

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 495

To amend the Higher Education Act of 1965 to stabilize the student loan programs, improve congressional oversight, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 3 (legislative day, FEBRUARY 22), 1995

Mrs. KASSEBAUM introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

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## A BILL

To amend the Higher Education Act of 1965 to stabilize the student loan programs, improve congressional oversight, 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; REFERENCES.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Student Loan Evaluation and Stabilization Act of 1995”.

6 (b) REFERENCES.—References in this Act to “the  
7 Act” are references to the Higher Education Act of 1965  
8 (20 U.S.C. 1001 et seq.).

9 **SEC. 2. FINDINGS.**

10 The Congress finds that:

1           (1) The current public/private student loan  
2 partnership is fulfilling the mission set for it by  
3 Congress, delivering loans to students reliably and in  
4 a timely fashion, and should be preserved.

5           (2) The Administration's dismantling of the  
6 Federal Family Education Loan (FFEL) Program  
7 which has begun in order to replace it with an  
8 unproven direct Government lending program, which  
9 increases the Federal debt, further enlarges the Fed-  
10 eral bureaucracy, adds major new financial oversight  
11 activities to the already overburdened Department of  
12 Education, and forces Congress to depend on esti-  
13 mated budget savings which may prove illusory,  
14 needs to be stopped so that a true and valid com-  
15 parison of the student loan programs can occur.

16           (3) The Federal Direct Student Loan (FDSL)  
17 Program pilot is only now getting started and has  
18 proceeded fairly smoothly when dealing with 5 per-  
19 cent of new loan volume. This slow and cautious ap-  
20 proach should be continued as the volume increases  
21 to 40 percent. This pilot program should continue to  
22 proceed slowly and cautiously and demonstrate suc-  
23 cessful results before expanding it to additional loan  
24 volume.

1           (4) While the FDSL Program pilot continues  
2 its test phase, reform of the FFEL Program which  
3 will benefit students and institutions of higher edu-  
4 cation, should be a continuing priority for the De-  
5 partment of Education.

6 **SEC. 3. PARTICIPATION OF INSTITUTIONS AND ADMINIS-**  
7 **TRATION OF DIRECT LOAN PROGRAMS.**

8           (a) LIMITATION ON PROPORTION OF LOANS MADE  
9 UNDER THE DIRECT LOAN PROGRAM.—Section 453(a) of  
10 the Act (20 U.S.C. 1087c(a)) is amended—

11           (1) by amending paragraph (2) to read as fol-  
12 lows:

13           “(2) DETERMINATION OF NUMBER OF AGREE-  
14 MENTS.—In the exercise of the Secretary’s discre-  
15 tion, the Secretary shall enter into agreements under  
16 subsections (a) and (b) of section 454 with institu-  
17 tions for participation in the programs under this  
18 part, subject to the following:

19           “(A) for academic year 1994–1995, loans  
20 made under this part shall represent 5 percent  
21 of new student loan volume for such year; and

22           “(B) for academic year 1995–1996 and for  
23 any succeeding fiscal year, loans made under  
24 this part shall represent 40 percent of new stu-  
25 dent loan volume for such year, except that the

1 Secretary may not enter into agreements under  
2 subsections (a) and (b) of section 454 with any  
3 additional eligible institutions that have not ap-  
4 plied and been accepted for participation in the  
5 program under this part on or before December  
6 31, 1994.”

7 (2) by striking paragraph (3); and

8 (3) by redesignating paragraph (4) as para-  
9 graph (3).

10 (b) ELIMINATION OF CONSCRIPTION.—Section  
11 453(b)(2) of the Act is amended—

12 (1) by striking subparagraph (B);

13 (2) by redesignating subparagraphs (A)(i) and  
14 (A)(ii) as subparagraphs (A) and (B) respectively;  
15 and

16 (3) in such subparagraph (B) (as so redesi-  
17 gnated) by striking “clause (i); and” and inserting  
18 “subparagraph (A).”.

19 (c) CONTROL OF ADMINISTRATIVE EXPENSES.—

20 (1) ADMINISTRATIVE EXPENSES.—Section  
21 458(a) of the Act is amended to read as follows:

22 “(a) IN GENERAL.—For each fiscal year, there shall  
23 be available to the Secretary from funds not otherwise ap-  
24 propriated, funds for all direct and indirect expenses asso-

1 ciated with the Direct Student Loan program under this  
2 part.”.

3 (2) IMPROVED CONGRESSIONAL OVERSIGHT OF  
4 ADMINISTRATION.—

5 (A) Section 458(b) of the Act is amended  
6 to read as follows:

7 “(b) FUNDING TRIGGERS.—For each fiscal year,  
8 funds available under this section may be obligated only  
9 in such amounts and according to such schedule as speci-  
10 fied in the appropriations Act for the Department of Edu-  
11 cation of a detailed proposal of expenditures under this  
12 section.”.

13 (B) Section 458 (d) of the Act is amended  
14 to read as follows:

15 “(d) QUARTERLY REPORT.—The Secretary shall pro-  
16 vide a detailed quarterly report of all monies expended  
17 under this section to the Chairman of the Committee on  
18 Labor and Human Resources of the Senate and the Chair-  
19 man of the Committee on Economic and Educational Op-  
20 portunities of the House of Representatives. Such report  
21 shall specifically identify all contracts entered into by the  
22 Department for services supporting the loan programs  
23 under parts B and D of this title and the current and  
24 projected costs of such contracts.”.

1 (3) ADMINISTRATIVE COST ALLOWANCE.—Sec-  
2 tion 428(f) of the Act is amended—

3 (A) in subsection (A) by striking out “for  
4 a fiscal year prior to fiscal year 1994, the” and  
5 inserting in lieu thereof “The”; and

6 (B) by inserting after the first sentence of  
7 subsection (B) the following new sentence: “For  
8 fiscal year 1996 and each succeeding fiscal  
9 year, each guaranty agency shall elect to receive  
10 an administrative costs allowance, payable quar-  
11 terly, for such fiscal year calculated on the  
12 basis of either of the following:

13 “(i) 0.85 percent of the total principal  
14 amount of the loans upon which insurance  
15 was issued under part B during such fiscal  
16 year by such guaranty agency; or

17 “(ii) 0.08 percent of the original prin-  
18 cipal amount of loans guaranteed by the  
19 guaranty agency that was outstanding at  
20 the end of the previous fiscal year.”.

21 (d) ELIMINATION OF TRANSITION TO DIRECT  
22 LOANS.—The Act is further amended—

23 (1) in section 422(c)(7)—

1 (A) by striking “during the transition” and  
2 all that follows through “part D of this title”  
3 in subparagraph (A); and

4 (B) by striking “section 428(c)(10)(F)(v)”  
5 in subparagraph (B) and inserting “section  
6 428(c)(9)(F)(v)”;

7 (2) in section 428(c)(8)—

8 (A) by striking “(A)” after the paragraph  
9 designation; and

10 (B) by striking subparagraph (B);

11 (3) in section 428(c)(9)(E)—

12 (A) by inserting “or” after the semicolon  
13 at the end of clause (iv);

14 (B) by striking “; or” at the end of clause  
15 (v) and inserting a period; and

16 (C) by striking clause (vi);

17 (4) in clause (vii) of section 428(c)(9)(F)—

18 (A) by inserting “and” before “to avoid  
19 disruption”; and

20 (B) by striking “, and to ensure an orderly  
21 transition” and all that follows through the end  
22 of such clause and inserting a period;

23 (5) in section 428(c)(9)(K), by striking “the  
24 progress of the transition from the loan programs

1 under this part to” and inserting “the integrity and  
2 administration of”;

3 (6) in section 428(e)(1)(B)(ii), by striking  
4 “during the transition” and all that follows through  
5 “part D of this title”;

6 (7) in section 428(e)(3), by striking “of transi-  
7 tion”;

8 (8) in section 428(j)(3)—

9 (A) by striking “DURING TRANSITION TO  
10 DIRECT LENDING” in the heading of paragraph  
11 (3); and

12 (B) by striking “during the transition”  
13 and all that follows through “part D of this  
14 title,” and inserting a comma;

15 (9) in section 453(c)(2), by striking “TRANSI-  
16 TION” and inserting “INSTITUTIONAL” in the head-  
17 ing of paragraph (2);

18 (10) in section 453(c)(3), by striking “AFTER  
19 TRANSITION” in the heading of paragraph (3); and

20 (11) in section 456(b)—

21 (A) by inserting “and” after the semicolon  
22 at the end of paragraph (3);

23 (B) by striking paragraph (4);

24 (C) by redesignating paragraph (5) as  
25 paragraph (4); and

1 (D) in such paragraph (4) (as redesignig-  
2 nated), by striking “successful operation” and  
3 inserting “integrity and efficiency”.

4 **SEC. 4. DIRECT LOANS HAVE THE SAME TERMS AND CONDI-**  
5 **TIONS AS FEDERAL FAMILY EDUCATION**  
6 **LOANS.**

7 (a) IN GENERAL.—Section 455(a)(1) of the Act (20  
8 U.S.C. 1087e(a)(1)) is amended to read as follows:

9 “(1) PARALLEL TERMS, CONDITIONS, BENEFITS  
10 AND AMOUNTS.—Unless otherwise specified in this  
11 part, loans made to borrowers under this part shall  
12 have the same terms, conditions, eligibility require-  
13 ments and benefits, and be available in the same  
14 amounts, as the corresponding types of loans made  
15 to borrowers under sections 428, 428B, 428C, and  
16 428H of this title.”.

17 (b) DIRECT CONSOLIDATION LOANS.—Section  
18 455(a)(2) of the Act is amended—

19 (1) by striking “and” at the end of subpara-  
20 graph (B);

21 (2) by redesignating subparagraph (C) as sub-  
22 paragraph (D); and

23 (3) by inserting after subparagraph (B) the fol-  
24 lowing new subparagraph:

1           “(C) section 428C shall be known as ‘Fed-  
2           eral Direct Consolidation Loans’; and”.

3 **SEC. 5. ABILITY OF BORROWERS TO CONSOLIDATE UNDER**  
4 **DIRECT AND GUARANTEED LOAN PROGRAMS.**

5           (a) ABILITY OF PART D BORROWERS TO OBTAIN  
6 FEDERAL STAFFORD CONSOLIDATION LOANS.—Section  
7 428C(a)(4) of the Act (20 U.S.C. 1078–3(a)(4)) is amend-  
8 ed—

9           (1) by striking “or” at the end of subparagraph  
10 (B);

11           (2) by redesignating subparagraphs (C) and  
12 (D) as subparagraphs (D) and (E); and

13           (3) by inserting after subparagraph (B) the fol-  
14 lowing new subparagraph:

15           “(C) made under part D of this title;”.

16           (b) ABILITY OF PART B BORROWERS TO OBTAIN  
17 FEDERAL DIRECT CONSOLIDATION LOANS.—Section  
18 428C(b)(5) of the Act is amended to read as follows:

19           “(5) DIRECT CONSOLIDATION LOANS FOR BOR-  
20 ROWERS IN SPECIFIED CIRCUMSTANCES.—

21           “(A) The Secretary may offer a borrower  
22 a direct consolidation loan if a borrower other-  
23 wise eligible for a consolidation loan pursuant  
24 to this section is—

1           “(i) unable to obtain a consolidation  
2           loan from a lender with an agreement  
3           under subsection (a)(1); or

4           “(ii) unable to obtain a consolidation  
5           loan with an income contingent repayment  
6           schedule from a lender with an agreement  
7           under subsection (a)(1).

8           “(B) The Secretary shall establish appro-  
9           priate certification procedures to verify the eli-  
10          gibility of borrowers for loans pursuant to this  
11          paragraph.

12          “(C) The Secretary shall not offer such  
13          consolidation loans if, in the Secretary’s judg-  
14          ment, the Department of Education does not  
15          have the necessary origination and servicing ar-  
16          rangements in place for such loans, or the pro-  
17          jected volume in the program would be desta-  
18          bilizing to the availability of loans otherwise  
19          available under this part.”.

20 **SEC. 6. INCOME CONTINGENT REPAYMENT IN THE FED-**  
21 **ERAL FAMILY EDUCATION LOAN PROGRAM.**

22          (a) INSURANCE PROGRAM AGREEMENTS.—Section  
23 428(b)(1)(E)(i) of the Act (20 U.S.C. 1078(b)(1)(E)(i))  
24 is amended by striking “or income-sensitive repayment  
25 schedule” and inserting in lieu thereof “repayment sched-

1   ule or either an income-sensitive or income contingent re-  
2   payment schedule”.

3           (b)           REPAYMENT           SCHEDULES.—Section  
4   428C(c)(2)(A) of the Act is amended by striking “or in-  
5   come-sensitive repayment schedules” and inserting in lieu  
6   thereof “repayment schedules or either income sensitive  
7   or income contingent repayment schedules”.

8           (c)   DEFINITIONS.—Section 435 of the Act is amend-  
9   ed by adding a new subsection (n):

10          “(n)   INCOME   CONTINGENT   REPAYMENT   SCHED-  
11   ULES.—For the purpose of this part, income contingent  
12   repayment schedules established pursuant to section  
13   428(b)(1)(E)(i) and 428(c)(2)(A) may have terms and  
14   conditions comparable to terms and conditions established  
15   by the Secretary pursuant to section 455(e)(4).”.

16   **SEC. 7. RESERVE FUND REFORMS.**

17          (a)   GUARANTY AGENCY RESERVE LEVELS.—Section  
18   428(c)(9) of such Act (20 U.S.C. 1078(c)(9)) is amend-  
19   ed—

20                  (1) in subparagraph (E)—

21                          (A) by striking “The Secretary” and in-  
22                          serting “After notice and opportunity for a  
23                          hearing on the record, the Secretary”; and

24                  (2) in subparagraph (F)—

1 (A) by inserting “dedicated to the func-  
2 tions of the agency under the loan insurance  
3 program under this part” after “assets of the  
4 guaranty agency” in clause (vi); and

5 (B) in clause (vi), by inserting before  
6 “; or” the phrase “, except that the Secretary  
7 may not take any action to require the guar-  
8 anty agency to provide to the Secretary the  
9 unencumbered non-Federal portion of a reserve  
10 fund (as defined in section 422(a)(2))”.

11 (b) ADDITIONAL AMENDMENTS.—Section 422 of the  
12 Act is further amended—

13 (1) in the last sentence of subsection (a)(2), by  
14 striking “Except as provided in section 428(c)(10)  
15 (E) or (F), such” and inserting “Such”;

16 (2) in subsection (g), by striking paragraph (4)  
17 and inserting the following:

18 “(4) DISPOSITION OF FUNDS RETURNED TO OR  
19 RECOVERED BY THE SECRETARY.—Any funds that  
20 are returned to or otherwise recovered by the Sec-  
21 retary pursuant to this subsection shall be returned  
22 to the Treasury of the United States for purposes of  
23 reducing the Federal debt and shall be deposited  
24 into the special account under section 3113(d) of  
25 title 31, United States Code.”.

1 **SEC. 8. DEFAULT RATE LIMITATIONS ON DIRECT LENDING.**

2 (a) **INELIGIBILITY BASED ON DEFAULT RATES.**—

3 Section 435(a)(2) of the Act (20 U.S.C. 1085(a)(2)) is  
4 amended by inserting “or part D” after “under this part”.

5 (b) **COHORT DEFAULT RATE.**—Section 435(m)(1) of  
6 the Act is amended by—

7 (1) striking “428, 428A, or 428H” in para-  
8 graph (A) and inserting “428, 428A, 428H, or part  
9 D of the Act (except for Federal Direct PLUS  
10 Loans)”;

11 (2) striking “428C” in paragraph (A) and in-  
12 serting “428C or 455(g)”;

13 (3) striking “428C” in paragraph (C) and in-  
14 serting “428C or 455(g)”;

15 (4)(A) in paragraph (B), by striking “only”;  
16 and

17 (B) in paragraph (B) by inserting “and loans  
18 made under part D determined to be in default,”  
19 after “for insurance.”.

20 (c) **INCOME CONTINGENT REPAYMENT.**—Section  
21 435(m) of the Act is amended by adding at the end thereof  
22 the following new paragraph:

23 “(5)(A) The Secretary shall produce an annual  
24 report on loans subject to repayment schedules  
25 under sections 428(b)(1)(E)(i), 428C(c)(2)(A), and  
26 455(e)(4) at the end of each fiscal year detailing, by

1 institution and for the title IV, parts B and D pro-  
2 grams separately and together—

3 “(i) the number and amount of loans  
4 scheduled for payments that did not equal the  
5 interest accruing on the loan,

6 “(ii) the number and amount of loans  
7 where no payment was scheduled to be received  
8 from the borrower due to their low-income sta-  
9 tus,

10 “(iii) the number and amount of loans  
11 where a scheduled payment was more than 90  
12 days delinquent, and

13 “(iv) the projected amount of interest and  
14 principal to be forgiven at the end of the 25  
15 year repayment period, based on the projected  
16 payment schedule for the borrower over that  
17 period.

18 “(B) Such report shall be made available at the  
19 same time as the reports required under section  
20 435(m)(4) of this Act.”.

21 (d) TERMINATION OF INSTITUTIONAL PARTICIPA-  
22 TION.—Section 455 of the Act is amended by adding at  
23 the end the following new subsection:

24 “(k) TERMINATION OF INSTITUTIONS FOR HIGH DE-  
25 FAULT RATES.—

1           “(1) METHODOLOGY AND CRITERIA.—After  
2           consultation with institutions of higher education  
3           and other members of the higher education commu-  
4           nity, the Secretary shall develop—

5                   “(A) a methodology for the calculation of  
6                   institutional default rates under the loan pro-  
7                   grams operated pursuant to this part;

8                   “(B) criteria for the initiation of termi-  
9                   nation proceedings on the basis of such default  
10                  rates; and

11                  “(C) procedures for the conduct of such  
12                  termination proceedings.

13           “(2) COMPARABILITY TO PART B.—In develop-  
14           ing the methodology, criteria, and procedures re-  
15           quired by paragraph (1), the Secretary shall, to the  
16           maximum extent possible, establish standards for  
17           the termination of institutions from participation in  
18           loan programs under this part that are comparable  
19           to the standards established for the termination of  
20           institutions from participation in the loan programs  
21           under part B. Such procedures shall also include  
22           provisions for the appeal of default rate calculations  
23           based on deficiencies in the servicing of loans under  
24           this part that are comparable to the provisions for

1 such appeals based on deficiencies in the servicing of  
2 loans under part B.”.

3 “(3) LIMITATION ON AUTHORIZATION TO ISSUE  
4 NEW LOANS UNDER THIS PART.—Such standards  
5 and procedures required by paragraphs (1) and (2)  
6 shall be promulgated in final form no later than 120  
7 days after date of enactment of this paragraph. Not-  
8 withstanding any other provision of this part, no  
9 new loan under this part shall be issued after 120  
10 days after the date of enactment of this paragraph  
11 if the standards and procedures required under this  
12 section have not been promulgated prior to that  
13 date. The authority to issue new loans under this  
14 part shall resume upon the Secretary’s issuance of  
15 such standards and procedures.”.

16 **SEC. 9. USE OF ELECTRONIC FORMS.**

17 Section 484(a) of the Act (20 U.S.C. 1091b(a)) is  
18 amended by adding the following new paragraph after  
19 paragraph (a)(4):

20 “(5) ELECTRONIC FORMS.—(A) Nothing in this  
21 Act shall preclude the development, production, dis-  
22 tribution or use of the form described in subsection  
23 (a)(1) in an electronic format through software pro-  
24 duced or distributed by guaranty agencies or eligible  
25 lenders, or consortia thereof. Such electronic form

1 need not require the signature of the applicant to be  
2 collected at the time the form is submitted, if the  
3 applicant certifies the output of the application in a  
4 subsequent document. No fee may be charged in  
5 connection with use of the electronic form described  
6 in subsection (a)(1).

7 “(B) The Secretary shall approve the use of an  
8 electronic form submitted for approval that is not in-  
9 consistent with the provisions of this part or part B  
10 within 30 days of such submission. In the case of  
11 any electronic form not approved, the Secretary shall  
12 specifically identify the changes to the form nec-  
13 essary to secure approval.”.

14 **SEC. 10. APPLICATION FOR PART B LOANS USING FREE**  
15 **FEDERAL APPLICATION.**

16 Section 483(a) of the Act (20 U.S.C. 1090(a)) is  
17 amended—

18 (1) in paragraph (1)—

19 (A) by inserting “B,” after “assistance  
20 under parts A,”;

21 (B) by striking “part A) and to determine  
22 the need of a student for the purpose of part  
23 B of this title” and inserting “part A).”; and

24 (C) by striking the last sentence and in-  
25 serting the following: “Such form may be in an

1 electronic or any other format (subject to sec-  
2 tion 485B) in order to facilitate use by borrow-  
3 ers and institutions.”; and

4 (2) in paragraph (3), by striking “and States  
5 shall receive,” and inserting “, any guaranty agency  
6 authorized by any such institution, and States shall  
7 receive, at their request and”.

8 **SEC. 11. CREDIT REFORM.**

9 (a) AMENDMENT.—Section 502(5)(B) of the Con-  
10 gressional Budget Act (31 U.S.C. 661a(5)(B)) is amended  
11 to read as follows:

12 “(B) The cost of a direct loan shall be the net  
13 present value, at the time when the direct loan is  
14 disbursed, of the following cash flows for the esti-  
15 mated life of the loan:

16 “(i) Loan disbursements.

17 “(ii) Repayments of principal.

18 “(iii) Payments of interest and other pay-  
19 ments by or to the Government over the life of  
20 the loan after adjusting for estimated defaults,  
21 prepayments, fees, penalties, and other recover-  
22 ies.

23 “(iv) In the case of a direct student loan  
24 made pursuant to the program authorized  
25 under part D of title IV of the Higher Edu-

1 cation Act of 1965, direct and indirect ex-  
2 penses, including but not limited to the follow-  
3 ing: expenses arising from credit policy and  
4 oversight, activities related to credit extension,  
5 loan origination, loan servicing, training, pro-  
6 gram promotion and payments to contractors,  
7 other Government entities, and program partici-  
8 pants, collection of delinquent loans, and write-  
9 off and close-out of loans.”.

10 (b) EFFECTIVE DATE.—The amendment made by  
11 subsection (a) of this section shall apply to all fiscal years  
12 beginning on or after October 1, 1995, and to statutory  
13 changes made on or after the date of enactment of this  
14 Act.

○