education
400 Maryland Ave., SW
Washington, DC 20202

Dear Secretary Cardona:

On January 11, the U.S. Department of Education (Department) released a Notice of Proposed Rulemaking (NPRM) that would make sweeping changes to the federal student loan program through a new income contingent repayment plan. We write today to oppose the Department's push for a rule of such magnitude without giving Congress and the public sufficient time to consider such changes. For this reason, we request an extension of the public comment period by no less than an additional 30 days.

These regulations are yet another example of your Department usurping the power of the purse, an authority solely held by Congress. This proposed regulation would cut future borrowers' payments in half and eliminate the expectation for these borrowers to pay back even the principal on their loan. This would fundamentally break our higher education financing system. A scholar at the Brookings Institution estimated that the rule would result in the average borrower repaying only 50 cents on the dollar, turning a federal loan program into an untargeted grant program.[1] As a result, this rule will be costlier and more harmful to taxpayers than the President's illegal mass student loan cancellation policy awaiting judgement by the U.S. Supreme Court.

Putting aside the galling overreach in the proposal, more time to comment is necessary to address the proposed rule because the Department's impact analysis does not add up. The Department estimates the cost of the rule to the American taxpayer will be $138 billion. Yet, previous Congressional Budget Office estimates for less generous changes to income-driven repayment programs than those proposed by this administration showed costs that were much higher.[2] A non-partisan student loan expert has estimated that the true cost of the NPRM could be $1 trillion.[3]

This rule would route hundreds of billions of taxpayer dollars towards college-educated middle- and upper-income individuals and away from our constituents who never went to college or worked hard to pay off their loans. Further, this proposal unleashes vast moral hazard for college

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[1] https://www.brookings.edu/opinions/bidens-income-driven-repayment-plan-would-turn-student-loans-into-untargeted-grants/
[2] https://twitter.com/delislealleges/status/1564682789793972225/photo/1
[3] https://www.studentloanplanner.com/new-repaye-plan-ten-year-cost/

administrators and for students and parents by making the decision over whether to or how much to borrow irrelevant to how much must ultimately be repaid.[4] Colleges and students will be leaving money on the table if they take less than the maximum loan offered by the federal government. Yet the Department's impact analysis does not consider this.

You have ignored prior requests to extend comment periods in order to give the American people more time to provide input on your costly rules. Before fundamentally transforming our higher education financing system, we implore you to follow the Clinton-era Executive Order 12866, which strongly suggests at least a 60-day comment period. By extending the public comment period by at least 30 days, the American public has time to review what could very well be the most costly regulation in our nation's history.

Sincerely,

Bill Cassidy, M.D.

William Cassidy, M.D.
Ranking Member
U.S. Senate Committee on Health, Education, Labor and Pensions

Virginia Foxx

Virginia Foxx
Chairman
U.S. House Committee on Education and the Workforce

[4] https://www.newamerica.org/education-policy/policy-papers/zero-marginal-cost/