

108TH CONGRESS  
1ST SESSION

# S. 1091

To provide funding for student loan repayment for public attorneys.

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IN THE SENATE OF THE UNITED STATES

MAY 21, 2003

Mr. DURBIN (for himself, Mr. DEWINE, Ms. COLLINS, and Mr. FEINGOLD)  
introduced the following bill; which was read twice and referred to the  
Committee on Health, Education, Labor, and Pensions

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## A BILL

To provide funding for student loan repayment for public  
attorneys.

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.**

4 This Act may be cited as the “Prosecutors and De-  
5 fenders Incentive Act”.

6 **SEC. 2. STUDENT LOAN REPAYMENT FOR PUBLIC ATTOR-**  
7 **NEYS.**

8 (a) IN GENERAL.—The Higher Education Act of  
9 1965 is amended by inserting after section 428K (20  
10 U.S.C. 1078–11) the following:

1 **“SEC. 428L. LOAN FORGIVENESS FOR PUBLIC ATTORNEYS.**

2       “(a) PURPOSE.—The purpose of this section is to en-  
3 courage qualified individuals to enter and continue em-  
4 ployment as prosecutors and public defenders.

5       “(b) DEFINITIONS.—In this section:

6           “(1) PROSECUTOR.—The term ‘prosecutor’  
7 means a full-time employee of a State or local agen-  
8 cy who—

9               “(A) is continually licensed to practice law;  
10              and

11               “(B) prosecutes criminal cases at the State  
12              or local level.

13           “(2) PUBLIC DEFENDER.—The term ‘public de-  
14 fender’ means an attorney who—

15               “(A) is continually licensed to practice law;  
16              and

17               “(B) is a full-time employee of a State or  
18              local agency, or of a nonprofit organization op-  
19              erating under a contract with a State or unit of  
20              local government or as a full time Federal de-  
21              fender attorney employed in a defender organi-  
22              zation established pursuant to subsection (g) of  
23              section 3006A of title 18, United States Code,  
24              which provides legal representation services to  
25              indigent persons in criminal cases.

1           “(3) STUDENT LOAN.—The term ‘student loan’  
2       means—

3           “(A) a loan made, insured, or guaranteed  
4           under this part; and

5           “(B) a loan made under part D or E.

6       “(c) PROGRAM AUTHORIZED.—For the purpose of  
7       encouraging qualified individuals to enter and continue  
8       employment as prosecutors and public defenders, the Sec-  
9       retary shall carry out a program, through the holder of  
10      a loan, of assuming the obligation to repay (by direct pay-  
11      ments on behalf of a borrower) a qualified loan amount  
12      for a loan made under section 428 or 428H, in accordance  
13      with subsection (d), for any borrower who—

14           “(1) is employed as a prosecutor or public de-  
15      fender; and

16           “(2) is not in default on a loan for which the  
17      borrower seeks forgiveness.

18      “(d) TERMS OF AGREEMENT.—

19           “(1) IN GENERAL.—To be eligible to receive re-  
20      payment benefits under this section, a borrower shall  
21      enter into a written agreement that specifies that—

22           “(A) the borrower will remain employed as  
23      a prosecutor or public defender for a required  
24      period of service specified in the agreement (but

1 not less than 3 years), unless involuntarily sep-  
2 arated from that employment;

3 “(B) if the borrower is involuntarily sepa-  
4 rated from that employment on account of mis-  
5 conduct, or voluntarily separates from that em-  
6 ployment, before the end of the period specified  
7 in the agreement, the borrower will repay the  
8 Secretary the amount of any benefits received  
9 by such employee under this section;

10 “(C) if the borrower is required to repay  
11 an amount to the Secretary under subpara-  
12 graph (B) and fails to repay the amount de-  
13 scribed in subparagraph (B), a sum equal to  
14 the amount is recoverable by the Government  
15 from the employee (or such employee’s estate, if  
16 applicable) by such method as is provided by  
17 law for the recovery of amounts owing to the  
18 Government;

19 “(D) the Secretary may waive, in whole or  
20 in part, a right of recovery under this sub-  
21 section if it is shown that recovery would be  
22 against equity and good conscience or against  
23 the public interest; and

24 “(E) the Secretary shall make student loan  
25 payments under this section for the period of

1           the agreement, subject to the availability of ap-  
2           propriations.

3           “(2) REPAYMENTS.—Any amount repaid by, or  
4           recovered from, an individual (or an estate) under  
5           this subsection shall be credited to the appropriation  
6           account from which the amount involved was origi-  
7           nally paid. Any amount so credited shall be merged  
8           with other sums in such account and shall be avail-  
9           able for the same purposes and period, and subject  
10          to the same limitations (if any), as the sums with  
11          which the amount was merged.

12          “(3) LIMITATIONS.—

13                 “(A)     STUDENT     LOAN     PAYMENT  
14                 AMOUNT.—Student loan payments made by the  
15                 Secretary under this section shall be made sub-  
16                 ject to such terms, limitations, or conditions as  
17                 may be mutually agreed to by the borrower con-  
18                 cerned and the Secretary in the agreement de-  
19                 scribed in this subsection, except that the  
20                 amount paid by the Secretary under this section  
21                 may not exceed—

22                         “(i) \$6,000 for any borrower in any  
23                         calendar year; or

24                         “(ii) a total of \$40,000 in the case of  
25                         any borrower.

1           “(B) BEGINNING OF PAYMENTS.—Nothing  
2           in this section shall be construed to authorize  
3           the Secretary to pay any amount to reimburse  
4           a borrower for any repayments made by such  
5           borrower prior to the date on which the Sec-  
6           retary entered into an agreement with the em-  
7           ployee under this subsection.

8           “(e) ADDITIONAL AGREEMENTS.—On completion of  
9           the required period of service under such an agreement,  
10          the borrower concerned and the Secretary may enter into  
11          an additional agreement described in subsection (d) for  
12          a successive period of service specified in the agreement  
13          (which may be less than 3 years).

14          “(f) AWARD BASIS; PRIORITY.—

15                 “(1) AWARD BASIS.—The Secretary shall pro-  
16                 vide repayment benefits under this section on a first-  
17                 come, first-served basis (subject to paragraph (2))  
18                 and subject to the availability of appropriations.

19                 “(2) PRIORITY.—The Secretary shall give pri-  
20                 ority in providing repayment benefits under this sec-  
21                 tion for a fiscal year to a borrower who—

22                         “(A) received repayment benefits under  
23                         this section for the preceding fiscal year; and

24                         “(B) has completed less than 3 years of  
25                         the first required period of service specified for

1           the borrower in an agreement entered into  
2           under subsection (d).

3           “(g) REGULATIONS.—The Secretary is authorized to  
4 issue such regulations as may be necessary to carry out  
5 the provisions of this section.

6           “(h) AUTHORIZATION OF APPROPRIATIONS.—There  
7 are authorized to be appropriated to carry out this section  
8 \$20,000,000 for fiscal year 2004 and such sums as may  
9 be necessary for each succeeding fiscal year.”.

10          (b) CANCELLATION OF LOANS.—

11           (1) AMENDMENT.—Section 465(a)(2)(F) of the  
12 Higher Education Act of 1965 (20 U.S.C.  
13 1087ee(a)(2)(F)) is amended by inserting “, as a  
14 public defender (as defined in section 428L), or as  
15 a full time Federal defender attorney employed in a  
16 defender organization established pursuant to sub-  
17 section (g) of section 3006A of title 18, United  
18 States Code” after “agencies”.

19           (2) EFFECTIVE DATE.—The amendment made  
20 by this subsection shall apply to—

21           (A) eligible loans made before, on, or after  
22 the date of enactment of this Act; and

23           (B) service as a public defender that is  
24 provided on or after the date of enactment of  
25 this Act.

1           (3) CONSTRUCTION.—Nothing in this sub-  
2 section or the amendment made by this subsection  
3 shall be construed to authorize the Secretary to pay  
4 any amount to reimburse a borrower for any repay-  
5 ments made by such borrower prior to the date on  
6 which the borrower became eligible for cancellation  
7 under section 465(a) of such Act (20 U.S.C.  
8 1087ee(a)).

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