

# THE MIDDLE INCOME EDUCATIONAL OPPORTUNITY ACT OF 1991\*

*Honorable Robert E. Andrews\*\**

## *I. Introduction*

Our nation needs a policy of educational access, an aggressive program to restore opportunity and reward initiative. When the government cuts off the ladder of educational opportunity, it destroys the opportunity for personal growth and undercuts the goal of community prosperity. I am the primary sponsor of The Middle Income Educational Opportunity Act of 1991<sup>1</sup> (the Act) which I introduced in the House of Representatives on August 2, 1991. The Act is based on a simple premise: anyone who wants an education and meets the entrance criteria of a college, university or professional school should be able to finance that education.

The Act would establish two loan classifications: (1) *subsidized loans* under which no loan principal would be paid until the student leaves school and (2) *unsubsidized loans* under which the student and her family would begin repaying the loan obligation immediately.<sup>2</sup>

Loan applicants would be required to meet three simple conditions for eligibility:

- (1) The student is capable, according to the educational in-

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\* The author wishes to thank Mr. Robert A. Fario, Jr., former Director of Policy and Research in Congressman Andrews' District Office, and Ms. Elizabeth T. Reiss, Legislative Intern, for their research and editorial assistance.

\*\* Mr. Andrews, a Democrat, was elected to the House of Representatives to represent New Jersey's 1st Congressional District in November 1990 to complete the unexpired term of James J. Florio, who resigned effective January 16, 1990 to become Governor of the State of New Jersey. In the House, Representative Andrews serves on the Education and Labor Committee. Prior to his service in the House, Andrews was associated with the law firm of Archer & Greiner of Haddonfield, New Jersey. In addition, he served on the Camden County Board of Freeholders from 1986 to 1990.

<sup>1</sup> H.R. 3211, 102d Cong., 1st Sess. (1991). See Appendix V.

<sup>2</sup> H.R. 3211, § 2 (to amend Part D of Title IV of the Higher Education Act of 1965, see *infra* note 6); see also Appendix V.

stitution, of maintaining good academic standing in a course of study.

(2) The student has been accepted for enrollment as an undergraduate, graduate or professional student, or, in the case of a student already in attendance, is in good academic standing.

(3) The student carries at least one-half the usual academic workload.<sup>3</sup>

The Act would replace the existing Federal Guaranteed Student Loan (GSL) Program.<sup>4</sup> Federal student loan programs no longer generate education opportunities and rewards. A student default rate driven by fraud and misrepresentation,<sup>5</sup> a crushing bureaucracy driven by complex paper trails, and a banking community more concerned with profit margins than student access to education have each contributed to a system which, in many programs, currently spends less than fifty percent of its revenues on providing direct student assistance.

The Higher Education Act - a legislative scheme which oversees all federal loan programs, including the GSL - faces renewal during this session of Congress.<sup>6</sup> Some in Congress have proposed new taxes to pay for our educational programs. We do not need new taxes. Instead, we must seek a new way to allocate existing resources - through the institutionalization of direct student loan lending.

The Act would reallocate to families as much as possible of

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<sup>3</sup> *Id.*

<sup>4</sup> See generally Charlotte J. Fraas, *Guaranteed Student Loans* (1985) (on file with the Library of Congress, Congressional Research Service, Education and Public Welfare Division). See also Appendix I - Appropriations for Pell Grant and Guaranteed Student Loan programs, 1987-1991.

<sup>5</sup> See *infra* text Section II-Student Loan Defaults and accompanying notes.

<sup>6</sup> See Higher Education Act of 1965, Pub. L. No. 89-329, 79 Stat. 1219 (codified as amended in scattered sections of 20 U.S.C.) [hereinafter HEA]. Legislation to reauthorize the HEA was introduced by Senator Edward M. Kennedy, Chairman of the Senate Labor and Human Resources Committee, and passed by the Senate on February 21, 1992. Similar legislation has passed in the House of Representatives. S. 1150, 102d Cong., 1st Sess. (1991) H.R. 3553, 102d Cong., 1st Sess. (1991); (passed by the House on Mar. 26, 1992 by a vote of 365-3); see Jill Zuckman, *House OK's College Aid Bill, Emphasis on Middle Class*, 50 CONG. Q. 804 (weekly ed., Mar. 28, 1992). See also Jill Zuckman, *Senators Boost College Aid in Renewing 1965 Act*, 50 CONG. Q. 406 (weekly ed., Feb. 22, 1992); Margot A. Schenet, *Higher Education: Reauthorization of the Higher Education Act* (Sept. 6, 1991) (on file with Library of Congress, Congressional Research Service, Education and Public Welfare Division).

the approximately three billion dollars of student loan revenues currently misspent on student loan defaulters, the federal bureaucracy, and bank and finance charges.<sup>7</sup> The Act would “fix” the higher education aid program by using existing dollars more wisely.

Under the legislation, federal financial aid would be consolidated into three campus-based, simplified programs:

- (1) *Pell Grants* - up to \$4,500 per year, for the neediest students. The maximum grant currently available is \$2,100.
- (2) *Subsidized Loans* - up to \$5,000 per year, for independent students or students from families with yearly incomes less than \$65,000.
- (3) *Unsubsidized Loans* - for all creditworthy students and families, irrespective of income.<sup>8</sup>

## II. *Student Loan Defaults*

Direct student loans are cheaper and more efficient. Under the Act, the applicant-student would apply directly to the federal government through an evaluation process directed by the student's educational institution. This institution would be responsible for each applicant's financial evaluation and for investigating each student's financial status. Thus, each college, university, and training facility would, in effect, guarantee any loan approvals.<sup>9</sup>

The Act would further mandate an agreement between the institution of higher education and the Secretary of Education. Each institution would be responsible for the following:

- (1) The establishment and maintenance of a program under which the institution would identify eligible students, estimate the financial need of each student, and originate loans to such eligible students.
- (2) Compliance with regulations on the provision of student loan information.
- (3) A promissory note, or any other evidence of financial obligation, which would become the property of the Secretary of Education.

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<sup>7</sup> See H.R. 3211, § 2; see also Appendix V.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

(4) The designation of the institution of higher education, or its lending agent, as the agent for the Secretary of Education, for the purpose of providing loans.<sup>10</sup>

Fraudulent and abusive policies encouraged by schools and other participating institutions may indeed contribute to many student loan defaults. In the late 1980s, audits conducted by the U.S. Department of Education's Office of the Inspector General uncovered many improprieties in the method used to apply for and to account for student loans. For example, annual Stafford Student Loan defaults reached \$1.8 billion in 1989 - thirty-seven percent of the total Stafford Loan program obligation.<sup>11</sup>

These improprieties have resulted in new administrative and regulatory practices designed to lessen the default rates in federal student loan programs, and particularly, the Stafford Student Loan program.<sup>12</sup> A Stafford Student Loan is considered "in default" when collection efforts fail for longer than 180 days.<sup>13</sup>

The new regulations, which apply when an institution's student loan default rates reach "unacceptably high levels," include the following:

- \* Default management plans
- \* Suspension or termination from program participation
- \* Counseling prior to loan disbursement to all first-time student borrowers
- \* Consumer information from trade or technical schools to all prospective students<sup>14</sup>

The new regulations fail, however, because they do not deal with the real problem. Educational institutions have no incentive to prepare students adequately for the responsibilities of a loan agreement. If the student defaults, the institution simply turns to the federal government and recoups eighty to one hundred percent of the loan value. We, as taxpayers, absorb the loss without appropriate recourse to penalize those responsible.

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<sup>10</sup> *Id.*

<sup>11</sup> See generally Charolotte J. Fraas, *The U.S. Department of Education's Student Loan Default Reduction Initiative: Background and Analysis* (July 31, 1989) (on file with Library of Congress, Congressional Research Service, Education and Public Welfare Division).

<sup>12</sup> 54 Fed. Reg. 24,114-27 (1989) (to be codified at 34 C.F.R. § 668, 682).

<sup>13</sup> *Id.*

<sup>14</sup> See *supra* note 11.

Accordingly, under the Act, an institution with a student default rate exceeding thirty percent would no longer be eligible for unsubsidized student loans. Improved default risk management provisions in the Act may free up nearly \$10 billion each year in new capital for student loans.<sup>15</sup>

### *III. Student Loan Administration*

American taxpayers currently pay \$5.3 billion each year to administer student loan programs. The types of aid currently available<sup>16</sup> under Title IV of the Higher Education Act include the following:

- \* Student Loans
- \* Work Study
- \* Grants
- \* Fellowships

Unfortunately, administrative and other costs can absorb up to fifty-six percent of federal revenues appropriated for each loan category. Approximately \$2.5 billion is appropriated to cover defaults. An additional \$200 million is applied to administrative middlemen and loan collection agencies. Finally, approximately \$300 million is dedicated to bank interest costs that under the reform legislation would be avoided.<sup>17</sup>

To control administrative costs, the Department of Education would contract under the Act through the private sector, by competitive bidding, for the collection and servicing of loans. Loan collection procurement contracts would provide for the following:

- (1) The collection of principal and interest of student loans;
- (2) The establishment and operation of a central data system for the maintenance of records of all student loans;
- (3) Programs for default prevention; and
- (4) Special projects developed by the Secretary of Education.<sup>18</sup>

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<sup>15</sup> See H.R. 3211, § 2; see also Appendix V.

<sup>16</sup> See generally Appendix II - Rutgers, the State University of New Jersey, Grants & Scholarships- A Three Year Comparison.

<sup>17</sup> See generally Margot A. Schenet, *The Higher Education Act: Authorization and Budget Authority from FY 1987 to FY 1991* (Feb. 1, 1991) (on file with Library of Congress, Congressional Research Service, Education and Public Welfare Division).

<sup>18</sup> See *supra* note 15.

Institutions would be responsible for an annual \$20 administrative fee per loan. Guarantee agencies would have their Administrative Cost Allowance, an entitlement, amended from one percent of new loans to .25 percent of loans outstanding. To assure adequate administrative support for the Department of Education, student aid administrative costs would become a line item in appropriation bills.<sup>19</sup>

The Act would also streamline and consolidate federal student loan procedures by eliminating redundant administrative requirements.<sup>20</sup> The current student loan system includes more than 13,000 lenders and 50 guarantor agencies. These totals do not include the large secondary markets which exist for loan consolidation, an option particularly useful for students attending more than one university.

The Act also simplifies the process for education institutions. Financial aid offices across the nation are subject to many different policies, forms, and application procedures. As a result, many college financial aid offices are less a counseling service and more a giant clearinghouse for application forms. Offices dealing with the mass of red tape provide unscreened information directly to students, who then apply without necessarily understanding the application process and the repayment responsibilities.

The direct student loan process establishes responsibility for both the institution and the student through direct accountability. By eliminating bureaucratic red tape and reducing the number of banks, financial organizations and federal agencies, fraud and abuse will be curtailed.

#### IV. Funding

Access to federal financial aid has become virtually impossible for middle class families. Most loans (95 percent of Pell Grants and 75 percent of Stafford loans) are awarded to families with annual income under \$35,000.<sup>21</sup> The Act would expand the

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<sup>19</sup> See *Id.* 5 (to amend Part G of Title IV of the Higher Education Act of 1965, see *supra* note 6).

<sup>20</sup> See *Id.* § 2.

<sup>21</sup> See generally Susan H. Boren, *Student Financial Aid: Authorizations of Appropriations, Budget Requests, Enacted Appropriations and Outlays for Federal Student Financial Aid*

student loan program, without requiring additional tax revenues, by invoking the federal government's own borrowing authority.<sup>22</sup>

The credit reform provisions of the Budget Reconciliation Act of 1990<sup>23</sup> make it possible to identify taxpayer subsidies in all federal loan programs. Thus, it is now possible for the government to obtain capital for its largest student loan program at wholesale prices rather than the retail rates now paid for guaranteed student loan capital.

Furthermore, under the bill, the Secretary of the Treasury would generate capital by selling government securities at an interest rate ten to twelve percent lower than the price public sector banks would pay. The savings, in millions of new education dollars, would be returned to the system in the form of new loans. The Secretary of Education would receive the proceeds from Treasury sales and authorize the funds for eligible institutions of post-secondary education.<sup>24</sup>

The Department of Education estimates that substituting direct loans for the GSL, Stafford, SLS and PLUS programs will save \$1.4 billion in the first year. Over four years, the savings will total \$6.6 billion.<sup>25</sup>

## V. *The Rewards of Education*

Over the past ten years, higher education has grown out of financial reach for many middle class families. Due to the rapidly rising cost of education, approximately half of all students receive some form of financial aid: federal, state, local, institutional or other.<sup>26</sup> Yet, many students, including those receiving aid, still lack sufficient financial assistance to attend universities of

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*Programs, FY 1965 to FY 1990* (Mar. 6, 1989) (on file with Library of Congress, Congressional Research Service, Education and Public Welfare Division).

<sup>22</sup> H.R. 3211, § 2; see also Appendix V.

<sup>23</sup> Budget Enforcement Act of 1990, Pub. L. No. 101-508, 104 Stat. 1388-573 (codified as amended in scattered sections of 2 U.S.C.).

<sup>24</sup> See *supra* note 22.

<sup>25</sup> See generally E. Paul Mink, *A Proposal for Funding Access to Higher Education* (1991) (on file with the U.S. Department of Education); see also OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT, UNDERGRADUATE FINANCING OF POSTSECONDARY EDUCATION: A REPORT ON THE 1987 NATIONAL POSTSECONDARY STUDENT AID STUDY (Feb. 1989) (on file with the U.S. Department of Education).

<sup>26</sup> See generally Appendix III - Average yearly undergraduate tuition, room and board rates in New York, Pennsylvania, Delaware & New Jersey.

their own choice. The current system, first implemented to assist lower and middle-income people with the costs of higher education, has now become an albatross.

Moreover, the GSL program was designed to assist states in developing a framework for a state-based education loan program. Over time, however, the role of the federal government has grown to the point of permanent participation in the GSL process. During the 1980s, loan funds were gradually redirected to low income applicants, leaving middle income students with a limited financial support network.

Until the introduction of direct loan legislation, the program which offered the greatest hope for student access was the Middle Income Student Assistance Act,<sup>27</sup> passed in the late 1970s.<sup>28</sup> In the 1980s, the law was amended to include a "needs test," which shifted loan availabilities to lower income groups. Thus, the middle class found themselves fighting a frustrating battle against the skyrocketing cost of higher education, while facing a current job market demanding a greater level of educational sophistication.

Education affords opportunities that would not otherwise be available. However, the benefits of education have changed over the past ten years. Education is no longer a guarantee of success, but rather a requirement to compete.<sup>29</sup> As the need for education has grown, the federal government has become less able to provide financial assistance. With passage of this legislation, millions of American families would again enjoy access to federal financial aid programs.

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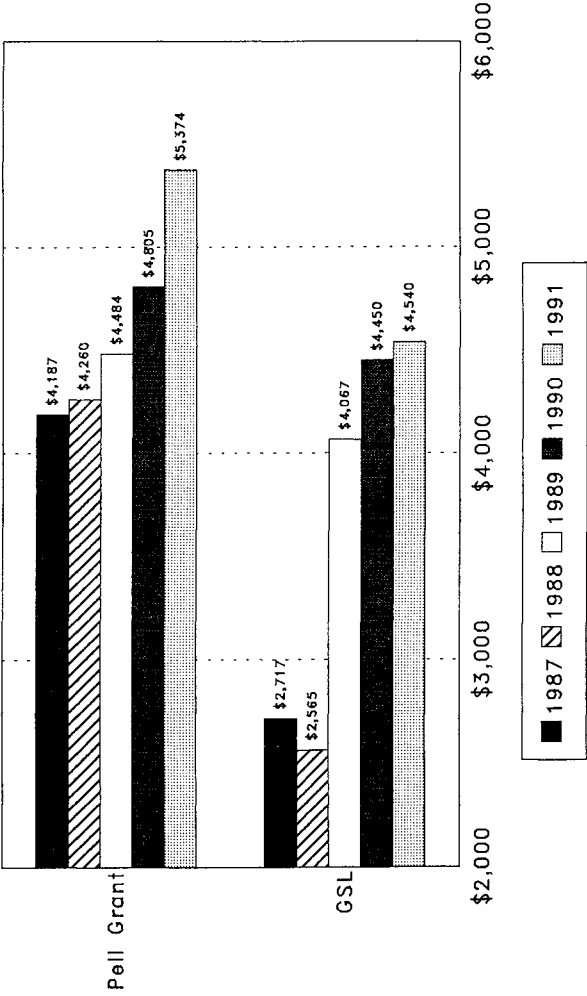
<sup>27</sup> Pub. L. No. 95, 92 Stat. 2402, (codified as amended at 20 U.S.C. § 1001 (1978)).

<sup>28</sup> See generally Linda Legrande, *Economic Benefits of Education* (Dec. 13, 1988) (on file with Library of Congress, Congressional Research Service, Economics Division).

<sup>29</sup> See generally Appendix IV, Median Earnings By Education Attainment, Full Time, Year-round workers, 1978-1987.

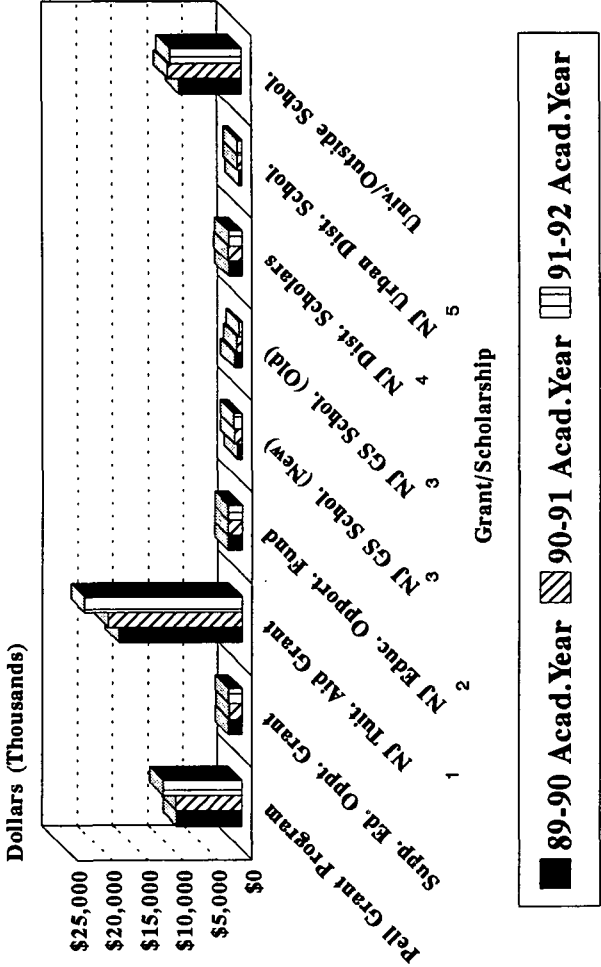


**Appropriations for U.S. Department of Education  
Pell Grant/Guaranteed Student Loan, 1987 to 1991  
\$ in Millions**



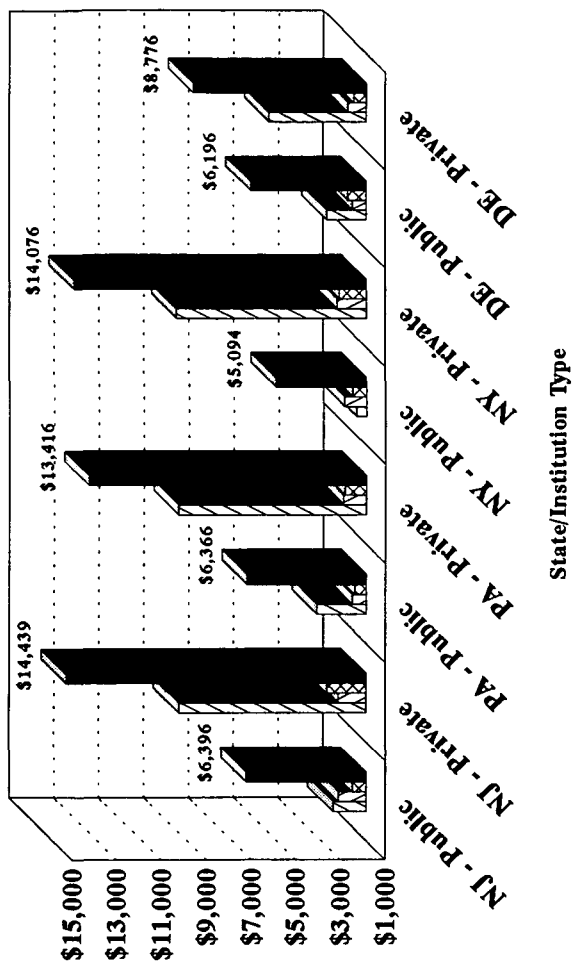
Source: Congressional Research Service.

**Rutgers - The State University of New Jersey  
Grants & Scholarships: Three Year Comparison**



Source: Office of Financial Aid, Rutgers University  
(1-Tuition Aid Grants; 2-Educational Opportunity Fund; 3-Garden State Scholarship;  
4-District Scholars; 5-Urban District Scholars)

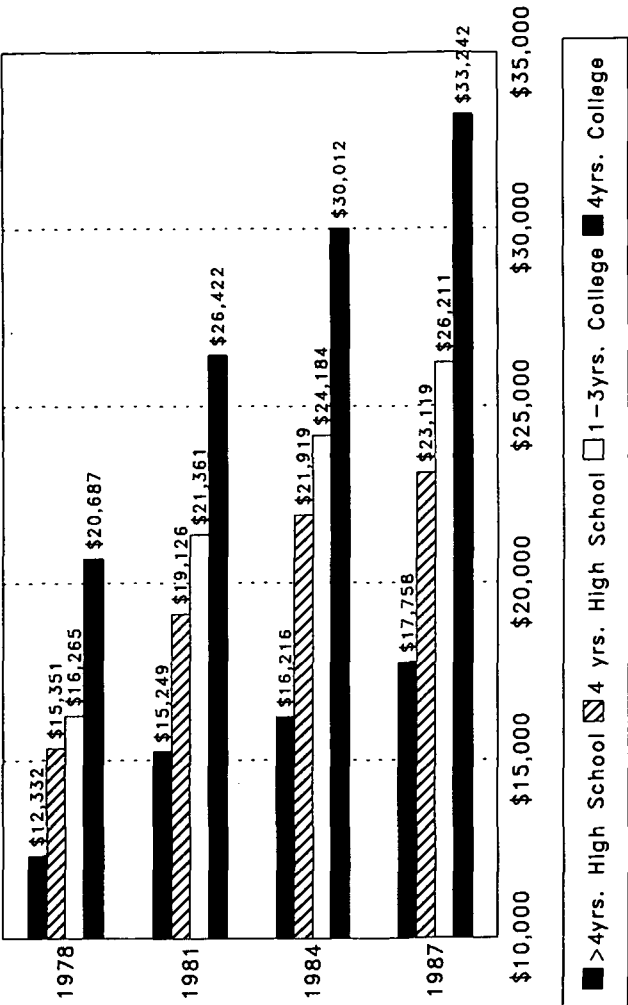
**Average Yearly Undergraduate Tuition, Room & Board, Four Year Program  
By Control of Institution & By State, 1989-1990**



Tuition
 Room
 Board
 Total

Source: US Department of Education, National Center for Education Statistics

**Median Earnings by Education Attainment**  
**Full-time, Year-round Workers, 1978-1987**



Source: U.S. Bureau of Labor Statistics.

102D CONGRESS  
1ST SESSION

# H. R. 3211

To establish a Federal direct student loan program to consolidate existing student loan programs, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 1991

Mr. ANDREWS of New Jersey introduced the following bill; which was referred to the Committee on Education and Labor

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## A BILL

To establish a Federal direct student loan program to consolidate existing student loan programs, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; REFERENCE.**

4       (a) **SHORT TITLE.**—This Act may be cited as the  
5       “Middle Income Educational Opportunity Act of 1991”.

6       (b) **REFERENCES.**—References in this Act to “the  
7       Act” are references to the Higher Education Act of 1965.

## 2

1 **SEC. 2. ESTABLISHMENT OF FEDERAL DIRECT LOAN PRO-**  
2 **GRAM.**

3 Part D of title IV of the Act is amended to read as  
4 follows:

5 **"PART D—FEDERAL DIRECT LOANS**

6 **"SEC. 451. PROGRAM AND PAYMENT AUTHORITY.**

7 "(a) PROGRAM AUTHORITY.—The Secretary shall, in  
8 accordance with the provisions of this part, carry out a  
9 direct loan program for qualified students at institutions  
10 of higher education to enable the students to pursue their  
11 courses of study at such institutions during the period be-  
12 ginning on July 1, 1994.

13 "(b) PAYMENT AUTHORITY.—The Secretary shall,  
14 from funds made available under section 457, make pay-  
15 ments under this part for any fiscal year—

16 "(1) to each institution of higher education hav-  
17 ing an agreement under section 452, and

18 "(2) to the designated lending agent of each  
19 such institution designating such an agent in accord-  
20 ance with section 452(c),

21 on the basis of the estimated needs of the students of that  
22 institution for student loans taking into consideration the  
23 demand and eligibility of such students for subsidized and  
24 unsubsidized direct loans under this part.

25 "(c) PAYMENT RULES.—

## 3

1           “(1) IN GENERAL.—The Secretary shall make  
2           payments required by subsection (b) of this section  
3           in such installments as the Secretary determines—

4                   “(A) reflects accurately the disbursement  
5                   of funds for student loans by the institution of  
6                   higher education concerned, and

7                   “(B) will best carry out the objectives of  
8                   this part.

9           “(2) INITIAL PAYMENTS.—The initial payments  
10          for any academic year required by subsection (b)  
11          shall be made available to institutions of higher edu-  
12          cation not later than July 1 for the academic year  
13          which begins on or after that date. Payments of en-  
14          titlements by the Secretary under this part shall be  
15          made promptly.

16          “(d) ENTITLEMENT PROVISION.—An institution—

17                   “(1) whose application has been approved by  
18                   the Secretary under section 452(b), and

19                   “(2) which has an agreement with the Secre-  
20                   tary under section 452(c),

21          shall be deemed to have a contractual obligation from the  
22          United States for making the payments specified in that  
23          application.

## 4

1   **"SEC. 452. APPLICATIONS OF AND AGREEMENTS WITH IN-**  
2                   **STITUTIONS OF HIGHER EDUCATION.**

3       “(a) **APPLICATION REQUIRED.**—Any institution of  
4 higher education desiring to receive payments from the  
5 Secretary under this part shall make an agreement under  
6 subsection (b) and shall submit an application for such  
7 payments to the Secretary in accordance with the provi-  
8 sions of this part. The Secretary shall set dates before  
9 which such institutions must file applications under this  
10 section. Each such application shall contain such informa-  
11 tion as is necessary to assure the correctness of estimated  
12 need for funds for students at the institution of higher  
13 education.

14       “(b) **AGREEMENT REQUIRED.**—An agreement with  
15 any institution of higher education for the payment of ad-  
16 vances under this part shall—

17               “(1) provide for the establishment and mainte-  
18 nance of a program at the institution under which—

19                   “(A) the institution will identify eligible  
20 students at the institution, in accordance with  
21 section 484;

22                   “(B) the institution will estimate the need  
23 of each such student as required by section  
24 453(a);



## 5

1           “(C) the institution or its designated lend-  
2           ing agent will originate loans to such eligible  
3           students in accordance with this part;

4           “(2) provide assurances that the institution or  
5           its designated lending agent will comply with the  
6           provisions of section 463A, relating to student loan  
7           information;

8           “(3) provide that the note or evidence of obliga-  
9           tion on the loan shall be the property of the Secre-  
10          tary and that the institution of higher education or  
11          its designated lending agent will act as the agent for  
12          the Secretary for the purpose of making loans under  
13          this part; and

14          “(4) include such other provisions as may be  
15          necessary to protect the financial interest of the  
16          United States and promote the purposes of this part  
17          as are agreed to by the Secretary and the institu-  
18          tion.

19          “(c) ESTABLISHMENT OF LENDING AGENTS FOR  
20          CONSORTIA OF INSTITUTIONS.—

21          “(1) IN GENERAL.—An agreement with any in-  
22          stitution of higher education for the payment of ad-  
23          vances under this part may provide for the payment  
24          of such advances to the designated lending agent of

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1 such institution in accordance with an agreement be-  
2 tween such institution and agent that—

3 “(A) is in such form and contains such  
4 terms and conditions as the Secretary shall re-  
5 quire by regulation; and

6 “(B) is approved by the Secretary.

7 “(2) ELIGIBLE AGENTS.—An entity is eligible  
8 to be a designated lending agent under this part for  
9 an institution only if such entity—

10 “(A)(i) is an entity that is exempt from  
11 Federal income taxes under section 501(c)(3) of  
12 the Internal Revenue Code of 1986;

13 “(ii) is an agency of a State; or

14 “(iii) a guaranty agency under part B of  
15 this title;

16 “(B) is not engaged in any activity that is  
17 not related to the provision of student financial  
18 assistance; and

19 “(C) has been approved for the purposes of  
20 this subsection on the basis of an application  
21 that—

22 “(i) demonstrates the entity’s compe-  
23 tence to operate as a designated lending  
24 agency in accordance with criteria pre-  
25 scribed by the Secretary by regulation;

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1                   “(ii) contains such assurances as the  
2                   Secretary may require by regulation to  
3                   protect the Federal fiscal interests, includ-  
4                   ing provisions to prevent excessive compen-  
5                   sation or administrative costs;

6                   “(iii) contains an agreement by the  
7                   entity to make its books, documents, and  
8                   other records available for audit or exami-  
9                   nation by the Comptroller General, the In-  
10                  specter General of the Department of Edu-  
11                  cation, or any person designated by the  
12                  Secretary for such purpose.

13           “(d) ADMINISTRATIVE EXPENSE PROVISION.—An in-  
14           stitution which has entered into an agreement under sub-  
15           section (b) shall be entitled, for each fiscal year during  
16           which it makes student loans under such agreement, to  
17           a payment in lieu of reimbursement for its expenses in  
18           administering its student loan program under this subpart  
19           during such year. Each such payment shall be made in  
20           accordance with section 489 or shall be an amount equal  
21           to \$20 per academic year for each student enrolled in that  
22           institution who receives a loan under this part for that  
23           year. Payments received by an institution under this sub-  
24           section shall be used first by the institution to carry out  
25           the provisions of section 489(b) of this Act and then for

1 such additional administrative costs as that institution de-  
2 termines necessary. An institution which has an agree-  
3 ment under subsection (b) shall be deemed to have a con-  
4 tractual right to the payments required by this subsection.

5 **"SEC. 453. ELIGIBILITY FOR AND AMOUNT OF LOANS.**

6 **"(a) ELIGIBILITY.—**

7 **"(1) COMMON ELIGIBILITY REQUIREMENTS FOR**  
8 **SUBSIDIZED AND UNSUBSIDIZED LOANS.—(A)** Any  
9 subsidized loan under this part may be made only to  
10 a qualified student, and any unsubsidized loan under  
11 this part may be made only to a qualified student  
12 or the parent of an undergraduate qualified student.

13 **"(B)** For purposes of subparagraph (A), a  
14 qualified student is a student who—

15 **"(i)** is capable, in the opinion of the insti-  
16 tution, of maintaining good standing in such  
17 course of study;

18 **"(ii)** has been accepted for enrollment as  
19 an undergraduate, graduate, or professional  
20 student in such institution, or, in the case of a  
21 student already in attendance at such institu-  
22 tion, is in good standing; and

23 **"(iii)** is carrying at least one-half the nor-  
24 mal academic workload, as determined by the  
25 institution.

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1 In any case in which a student has been determined  
2 to be qualified for a loan under the preceding sen-  
3 tence, and such student thereafter fails to maintain  
4 good standing, the qualification of such student shall  
5 be suspended, and further payments to, or on behalf  
6 of, such student shall not be made until such stu-  
7 dent regains good standing.

8 “(2) NEEDS TESTING FOR SUBSIDIZED  
9 LOANS.—A subsidized loan under this part may be  
10 made only to a student who (in addition to meeting  
11 the requirements of paragraph (1)) demonstrates fi-  
12 nancial need for such loan (pursuant to part F of  
13 this title).

14 “(3) STUDENT ELIGIBILITY FOR UNSUBSIDIZED  
15 LOANS.—(A) Graduate and professional students (as  
16 defined by regulations of the Secretary) and under-  
17 graduate independent students shall be eligible to  
18 borrow unsubsidized loans under this part in  
19 amounts specified in subsection (c)(2). In addition,  
20 undergraduate dependent students shall be eligible  
21 to borrow funds under this section if the financial  
22 aid administrator determines, after review of the fi-  
23 nancial aid information submitted by the student  
24 and considering the debt burden of the student, that  
25 exceptional circumstances will likely preclude the

## 10

1 student's parents from borrowing under this part. If  
2 the financial aid administrator makes such a deter-  
3 mination, appropriate documentation of such deter-  
4 mination shall be maintained in the institution's  
5 records to support such determination. No student  
6 shall be eligible to borrow unsubsidized loans under  
7 this part until such student has obtained a certifi-  
8 cate of graduation from a school providing secondary  
9 education, or the recognized equivalent of such cer-  
10 tificate.

11       “(B) Unsubsidized loans may not be borrowed  
12 under this part by any undergraduate student who  
13 is enrolled at any institution during any fiscal year  
14 if the cohort default rate for such institution, for the  
15 most recent fiscal year for which such rates are  
16 available, equals or exceeds 30 percent. The Secre-  
17 tary shall notify institutions to which such restric-  
18 tion applies annually, and specify the fiscal year cov-  
19 ered by the restriction. The Secretary shall afford  
20 any institution to which such restriction applies an  
21 opportunity to present evidence contesting the accu-  
22 racy of the calculation of the cohort default rate for  
23 such institution.

24       “(4) PARENT ELIGIBILITY FOR UNSUBSIDIZED  
25 LOANS.—Parents of a dependent student shall be eli-

## 11

1       gible to borrow unsubsidized loans under this part in  
2       any amount, subject to subsection (c)(1).

3       “(b) SUBSIDIZED LOAN AMOUNTS.—

4               “(1) DETERMINATION BASED ON COST OF AT-  
5       TENDANCE.—The amount of all subsidized loans for  
6       each student for each academic year made from loan  
7       funds paid pursuant to agreements under this part  
8       may not exceed the cost of attendance at the institu-  
9       tion of higher education for that year minus the ag-  
10      gregate of—

11               “(A) any financial assistance received by  
12      the student borrower under parts A and C of  
13      this title, and any other provision of Federal  
14      law;

15               “(B) any other scholarship, grant, and  
16      loan assistance received by the student borrow-  
17      er; and

18               “(C) the expected family contribution or,  
19      in the case of an independent student, the ex-  
20      pected self-help contribution.

21               “(2) ANNUAL LIMITS.—No student may borrow  
22      under this part an amount of subsidized loans in  
23      any academic year or its equivalent (as determined  
24      under regulations of the Secretary) in excess of—

## 12

1           “(A) \$3,500, in the case of a student who  
2           has not successfully completed the first year of  
3           a program of undergraduate education;

4           “(B) \$5,000, in the case of a student who  
5           has successfully completed such first year but  
6           who has not successfully completed the remain-  
7           der of a program of undergraduate education;  
8           or

9           “(C) \$10,000, in the case of a graduate or  
10          professional student (as defined in regulations  
11          of the Secretary);

12          except in cases where the Secretary determines, pur-  
13          suant to regulations, that a higher amount is war-  
14          ranted in order to carry out the purpose of this part  
15          with respect to students engaged in specialized train-  
16          ing requiring exceptionally high costs of education.

17          “(3) AGGREGATE LIMITS.—No student may  
18          borrow under this part an aggregate principal  
19          amount of subsidized loans in excess of—

20               “(A) \$23,500, in the case of any student  
21               who has not successfully completed a program  
22               of undergraduate education (excluding  
23               unsubsidized loans); or

24               “(B) \$73,500, in the case of any graduate  
25               or professional student (as defined by regula-



## 13

1           tions of the Secretary and including any loans  
2           under this part made to such student before the  
3           student became a graduate or professional stu-  
4           dent, but excluding unsubsidized loans).

5           “(c) UNSUBSIDIZED LOAN AMOUNTS.—

6           “(1) DETERMINATION BASED ON COST OF AT-  
7           TENDANCE.—The amount of all unsubsidized loans  
8           for any student (whether obtained by the student or  
9           a parent, or both) for each academic year made from  
10          loan funds paid pursuant to agreements under this  
11          part may not exceed the cost of attendance at the  
12          institution of higher education for that year minus  
13          the aggregate of—

14                 “(A) any financial assistance received by  
15                 the student borrower under parts A and C of  
16                 this title, and any other provision of Federal  
17                 law, including any subsidized loan under this  
18                 part; and

19                 “(B) any other scholarship, grant, and  
20                 loan assistance received by the student borrow-  
21                 er.

22           “(2) LIMITS ON UNSUBSIDIZED LOANS TO STU-  
23          DENTS.—

24                 “(A) ANNUAL LIMITS.—No student may  
25                 borrow under this part an amount of

## 14

1           unsubsidized loans in any academic year or its  
2           equivalent (as determined under regulations of  
3           the Secretary) in excess of—

4                   “(i) \$4,000, in the case of a student  
5                   who has not successfully completed the  
6                   first year of a program of undergraduate  
7                   education;

8                   “(ii) \$6,000, in the case of a student  
9                   who has successfully completed such first  
10                  year but who has not successfully complet-  
11                  ed the remainder of a program of under-  
12                  graduate education; or

13                  “(iii) \$10,000, in the case of a gradu-  
14                  ate or professional student (as defined in  
15                  regulations of the Secretary);

16           except in cases where the Secretary determines,  
17           pursuant to regulations, that a higher amount  
18           is warranted in order to carry out the purpose  
19           of this part with respect to students engaged in  
20           specialized training requiring exceptionally high  
21           costs of education, and except that in the case  
22           of a student who has not successfully completed  
23           the first year of a program of undergraduate  
24           education and who is not enrolled in a program  
25           that is at least one academic year in length, as

## 15

1 determined in accordance with regulations pre-  
2 scribed by the Secretary, such maximum  
3 amount shall be—

4 “(I) \$2,500 for a student who is de-  
5 termined, in accordance with such regula-  
6 tions, to be enrolled in a program whose  
7 length is at least  $\frac{2}{3}$  of an academic year;

8 “(II) \$1,500 for a student who is de-  
9 termined, in accordance with such regula-  
10 tions, to be enrolled in a program whose  
11 length is less than  $\frac{2}{3}$ , but at least  $\frac{1}{3}$ , of  
12 an academic year; and

13 “(III) zero for a student who is deter-  
14 mined, in accordance with such regula-  
15 tions, to be enrolled in a program whose  
16 length is less than  $\frac{1}{3}$  of an academic year.

17 “(B) AGGREGATE LIMITS.—No student  
18 may borrow under this part an aggregate prin-  
19 cipal amount of unsubsidized loans in excess  
20 of—

21 “(i) \$28,000, in the case of any stu-  
22 dent who has not successfully completed a  
23 program of undergraduate education (ex-  
24 cluding subsidized loans); or

## 16

1                   “(ii) \$78,000, in the case of any grad-  
2                   uate or professional student (as defined by  
3                   regulations of the Secretary and including  
4                   any loans under this part made to such  
5                   student before the student became a grad-  
6                   uate or professional student, but excluding  
7                   subsidized loans).

8                   “(d) DETERMINATIONS BASED ON COST OF ATTEND-  
9                   ANCE.—Determinations under subsections (b)(1) and  
10                  (c)(1) shall be made by the institution of higher education  
11                  or its designated lending agent in accordance with the pro-  
12                  visions of part F of this title.

13                  “(e) ANNUAL LIMIT DETERMINATIONS.—The annual  
14                  limits contained in this section shall not be deemed to be  
15                  exceeded by a line of credit under which actual payments  
16                  to the borrower will not be made in any year in excess  
17                  of the annual limit.

18                  **“SEC. 454. TERMS OF LOANS.**

19                  “(a) REQUIREMENTS FOR BOTH SUBSIDIZED AND  
20                  UNSUBSIDIZED LOANS.—A loan may be made with funds  
21                  paid under this part only if—

22                         “(1) made to a student, or the parent of a stu-  
23                         dent, who (A) is an eligible student under section  
24                         484; (B) has agreed to notify promptly the Secre-  
25                         tary concerning any change of address; and (C) is

## 17

1 carrying at least one-half the normal full-time aca-  
2 demic workload for the course of study the student  
3 is pursuing (as determined by the institution); and

4 “(2) evidenced by a note or other written agree-  
5 ment which—

6 “(A) is made without security and without  
7 endorsement, except that if the borrower is a  
8 minor and such note or other written agreement  
9 executed by the borrower would not under the  
10 applicable law, create a binding obligation, en-  
11 dorsement may be required;

12 “(B) provides that periodic installments of  
13 principal need to be paid, but interest shall ac-  
14 crue and be paid, during any period—

15 “(i) during which the borrower (I) is  
16 pursuing a full-time course of study at an  
17 eligible institution, (II) is pursuing at least  
18 a half-time course of study (as determined  
19 by such institution) during an enrollment  
20 period for which the student has obtained  
21 a loan under this part, or (III) is pursuing  
22 a course of study pursuant to a graduate  
23 fellowship program approved by the Secre-  
24 tary, or pursuant to a rehabilitation train-  
25 ing program for disabled individuals ap-

## 18

1           proved by the Secretary except that no  
2           borrower shall be eligible for a deferment  
3           under this clause or any subsidized loan  
4           made under this part, while serving in a  
5           medical internship or residency program;

6           “(ii) not in excess of 3 years during  
7           which the borrower is a member of the  
8           Armed Forces of the United States, is an  
9           active duty member of the National Ocean-  
10          ic and Atmospheric Administration Corps,  
11          or is an officer in the Commissioned Corps  
12          of the Public Health Service;

13          “(iii) not in excess of 3 years during  
14          which the borrower is in service as a volun-  
15          teer under the Peace Corps Act;

16          “(iv) not in excess of 3 years during  
17          which the borrower is in service as a full-  
18          time volunteer under the Domestic Volun-  
19          teer Service Act of 1973;

20          “(v) not in excess of 3 years during  
21          which the borrower is in service, compara-  
22          ble to the service referred to in clauses (iii)  
23          and (iv), as a full-time volunteer for an or-  
24          ganization which is exempt from taxation

## 19

1 under section 501(c)(3) of the Internal  
2 Revenue Code of 1986;

3 “(vi) not in excess of 3 years during  
4 which the borrower is engaged as a full-  
5 time teacher in a public or nonprofit pri-  
6 vate elementary or secondary school in a  
7 teacher shortage area established by the  
8 Secretary pursuant to section 428(b)(4);

9 “(vii) not in excess of 2 years during  
10 which the borrower is serving an intern-  
11 ship, the successful completion of which is  
12 required in order to receive professional  
13 recognition required to begin professional  
14 practice or service after January 1, 1986,  
15 or serving in an internship or residency  
16 program leading to a degree or certificate  
17 awarded by an institution of higher educa-  
18 tion, a hospital, or a health care facility  
19 that offers postgraduate training;

20 “(viii) not in excess of 3 years during  
21 which the borrower is temporarily totally  
22 disabled, as established by sworn affidavit  
23 of a qualified physician, or during which  
24 the borrower is unable to secure employ-

## 20

1                   ment by reason of the care required by a  
2                   dependent who is so disabled;

3                   “(ix) not in excess of 24 months, at  
4                   the request of the borrower, during which  
5                   the borrower is seeking and unable to find  
6                   full-time employment;

7                   “(x) not in excess of 6 months of pa-  
8                   rental leave; or

9                   “(xi) not in excess of 12 months for  
10                  mothers with preschool age children who  
11                  are just entering or reentering the work  
12                  force and who are compensated at a rate  
13                  not exceeding \$1 in excess of the rate pre-  
14                  scribed under section 6 of the Fair Labor  
15                  Standards Act of 1938,

16               and that any such period shall not be included  
17               in determining the 10-year period provided in  
18               subparagraph (B), except that only the provi-  
19               sions of clauses (i), (viii), and (ix) of this sub-  
20               paragraph shall be available in the case of a  
21               borrower who is a parent of a qualified student  
22               under section 453(a);

23               “(C) entitles the borrower to accelerate  
24               without penalty repayment of the whole or any  
25               part of the loan;



## 21

1           “(D)(i) contains a notice of the system, of  
2           disclosure of information concerning such loan  
3           to credit bureau organizations under section  
4           430A, and

5           “(ii) provides that the Secretary on request  
6           of the borrower will provide information on the  
7           repayment status of the note to such organiza-  
8           tions; and

9           “(E) contains such other terms and condi-  
10          tions, consistent with the provisions of this part  
11          and with the regulations issued by the Secre-  
12          tary pursuant to this part, as may be agreed  
13          upon by the parties to such loan;

14          “(3) the funds borrowed are disbursed to the  
15          student by check or other means that is payable to  
16          and requires the endorsement or other certification  
17          by such student, except nothing in this part shall be  
18          interpreted to allow the Secretary to require checks  
19          to be made copayable to the institution and the bor-  
20          rower or to prohibit the disbursement of loan pro-  
21          ceeds by means other than by check; and

22          “(4) the funds borrowed are disbursed by the  
23          institution in accordance with a schedule that is con-  
24          sistent with subsection (d).

1       “(b) ADDITIONAL TERMS FOR SUBSIDIZED LOANS.—

2       The note or other written agreement for any subsidized  
3       loan shall—

4               “(1) provide for repayment (except as provided  
5       in subsection (e)) of the principal amount of the  
6       loan in installments over a period of not less than  
7       5 years (unless sooner repaid or unless the student  
8       during the 6 months preceding the start of the re-  
9       payment period, specifically requests that repayment  
10      be made over a shorter period) nor more than 10  
11      years, beginning 6 months after the month in which  
12      the student ceases to carry at an institution of high-  
13      er education one-half the normal full-time academic  
14      workload as determined by the institution; except—

15               “(A) as provided in subsection (a)(2)(B);

16               “(B) that the note or other written instru-  
17      ment may contain such reasonable provisions  
18      relating to repayment in the event of default in  
19      the payment of interest or in the payment of  
20      the cost of insurance premiums, or other de-  
21      fault by the borrower, as may be authorized by  
22      regulations of the Secretary in effect at the  
23      time the loan is made; and

24               “(C) that the lender and the student, after  
25      the student ceases to carry at an eligible insti-

## 23

1           tution at least one-half the normal full-time  
2           academic workload as determined by the insti-  
3           tution, may agree to a repayment schedule  
4           which begins earlier, or is of shorter duration,  
5           than required by this subparagraph, but in the  
6           event a borrower has requested and obtained  
7           the repayment period of less than 5 years, the  
8           borrower may at any time prior to the total re-  
9           payment of the loan, have the repayment period  
10          extended so that the total repayment period is  
11          not less than 5 years; and

12          “(2) provide for interest on the unpaid principal  
13          balance of the loan at a rate of 8 percent per year,  
14          which interest shall be payable in installments over  
15          the period of the loan except that, if provided in the  
16          note or other written agreement, any interest pay-  
17          able by the student may be deferred until not later  
18          than the date upon which repayment of the first in-  
19          stallment of principal falls due, in which case inter-  
20          est accrued during that period may be added on that  
21          date to the principal.

22          “(c) **ADDITIONAL TERMS FOR UNSUBSIDIZED**  
23 **LOANS.**—The note or other written agreement for any  
24 unsubsidized loan shall— .

1           “(1) provide for repayment (except as provided  
2       in subsection (e)) of the principal amount of the  
3       loan in installments over a period of not less than  
4       5 years (unless sooner repaid or unless the borrower  
5       during the 6 months preceding the start of the re-  
6       payment period, specifically requests that repayment  
7       be made over a shorter period) nor more than 10  
8       years, beginning not later than 60 days after the  
9       date such loan is disbursed, or, if the loan is dis-  
10      bursed in multiple installments, not later than 60  
11      days after the disbursement of the last such install-  
12      ment; except—

13               “(A) as provided in subsection (a)(2)(B);

14               “(B) that the note or other written instru-  
15      ment may contain such reasonable provisions  
16      relating to repayment in the event of default in  
17      the payment of interest or in the payment of  
18      the cost of insurance premiums, or other de-  
19      fault by the borrower, as may be authorized by  
20      regulations of the Secretary in effect at the  
21      time the loan is made; and

22               “(C) that the lender and the borrower,  
23      after the student ceases to carry at an eligible  
24      institution at least one-half the normal full-time  
25      academic workload as determined by the insti-

## 25

1           tution, may agree to a repayment schedule  
2           which begins earlier, or is of shorter duration,  
3           than required by this subparagraph, but in the  
4           event a borrower has requested and obtained  
5           the repayment period of less than 5 years, the  
6           borrower may at any time prior to the total re-  
7           payment of the loan, have the repayment period  
8           extended so that the total repayment period is  
9           not less than 5 years;

10           “(2) provide for interest on the unpaid principal  
11           balance of the loan at the rate most recently deter-  
12           mined under subsection (f)(2) at the time the loan  
13           is made, which interest shall be payable in install-  
14           ments over the period of the loan except that, if pro-  
15           vided in the note or other written agreement, any in-  
16           terest payable by the student may be deferred until  
17           not later than the date upon which repayment of the  
18           first installment of principal falls due, in which case  
19           interest accrued during that period may be added on  
20           that date to the principal.

21           “(d) REQUIREMENTS FOR DISBURSEMENT OF STU-  
22           DENT LOANS.—

23           “(1) MULTIPLE DISBURSEMENT REQUIRED.—

24           “(A) TWO DISBURSEMENTS REQUIRED.—

25           The proceeds of any loan made under this part

1           that is made for any period of enrollment shall  
2           be disbursed in 2 or more installments, none of  
3           which exceeds one-half of the loan.

4           “(B) MINIMUM INTERVAL REQUIRED.—

5           The interval between the first and second such  
6           installments shall be not less than one-half of  
7           such period of enrollment, except as necessary  
8           to permit the second installment to be disbursed  
9           at the beginning of the second semester, quar-  
10          ter, or similar division of such period of enroll-  
11          ment.

12          “(2) METHOD OF MULTIPLE DISBURSEMENT.—

13          Disbursements under paragraph (1) shall be made  
14          in accordance with a schedule determined by the in-  
15          stitution that complies with the requirements of this  
16          section.

17          “(3) WITHHOLDING OF SECOND DISBURSE-  
18          MENT.—

19          “(A) WITHDRAWING STUDENTS.—An insti-  
20          tution or designated lending agent that is in-  
21          formed by the borrower or the institution that  
22          the borrower has ceased to be enrolled before  
23          the disbursement of the second or any succeed-  
24          ing installment shall withhold such disburse-  
25          ment. Any disbursement which is so withheld

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1 shall be credited to the borrower's loan and  
2 treated as a prepayment thereon.

3           “(B) STUDENTS RECEIVING OVER-  
4 AWARDS.—If the sum of a disbursement for any  
5 student and the other financial aid obtained by  
6 such student exceeds the amount of assistance  
7 for which the student is eligible under this title,  
8 the institution such student is attending shall  
9 withhold and return the portion (or all) of such  
10 installment that exceeds such eligible amount.  
11 Any portion (or all) of a disbursement install-  
12 ment which is so returned shall be credited to  
13 the borrower's loan and treated as a prepay-  
14 ment thereon.

15           “(4) SPECIAL RULES FOR MULTIPLE DISBURSE-  
16 MENT.—For the purpose of this subsection—

17           “(A) all loans issued for the same period  
18 of enrollment shall be considered as a single  
19 loan; and

20           “(B) the requirements of such subsection  
21 shall not apply in the case of a loan made to  
22 a student to cover the cost of attendance at an  
23 eligible institution outside the United States.

24           “(e) SPECIFIC REPAYMENT RULES.—

1           “(1) MINIMUM AMOUNTS TO BE REPAID ANNU-  
2       ALLY.—The total of the payments by a borrower  
3       during any year of any repayment period with re-  
4       spect to the aggregate amount of all subsidized and  
5       unsubsidized loans to that borrower which are paid  
6       from loan funds paid pursuant to agreements under  
7       this part shall not, unless the borrower and the Sec-  
8       retary otherwise agree, be less than \$600 or the bal-  
9       ance of all such loans (together with interest there-  
10      on), whichever amount is less, except that in the  
11      case of husband and wife, both of whom have such  
12      loans outstanding, the total of the combined pay-  
13      ments for such a couple during any year shall not  
14      be less than \$600 or the balance of all such loans,  
15      whichever is less.

16           “(2) GRADUATED AND INCOME CONTINGENT  
17      REPAYMENT SCHEDULES.—If a borrower so re-  
18      quests, the repayment of a loan under this part shall  
19      be made in accordance with a graduated or income  
20      contingent repayment schedule established by the  
21      Secretary by regulation. In order to carry out the  
22      provisions of this paragraph, the Secretary and the  
23      borrower may agree to increase the repayment peri-  
24      od described in subsection (b)(1) or (c)(1) of this



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1 section, but in no event may the repayment period  
2 be extended beyond 20 years.

3 “(3) NOTICE.—The Secretary shall notify the  
4 student borrower of a loan under this part at the be-  
5 ginning of the repayment period of the availability of  
6 the flexible repayment program.

7 “(f) INTEREST RATES.—

8 (1) ORDER TO ESTABLISH RATES ON  
9 UNSUBSIDIZED LOANS.—The Secretary shall, by  
10 order published in the Federal Register, establish  
11 the interest rates for unsubsidized loans made under  
12 this part. Such order shall be published not later  
13 than January 2, and shall be effective with respect  
14 to loans made during the one-year period beginning  
15 on the July 1 following such publication. The Secre-  
16 tary’s order shall not be subject to judicial review.

17 “(2) INTEREST RATE FOR UNSUBSIDIZED  
18 LOANS.—The order prescribed under paragraph (1)  
19 shall establish an interest rate for subsidized loans  
20 made after the effective date of such order and be-  
21 fore the effective date of a subsequent order. Such  
22 rate shall be equal to—

23 “(A) the bond equivalent rate of 52-week  
24 Treasury bills auctioned at the final auction

## 30

1           held prior to the date such order is prescribed;  
2           plus

3           “(B) 3.25 percent.

4           “(3) REPORT ON INTEREST RATE ON  
5           UNSUBSIDIZED LOANS.—The Secretary shall submit  
6           to the Congress a report for any fiscal year for  
7           which the interest rate for unsubsidized loans estab-  
8           lished under paragraph (2) subsection is not suffi-  
9           cient to recover for the Government—

10           “(A) the cost to the Government of obtain-  
11           ing the funds for such loans under section 457;

12           “(B) the costs to the Government of ob-  
13           taining collection services for such loans under  
14           section 456; and

15           “(C) the costs to the Government of ad-  
16           ministering this part with respect to such loans.

17           “(D) the costs to the Government that re-  
18           sult from any defaults on such loans by the bor-  
19           rowers.

20           “(4) REPORT ON INTEREST RATE ON SUBSI-  
21           DIZED LOANS.—The Secretary shall submit to the  
22           Congress a report for any fiscal year for which the  
23           interest rate for subsidized loans established under  
24           subsection (c)(2) is not sufficient to recover for the  
25           Government—

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1           “(A) the cost to the Government of obtain-  
2           ing the funds for such loans under section 457;

3           “(B) the costs to the Government of ob-  
4           taining collection services for such loans under  
5           section 456; and

6           “(C) the costs to the Government of ad-  
7           ministering this part with respect to such loans.

8   **“SEC. 455. CONSOLIDATION LOANS.**

9       “(a) **AGREEMENTS FOR PROVISION OF LOANS.—**

10       (1) **AGREEMENT REQUIRED FOR PROVISION OF**  
11       **LOANS.—**For the purpose of providing loans to eligi-  
12       ble borrowers for consolidation of their obligations  
13       with respect to eligible student loans, the Secretary  
14       shall enter into agreements in accordance with sub-  
15       section (b).

16       “(2) **PROVISION OF FUNDS TO CONSOLIDATION**  
17       **AGENTS.—**The Secretary shall, by regulation, pro-  
18       vide for the distribution of funds obtained pursuant  
19       to section 457 through consolidation agents to eligi-  
20       ble borrowers under this section. Such regulations  
21       shall, to the extent practicable, reflect the proce-  
22       dures used to distribute funds to institutions under  
23       section 452.

24       “(3) **DEFINITION OF ELIGIBLE BORROWER.—**

25       (A) For the purpose of this section, the term ‘eligi-

1       ble borrower' means a borrower who, at the time of  
2       application for a consolidation loan—

3               “(i) has an outstanding indebtedness on el-  
4       igible student loans, at the time of application  
5       for a consolidation loan, of not less than  
6       \$5,000; and

7               “(ii) is in repayment status, or in a grace  
8       period preceding repayment, and is not delin-  
9       quent with respect to any required payment on  
10      such indebtedness by more than 90 days.

11              “(B) An individual's status as an eligible bor-  
12      rower under this section terminates upon receipt of  
13      a consolidation loan under this section except with  
14      respect to eligible student loans received after the  
15      date of receipt of the consolidation loan. Loans made  
16      under this section shall, to the extent used to dis-  
17      charge loans made under this title, be counted  
18      against the applicable limitations on aggregate in-  
19      debtedness contained in sections 425(a),  
20      428(b)(1)(B), 428A(b)(2), 454, and 464(a)(2).  
21      Nothing in this subparagraph shall be interpreted to  
22      authorize the Secretary to require agents for consoli-  
23      dation loans to receive, to maintain, or to make re-  
24      ports with respect to preexisting records relating to  
25      any eligible student loan (as defined under para-

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1 graph (4)) discharged by a borrower in receiving a  
2 consolidation loan.

3 “(4) DEFINITION OF ELIGIBLE STUDENT  
4 LOANS.—For the purpose of paragraph (1), the term  
5 ‘eligible student loans’ means any of the following  
6 loans, if at least one loan is a loan described in sub-  
7 paragraph (A) of this paragraph:

8 “(A) loans made under this part except for  
9 loans made to parents;

10 “(B) loans made, insured, or guaranteed  
11 under part B except for loans made to parent  
12 borrowers under section 428B, including loans  
13 made to parent borrowers under section 428B  
14 as in effect prior to the enactment of the High-  
15 er Education Amendments of 1986;

16 “(C) loans made under part E of this title;  
17 or

18 “(D) loans made under subpart II of part  
19 C of title VII of the Public Health Service Act.

20 “(b) AGREEMENTS WITH AGENT.—Any agent select-  
21 ed by the Secretary to operate a program of transmitting  
22 consolidation loans from the Secretary to eligible borrow-  
23 ers under this section shall enter into an agreement with  
24 the Secretary which provides—

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1           “(1) that the agent will provide a consolidation  
2       loan to an eligible borrower (on request of that bor-  
3       rower) only if the borrower certifies that the borrow-  
4       er has no other application pending for a loan under  
5       this section;

6           “(2) that each consolidation loan will bear in-  
7       terest, and be subject to repayment, in accordance  
8       with subsection (c);

9           “(3) that each consolidation loan will be made,  
10      notwithstanding any other provision of this part lim-  
11      iting the annual or aggregate principal amount for  
12      all insured loans made to a borrower, in an amount  
13      (A) which is not less than the minimum amount re-  
14      quired for eligibility of the borrower under subsec-  
15      tion (a)(3), and (B) which is equal to the sum of the  
16      unpaid principal and accrued unpaid interest and  
17      late charges of all eligible student loans received by  
18      the eligible borrower which are selected by the bor-  
19      rower for consolidation;

20          “(4) that the proceeds of each consolidation  
21      loan will be paid to the holder or holders of the loans  
22      so selected to discharge the liability on such loans;

23          “(5) that a consolidation loan will not be made  
24      unless the agent has determined to its satisfaction,

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1 in accordance with reasonable and prudent business  
2 practices, for each loan being consolidated—

3 “(A) that the loan is a legal, valid, and  
4 binding obligation of the borrower;

5 “(B) that each such loan was made and  
6 serviced in compliance with applicable laws and  
7 regulations; and

8 “(C) in the case of loans under part B,  
9 that the insurance on such loan is in full force  
10 and effect;

11 “(6) the reporting requirements of the Secre-  
12 tary on the agent and an identification of the office  
13 of the Department of Education which will process  
14 claims and perform other related administrative  
15 functions;

16 “(7) the alternative repayment terms which will  
17 be offered to borrowers; and

18 “(8) such other terms and conditions as the  
19 Secretary may specifically require of the agent to  
20 carry out this section.

21 “(c) **TERMS AND CONDITIONS OF LOANS.**—A consoli-  
22 dation loan made pursuant to this section shall be made  
23 only to an eligible borrower who has agreed to notify the  
24 Secretary promptly concerning any change of address. The

1 consolidation loan shall be evidenced by a note or other  
2 written agreement which—

3           “(1) is made without security and without en-  
4 dorsement, except that if the borrower is a minor  
5 and such note or other written agreement executed  
6 by him or her would not, under applicable law, cre-  
7 ate a binding obligation, endorsement may be re-  
8 quired;

9           “(2) provides for the payment of interest and  
10 the repayment of principal in accordance with sub-  
11 section (c) of this section;

12           “(3) provides that periodic installments of prin-  
13 cipal need not be paid, but interest shall accrue and  
14 be paid, during any period for which the borrower  
15 would be eligible for a deferral under clause (i),  
16 (viii), or (ix) of section 454(a)(2)(B), and that any  
17 such period shall not be included in determining the  
18 repayment period pursuant to subsection (c)(2) of  
19 this section;

20           “(4) entitles the borrower to accelerate without  
21 penalty repayment of the whole or any part of the  
22 loan; and

23           “(5)(A) contains a notice of the system of dis-  
24 closure concerning such loan to credit bureau orga-  
25 nizations under section 430A, and



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1           “(B) provides that the lender on request of the  
2           borrower will provide information on the repayment  
3           status of the note to such organizations.

4           “(d) PAYMENT OF PRINCIPAL AND INTEREST.—

5           “(1) INTEREST RATES.—(A) Consolidation  
6           loans made under this section shall bear interest at  
7           rates determined under subparagraph (B) or (C).

8           “(B) Except as provided in subparagraph (C),  
9           a consolidation loan shall bear interest at an annual  
10          rate on the unpaid principal balance of the loan  
11          which is equal to the weighted average of the inter-  
12          est rates on the loans consolidated, rounded to the  
13          nearest whole percent.

14          “(C) A consolidation loan shall bear interest at  
15          an annual rate on the unpaid principal balance of  
16          the loan equal to not less than 8 percent.

17          “(2) REPAYMENT SCHEDULES.—(A) Notwith-  
18          standing any other provision of this part, the Secre-  
19          tary shall establish repayment terms as will promote  
20          the objectives of this section, which shall include the  
21          establishment of graduated and income contingent  
22          repayment schedules. Such repayment terms shall  
23          require that if the sum of the consolidation loan and  
24          the amount outstanding on other student loans to  
25          the individual—

1           “(i) is equal to or greater than \$5,000 but  
2           less than \$7,500, then such consolidation loan  
3           shall be repaid in not more than 10 years;

4           “(ii) is equal to or greater than \$7,500 but  
5           less than \$10,000, then such consolidation loan  
6           shall be repaid in not more than 12 years;

7           “(iii) is equal to or greater than \$10,000  
8           but less than \$20,000, then such consolidation  
9           loan shall be repaid in not more than 15 years;

10          “(iv) is equal to or greater than \$20,000  
11          but less than \$45,000, then such consolidation  
12          loan shall be repaid in not more than 20 years;

13          or

14          “(v) is equal to or greater than \$45,000,  
15          then such consolidation loan shall be repaid in  
16          not more than 25 years.

17          “(B) Unless a consolidation loan under sub-  
18          paragraph (A)(ii) will be used to discharge at least  
19          \$5,000 of loans made under this part, such loan  
20          shall be repaid in accordance with subparagraph  
21          (A)(i).

22          “(C) The amount outstanding on other student  
23          loans which may be counted for the purpose of sub-  
24          paragraph (A) may not exceed the amount of the  
25          consolidation loan.

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1           “(3) **ADDITIONAL REPAYMENT REQUIRE-**  
2           **MENTS.**—Notwithstanding paragraph (2), the Secre-  
3           tary may, with respect to repayment on the loan  
4           when the amount of a monthly or other similar pay-  
5           ment on the loan is not a multiple of \$5, round the  
6           payment to the next highest whole dollar amount  
7           that is a multiple of \$5.

8           “(4) **COMMENCEMENT OF REPAYMENT.**—Re-  
9           payment of a consolidation loan shall commence  
10          within 60 days after all holders have, pursuant to  
11          subsection (b)(1)(D), discharged the liability of the  
12          borrower on the loans selected for consolidation.

13   **“SEC. 456. ADMINISTRATIVE PROVISIONS.**

14          “(a) **IN GENERAL.**—In carrying out the provisions of  
15          this part, the Secretary is authorized—

16               “(1) to consent to the modification, with respect  
17               to rate of interest, time of payment of any install-  
18               ment of principal and interest or any portion there-  
19               of, or any other provision of any note evidencing a  
20               loan which has been made under this part;

21               “(2) to enforce, pay, compromise, waive, or re-  
22               lease any right, title, claim, lien, or demand, however  
23               acquired, including any equity or any right of re-  
24               demption;

1           “(3) to conduct litigation in accordance with  
2           the provisions of section 432(a)(2);

3           “(4) encourage either directly or by way of con-  
4           tract or other arrangement the participation of insti-  
5           tutions of higher education in the program author-  
6           ized by this part; and

7           “(5) to enter into competitive contracts or other  
8           arrangements with State agencies, guaranty agen-  
9           cies, nonprofit organizations, institutions of higher  
10          education, and with collection and servicing agencies,  
11          for servicing and collection of loans under this part.

12          “(b) LOAN COLLECTION FUNCTIONS UNDER COM-  
13          PETITIVE PROCUREMENT CONTRACTS.—The Secretary,  
14          by one or more contracts made in accordance with Federal  
15          laws concerning Government procurement, shall provide  
16          for—

17               “(1) the collection of principal and interest of  
18               student loans made under this part;

19               “(2) the establishment and operation of a  
20               central data system for the maintenance of records  
21               on all loans made pursuant to this part;

22               “(3) programs for default prevention; and

23               “(4) such other programs as the Secretary de-  
24               termines are necessary to assure the success of the  
25               student loan program authorized by this part.

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1       “(c) LOAN CONSOLIDATION FUNCTIONS.—The Sec-  
2 retary, by one or more contracts made in accordance with  
3 Federal laws regulating Government procurement, shall  
4 provide for loan consolidation in accordance with section  
5 455.

6       “SEC. 457. SOURCE OF FUNDS FOR FEDERAL DIRECT  
7                               LOANS.

8       “(a) OBLIGATIONS AUTHORIZED.—(1) The Secretary  
9 shall, not later than April 1 of each fiscal year, issue and  
10 have outstanding at any one time notes, debentures,  
11 bonds, or other obligations in such amounts as shall be  
12 necessary to carry out functions under this part, except  
13 that the Secretary shall not issue any such obligation with-  
14 out the prior concurrence of the Secretary of the Treasury  
15 as to the terms and conditions of such obligations. The  
16 Secretary of the Treasury may direct that any such issu-  
17 ance by the Secretary be sold to the Department of Treas-  
18 ury for its own account or to the Federal Financing Bank.

19       “(2) The Secretary of the Treasury is authorized and  
20 directed to purchase any obligations issued under this sec-  
21 tion, and for that purpose, the Secretary of the Treasury  
22 is authorized to use as a public debt transaction the pro-  
23 ceeds for the sale of any securities hereafter issued under  
24 the Second Liberty Bond Act, and the purposes for which  
25 securities may be issued under the Second Liberty Bond

1 Act are extended to include such purchases. Each pur-  
2 chase of obligations by the Secretary of the Treasury  
3 under this section shall be upon such terms and conditions  
4 as to yield a return at a rate not less than a rate deter-  
5 mined by the Secretary of the Treasury, taking into con-  
6 sideration the current average yield on outstanding mar-  
7 ketable obligations of the United States of comparable ma-  
8 turity. Interest due on obligations of the Secretary held  
9 by the Treasury may be deferred, at the discretion of the  
10 Secretary, but any such deferred interest shall bear inter-  
11 est at the rate specified in this section. The Secretary of  
12 the Treasury may sell, upon such terms and conditions  
13 and at such price or prices as he shall determine, any of  
14 the obligations acquired by him under this section. All re-  
15 demptions purchases, and sales by the Secretary of the  
16 Treasury of such obligations under this section shall be  
17 treated as public debt transactions of the United States.

18       “(b) GUARANTEE.—All obligations of the Secretary  
19 issued under this section shall be fully and unconditionally  
20 guaranteed as to principal and interest and shall consti-  
21 tute general obligations of the United States, backed by  
22 the full faith and credit of the Government of the United  
23 States of America. Such guarantee shall be expressed on  
24 the face of all such obligations.

## 43

1       “(c) **SUBSIDY PROVISIONS.**—(1) Obligations of the  
2 Secretary issued pursuant to this section shall be lawful  
3 investments, and may be accepted as security for all fidu-  
4 ciary, trust, and public funds the investment or deposit  
5 of which shall be under the authority or control of the  
6 United States or any officer or officers thereof. All stock  
7 and obligations issued by the Secretary pursuant to this  
8 section shall be deemed to be exempt securities within the  
9 meaning of laws administered by the Securities and Ex-  
10 change Commission to the same extent as securities which  
11 are direct obligations of, or obligations guaranteed as to  
12 principal or interest by, the United States.

13       “(2) In order that the Secretary may be supplied with  
14 such forms of notes, debentures, bonds, or other such obli-  
15 gations as it may need for issuance under this section,  
16 the Secretary of the Treasury is authorized to prepare  
17 such forms as shall be suitable and approved by the Secre-  
18 tary, to be held in the Treasury subject to delivery, upon  
19 order of the Secretary. The engraved plates, dies, bed  
20 pieces, and so forth, executed in connection therewith shall  
21 remain in the custody of the Secretary of the Treasury.  
22 The Secretary shall reimburse the Secretary of the Treas-  
23 ury for any expenses incurred in the preparation, custody,  
24 and delivery of such notes, debentures, bonds, or other ob-  
25 ligations.

1       “(3) All moneys of the Secretary not otherwise em-  
2 ployed may be—

3               “(A) deposited with the Treasury of the United  
4 States subject to withdrawal by the Secretary, by  
5 check drawn on the Treasury of the United States  
6 by a Treasury disbursing officer, or

7               “(B) with the approval of the Secretary of the  
8 Treasury, deposited in any Federal Reserve bank, or

9               “(C) with the approval of the Secretary of the  
10 Treasury, and by authorization of the Secretary,  
11 used in the purchase for redemption and retirement  
12 of any notes, debentures, bonds, or other obligations  
13 issued by the Secretary.

14 **“SEC. 458. DEFINITIONS.**

15       “As used in this part—

16               “(1) the term ‘guaranty agency’ has the same  
17 meaning given that term by section 435(j); and

18               “(2) the term ‘institution of higher education’  
19 means any eligible institution described in section  
20 435 (a) and (b) which has demonstrated administra-  
21 tive capacity to carry out the provisions of this  
22 part.”.



## 45

1 **SEC. 3. AMENDMENTS TO WIND-DOWN THE STAFFORD STU-**  
2 **DENT LOAN PROGRAM.**

3 (a) **TERMINATION.**—Section 428(b)(5) of the Act is  
4 amended to read as follows:

5 “(5) **DURATION OF AUTHORITY.**—The period  
6 referred to in paragraph (1)(B) of this subsection  
7 shall begin on the date of enactment of this Act and  
8 end at the close of June 30, 1994.”.

9 (b) **ADJUSTMENTS IN LOAN LIMITS PRIOR TO TER-**  
10 **MINATION.**—

11 (1) **FISL PROGRAM.**—(A) Section 425(a)(1)(A)  
12 of the Act is amended—

13 (i) by striking out “\$2,625” and inserting  
14 “\$3,500” in clause (i);

15 (ii) by striking out “and second year” in  
16 clause (i);

17 (iii) by striking out “\$4,000” and inserting  
18 “\$5,000” in clause (ii);

19 (iv) by striking out “and second” in clause  
20 (ii); and

21 (v) by striking out “\$7,500” and inserting  
22 “\$10,000” in clause (iii).

23 (B) Section 425(a)(2)(A) of the Act is  
24 amended—

25 (i) by striking out “\$17,250” and inserting  
26 “\$23,500” in clause (i); and

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1           (ii) by striking out "\$54,750" and insert-  
2           ing "\$73,500" in clause (ii).

3           (2) GSL PROGRAM.—(A) Section 428(b)(1)(A)  
4           of the Act is amended—

5           (i) by striking out "\$2,625" and inserting  
6           "\$4,000" in clause (i);

7           (ii) by striking out "and second year" in  
8           clause (i);

9           (iii) by striking out "\$4,000" and inserting  
10          "\$5,000" in clause (ii);

11          (iv) by striking out "and second" in clause  
12          (ii); and

13          (v) by striking out "\$7,500" and inserting  
14          "\$10,000" in clause (iii).

15          (B) Section 428(b)(1)(B) of the Act is  
16          amended—

17          (i) by striking out "\$17,500" and inserting  
18          "\$23,500" in clause (i); and

19          (ii) by striking out "\$54,750" and insert-  
20          ing "\$73,500" in clause (ii).

21          (3) SUPPLEMENTAL LOANS FOR STUDENTS.—  
22          (A) Section 428A(b)(1) of the Act is amended—

23          (i) by striking "Subject" and inserting  
24          "(A) Subject";

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1           (ii) by inserting after "\$4,000" the follow-  
2           ing: "in the case of a student who has not suc-  
3           cessfully completed the first year of a program  
4           of undergraduate education";

5           (iii) by striking out "(A), (B) and (C)"  
6           and inserting "(i), (ii) and (iii)", respectively;

7           (iv) by adding at the end thereof the fol-  
8           lowing new subparagraph:

9           "(B) Subject to paragraphs (2) and (3),  
10          the maximum amount a student may borrow in  
11          any academic year or its equivalent (as defined  
12          by regulation by the Secretary) is—

13                "(i) \$6,000, in the case of a student  
14                who has successfully completed such first  
15                year but who has not successfully complet-  
16                ed the remainder of a program of under-  
17                graduate education; and

18                "(ii) \$10,000, in the case of a gradu-  
19                ate or professional student (as defined in  
20                regulations of the Secretary).".

21          (B) Section 428A(b)(2) of the Act is amended  
22          by striking

23          "not exceed \$20,000." and inserting the following:

24          "not exceed—

1           “(A) \$28,000, in the case of any student  
2           who has not successfully completed a program  
3           of undergraduate education; or

4           “(B) \$78,000, in the case of a graduate or  
5           professional student (as defined in regulations  
6           of the Secretary and including any loans under  
7           this section made to such student before the  
8           student became a graduate or professional stu-  
9           dent).”.

10           (4) PLUS LOANS.—Section 428B(b) of the Act  
11           is amended to read as follows:

12           “(b) LIMITATION BASED ON NEED.—Any loan under  
13           this section may be counted as part of the expected family  
14           contribution in the determination of need under this title,  
15           but no loan may be made to any parent under this section  
16           for any academic year in excess of (1) the student’s esti-  
17           mated cost of attendance, minus (2) other financial aid  
18           as certified by the eligible institution under section  
19           428(a)(2)(A).”.

20           (c) ADMINISTRATIVE COST ALLOWANCE FOR GUAR-  
21           ANTY AGENCIES.—Section 428(f)(1)(B) of the Act is  
22           amended by striking the first sentence and inserting the  
23           following: “The total amount of payments for any fiscal  
24           year made under this paragraph shall be equal to 0.25  
25           percent of the total principal amount of the loans out-

1 standing at the beginning of such fiscal year on which  
2 such guaranty agency has insurance in effect under this  
3 part.”.

4 **SEC. 4. EXPANDED USES OF PERKINS LOANS REPAYMENTS.**

5 Section 463(a) of the Act is amended—

6 (1) in paragraph (2)(C), by inserting before the  
7 semicolon at the end thereof the following: “, except  
8 as permitted under paragraph (10)”;

9 (2) by striking “and” at the end of paragraph  
10 (9);

11 (3) by redesignating paragraph (10) as para-  
12 graph (11);

13 (4) by inserting after paragraph (9) the follow-  
14 ing new paragraph:

15 “(10) provide that the institution may transfer  
16 any part or all of the collections of principal and in-  
17 terest on student loans made from deposited funds  
18 to an endowment fund—

19 “(A) invested and operated in accordance  
20 with regulations prescribed by the Secretary;

21 “(B) all of the income from which is ex-  
22 pended to make additional funds available to its  
23 students under subparts 1 and 2 of part A and  
24 part C of this title.”.

1   **SEC. 5. ADMINISTRATIVE EXPENSES.**

2       Part G of title IV of the Act is amended by adding  
3   at the end the following new section:

4           “AUTHORIZATION OF APPROPRIATIONS FOR  
5                   ADMINISTRATIVE EXPENSES

6       “SEC. 492. There are authorized to be appropriated  
7   such sums as may be necessary for fiscal year 1992 and  
8   for each succeeding fiscal year thereafter for administra-  
9   tive expenses necessary for carrying out this title, includ-  
10   ing expenses for staff personnel and compliance activi-  
11   ties.”.