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United States Senate

CHARLES E. GRASSLEY

WASHINGTON, DC 20510-1501

November 9, 2011

REPLY TO:

- ☐ 103 FEDERAL COURTHOUSE BUILDING
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- ☐ 210 WATERLOO BUILDING
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- ☐ 131 WEST 3RD STREET
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(563) 322-4331
- ☐ 307 FEDERAL BUILDING
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President Barack Obama
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear President Obama,

On October 25, 2011, you announced changes that would provide better repayment terms for a select group of student loan borrowers. Specifically, the proposal would accelerate the application of changes Congress made to the law effective July 1, 2014 reducing the percentage of a borrower's income from 15% to 10% to calculate payments under the Income-Based Repayment (IBR) plan and reducing the length of time during which a student borrower must make qualifying payments under the IBR plan from 25 years to 20 years in order to be eligible for loan forgiveness. The proposal also includes a new 0.5% interest rate subsidy for borrowers who agree to consolidate their privately held Federal Family Education Loan Program (FFELP) loans into the government-run Direct Loan Program. This was part of your "We Can't Wait for Congress" campaign. However, the announcement was missing some key details and raised some questions that Congress and taxpaying Americans deserve answers to.

The slogan "We Can't Wait for Congress" implies that these are actions you are taking independently of Congress. However, under our constitutional system, the President can only take actions that are authorized by Act of Congress or that fall under the authority granted to the President in the Constitution. That raises the question of what specific statutory authority you are using to implement these policy changes.

Please cite the specific statutory language and accompanying legal analysis by which you determined you have the authority to reduce the percentage of a borrower's income from 15% to 10% to calculate payments under the IBR plan in advance of the effective date of July 1, 2014 as provided for in the SAFRA Act as part of P.L. 111-152.

Please cite the specific statutory language and accompanying legal analysis by which you determined you have the authority to reduce the length of time during which a student borrower must make qualifying payments under the IBR from 25 years to 20 years in order to be eligible for loan forgiveness in advance of the effective date of July 1, 2014 as provided for in the SAFRA Act as part of P.L. 111-152.

Please cite the specific statutory language and accompanying legal analysis by which you determined you have the authority to offer a special 0.5% interest rate subsidy for borrowers who agree to consolidate their privately held Federal Family Education Loan Program loans into the Direct Loan Program.

In addition, the initial announcement was vague about the means of implementation for these changes. While media reports have referred to an "executive order," no such executive order has

RANKING MEMBER,
JUDICIARY

Committee Assignments:

AGRICULTURE
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INTERNATIONAL NARCOTICS
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been issued to date and the announcement only refers to this as part of "a series of executive actions." In fact, I understand that your Administration plans to implement parts of this proposal through rulemaking procedures used for implementing laws passed by Congress. Please describe the timeline for this process and why the implementation process is only now beginning.

Also, your announcement claims that, "These changes carry no additional cost to taxpayers." Obviously, there is some cost to providing improved benefits sooner than the effective date in law. Presumably this claim is based on estimated cost savings that offset the additional costs.

Please describe in detail the estimated costs of these new benefits and any estimated savings as well as the detailed calculations and assumptions by which those estimated savings were derived.

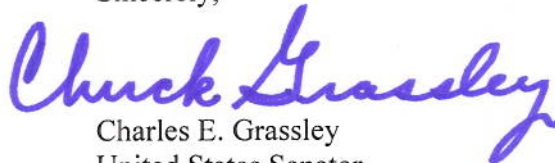
If the estimated savings are based on an assumption of lower costs due to shifting more existing FFELP loans into the Direct Loan program, then that raises the question of whether the estimate took into account factors that often lead to a significant overestimate of savings, and even revenue generated, through the Direct Loan program as described in the March 2010 Congressional Budget Office Study "Costs and Budget Options of Federal Student Loan Programs."

If in fact moving loans into Direct Lending is the source of any estimated savings, please explain whether your estimate fully took into account administrative costs and default risk as well as the risk to the Treasury of assuming greater debt at a time when our country's ability to borrow money at low interest rates is already threatened by excessive federal debt.

Finally, any discussion of new spending or potential cost savings inevitably involves tradeoffs. To the extent that this proposal involves spending of limited resources or involves legitimate savings to the federal Treasury, in a time of severely constrained resources, Congress may wish to consider whether there are better uses for these resources, such as reducing the deficit or addressing the funding shortfall for Pell Grants. Despite a significant infusion of funds provided to the Pell Grant program in the Budget Control Act, there is still an estimated shortfall of \$1.3 billion for fiscal year 2012 in order to maintain the current maximum Pell Grant award. The Pell Grant program is designed to provide access to college for very low-income individuals who otherwise would not have access to a higher education. To the extent that resources are available, Congress might wish to consider whether this is a higher priority than providing a select number of borrowers who are already on a special repayment plan, and who have already had the benefit of a higher education, the opportunity to have even more of their student loans paid off even earlier.

Such tradeoffs should be made in the light of day with full accountability to the taxpayers, including the majority of student loan borrowers who are paying off their student loans without help and the many hard working Americans who have not attended college. As such, I request an answer to the above questions no later than November 23, 2011. Should you have any questions regarding this matter, please contact James Rice of my staff at (202) 224-3744.

Sincerely,



Charles E. Grassley
United States Senator