April 3, 2017

The Honorable Rodney Frelinghuysen  
Chairman  
House Appropriations Committee  
H-305, The Capitol  
Washington, DC 20515

The Honorable Nita Lowey  
Ranking Member  
House Appropriations Committee  
1016 Longworth House Office Building  
Washington, DC 20515

The Honorable Tom Cole  
Chairman  
House Labor, Health and Human Services,  
Education Appropriations Subcommittee  
2358-B Rayburn House Office Building  
Washington, DC 20515

The Honorable Rosa DeLauro  
Ranking Member  
House Labor, Health and Human Services,  
Education Appropriations Subcommittee  
1016 Longworth House Office Building  
Washington, DC 20515

Dear Chairman Frelinghuysen, Ranking Member Lowey, Chairman Cole, and Ranking Member DeLauro:

As the subcommittee begins its work on the Fiscal Year 2018 Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, the National Council of Higher Education Resources (NCHER) urges you to extend the authority for Account Maintenance Fee (AMF) payments past September 30, 2017 and include other immediate items impacting the wind-down of the federal guaranteed student loan program. Our state and nonprofit guarantors appreciate the subcommittee’s recognition of the vital role that guaranty agencies play in the federal student loan program, and commend you for including language extending AMF authority for one year in the Further Continuing and Security Assistance Appropriations Act, 2017 (Public Law 114-254).

State and nonprofit guaranty agencies are authorized under the Higher Education Act of 1965 to provide important services to students, borrowers, families, and the federal government by helping to manage the legacy Federal Family Education Loan Program (FFELP) at the local level, and increasing access to and success in postsecondary education. Many guaranty agencies operate and provide student support services in more than one state. These agencies receive AMF payments from the U.S. Department of Education to pay for their general operating expenses. The fees are used to carry out the agencies’ mandate to:

- Conduct college access and success activities, such as financial aid awareness, consumer education, FAFSA (Federal Application for Federal Student Aid) completion services and events, borrower assistance, and ombudsman support. These services are provided to students and families regardless of the type of loan they received to finance their postsecondary education.
- Assist borrowers in avoiding default, and help defaulted borrowers rehabilitate their loans.
- Provide schools with information on student loan defaults and loan transfers.
- Provide training and technical assistance to loan holders and schools.
- Maintain loan records for borrowers, and monitor school enrollment and repayment status.
- Conduct comprehensive compliance reviews of loan holders, servicers, and schools.
- Conduct claim reviews and issue loan holder payments.
The fees are paid quarterly and based on the original principal balance of an agency’s outstanding non-defaulted FFELP portfolio. For FY 2016, the Department paid an estimated $159 million in AMF to guaranty agencies for the multiple administrative functions. For FY 2017, payments will fall to approximately $139 million as the FFELP portfolio continues to slowly decline. According to the Congressional Budget Office, the annual extension of AMF authority is budget neutral. The Further Continuing and Security Assistance Appropriations Act for FY 2017 recognized that the payment of AMF is essential for guaranty agencies to provide important services on behalf of the federal government, and we urge the subcommittee to provide an additional one-year extension in the FY 2018 appropriations bill.

As the outstanding loan portfolio managed by guaranty agencies continues to decline over the next decade, the current funding structure will fail to provide the resources necessary to meet the needs of the federal government, students, borrowers, schools, and taxpayers. Congress recognized this challenge when it passed the Consolidated Appropriations Act of Fiscal Year 2016, which included a provision to increase from 95 percent to 100 percent reinsurance payments on default claims paid by agencies to lenders. This change ensures that guaranty agencies can continue to use their operating funds to provide important college access and success programs for low-income and first-generation students and that agencies are able to maintain a more stable financial posture while discharging their final legal obligations under FFELP. According to the latest figures from the Department, there is still over $201 billion in outstanding FFELP loans held by private lenders. Guaranty agencies provide – and must continue to provide - accountability for this sizeable federal asset and the functions need to continue throughout the wind-down period.

The Consolidated Appropriations Act, 2016 also directed the Department to submit a report on a plan to assist guaranty agencies, lenders, and borrowers in the wind-down of the FFELP program. In June 2016, the Department issued its report, containing three important recommendations that NCHER submits to the subcommittee for consideration. First, the report urged Congress to extend the authority for AMF, discussed above. Second, the report urged Congress to provide just-in-time reinsurance payments to facilitate cash flow into the Federal Fund. Currently, guaranty agencies do not receive reinsurance for claim payments for three weeks or more following the time they pay a claim. This puts unnecessary stress on an agency’s Federal Fund, which is the property of the federal government, and can curtail an agency’s ability to provide critical services to assist struggling borrowers. The subcommittee should mandate that the Department reimburse guaranty agencies within 72 hours of claim payment to mitigate the unnecessary cash-flow concerns. Third, the Department recommended that Congress remove the 45 percent cap on Federal Direct Consolidation Loans. The Higher Education Act caps the percentage of recoveries that a guaranty agency can make through Direct Consolidation Loans. Recent changes to regulations governing loan rehabilitation that reduce recoveries through administrative wage garnishment, and an expected decline in FFELP loan rehabilitations, may increase the percentage of guaranty agency collections represented by Federal Direct Consolidation Loans. The subcommittee should eliminate this provision.

Once again, NCHER thanks the subcommittee for its past support and extension of AMF authority. The continued extension of AMF and passage of other immediate items are essential for state and nonprofit agencies to continue to provide critical services to students and families on behalf of the federal government, and the subcommittee must take action before the end of the current fiscal year.

If you have any questions, please feel free to contact me at jbergeron@ncher.us or (202) 822-2106.

Sincerely,

James P. Bergeron
President