

109TH CONGRESS  
1ST SESSION

# H. R. 1617

To allow borrowers consolidating student loans to choose a variable or fixed interest rate, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 13, 2005

Mr. PETRI introduced the following bill; which was referred to the Committee on Education and the Workforce

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## A BILL

To allow borrowers consolidating student loans to choose a variable or fixed interest rate, 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. REFERENCE.**

4 Except as otherwise expressly provided, whenever in  
5 this Act an amendment or repeal is expressed in terms  
6 of an amendment to, or repeal of, a section or other provi-  
7 sion, the reference shall be considered to be made to a  
8 section or other provision of the Higher Education Act of  
9 1965 (20 U.S.C. 1001 et seq.).

1 **SEC. 2. CONSOLIDATION LOAN INTEREST RATES.**

2 (a) FFEL LOANS.—Paragraph (3) of section  
3 427A(l) (20 U.S.C. 1077a(l)) is amended to read as fol-  
4 lows:

5 “(3) CONSOLIDATION LOANS.—

6 “(A) BORROWER ELECTION.—With respect  
7 to any consolidation loan under section 428C  
8 for which the application is received by an eligi-  
9 ble lender on or after July 1, 2006, the applica-  
10 ble rate of interest shall, at the election of the  
11 borrower at the time of application for the loan,  
12 be either at the rate determined under subpara-  
13 graph (B) or the rate determined under sub-  
14 paragraph (C).

15 “(B) VARIABLE RATE.—Except as pro-  
16 vided in subparagraph (D), the rate determined  
17 under this subparagraph shall, during any 12-  
18 month period beginning on July 1 and ending  
19 on June 30, be determined on the preceding  
20 June 1 and be equal, for such 12-month period,  
21 to—

22 “(i) the bond equivalent rate of 91-  
23 day Treasury bills auctioned at the final  
24 auction held prior to such June 1; plus

25 “(ii) 2.3 percent,

1           except that such rate shall not exceed 8.25 per-  
2           cent.

3           “(C) FIXED RATE.—Except as provided in  
4           subparagraph (D), the rate determined under  
5           this subparagraph shall be determined on the  
6           date on which the obligation to repay the loan  
7           is signed, and be equal, for the duration of the  
8           term of the loan, to—

9                   “(i) the average bond equivalent rate  
10                   of the 3-year Treasury note as determined  
11                   on the basis of the last publication in May  
12                   of the Federal Reserve Statistical Release  
13                   H-15 (or its successor) prior to the date  
14                   on which the obligation to repay the loan  
15                   is signed; plus

16                   “(ii) 2.3 percent,  
17           except that such rate shall not exceed 8.25 per-  
18           cent.

19           “(D) CONSOLIDATION OF PLUS LOANS.—  
20           In the case of any such consolidation loan that  
21           is used to repay loans each of which was made  
22           under section 428B or was a Federal Direct  
23           PLUS Loan (or both), the rates determined  
24           under subparagraphs (B) and (C) shall be de-  
25           termined—

1 “(i) by substituting ‘3.1 percent’ for  
2 ‘2.3 percent’; and

3 “(ii) by substituting ‘9.0 percent’ for  
4 ‘8.25 percent’.”.

5 (b) DIRECT LOANS.—Subparagraph (C) of section  
6 455(b)(7) (20 U.S.C. 1087e(b)(7)) is amended to read as  
7 follows:

8 “(C) CONSOLIDATION LOANS.—

9 “(i) BORROWER ELECTION.—Notwith-  
10 standing the preceding paragraphs of this  
11 subsection, with respect to any Federal Di-  
12 rect Consolidation Loan for which the ap-  
13 plication is received by an eligible lender  
14 on or after July 1, 2006, the applicable  
15 rate of interest shall, at the election of the  
16 borrower at the time of application for the  
17 loan, be either at the rate determined  
18 under clause (ii) or the rate determined  
19 under clause (iii).

20 “(ii) VARIABLE RATE.—Except as  
21 provided in clause (iv), the rate determined  
22 under this clause shall, during any 12-  
23 month period beginning on July 1 and  
24 ending on June 30, be determined on the

1 preceding June 1 and, for such 12-month  
2 period, not be more than—

3 “(I) the bond equivalent rate of  
4 91-day Treasury bills auctioned at the  
5 final auction held prior to such June  
6 1; plus

7 “(II) 2.3 percent,  
8 except that such rate shall not exceed 8.25  
9 percent.

10 “(iii) FIXED RATE.—Except as pro-  
11 vided in clause (iv), the rate determined  
12 under this clause shall be determined on  
13 the date on which the obligation to repay  
14 the loan is signed, and, for the duration of  
15 the term of the loan, not be more than—

16 “(I) the average bond equivalent  
17 rate of the 3-year Treasury note as  
18 determined on the basis of the last  
19 publication in May of the Federal Re-  
20 serve Statistical Release H-15 (or its  
21 successor) prior to the date on which  
22 the obligation to repay the loan is  
23 signed; plus

24 “(II) 2.3 percent,

1           except that such rate shall not exceed 8.25  
2           percent.

3           “(iv) CONSOLIDATION OF PLUS  
4           LOANS.—In the case of any such Federal  
5           Direct Consolidation Loan that is used to  
6           repay loans each of which was made under  
7           section 428B or was a Federal Direct  
8           PLUS Loan, the rates determined under  
9           clauses (ii) and (iii) shall be determined—

10                   “(I) by substituting ‘3.1 percent’  
11                   for ‘2.3 percent’; and

12                   “(II) by substituting ‘9.0 per-  
13                   cent’ for ‘8.25 percent.’”.

14 **SEC. 3. RECAPTURE OF EXCESS INTEREST.**

15           Section 438(b)(2)(I) (20 U.S.C. 1087–1(b)(2)(I)) is  
16 amended by inserting after clause (vii) the following new  
17 clause:

18                   “(viii) RECAPTURE OF EXCESS INTER-  
19                   EST.—

20                   “(I) EXCESS CREDITED.—With  
21                   respect to a loan on which the applica-  
22                   ble interest rate is determined under  
23                   section 427A(l) and for which the  
24                   first disbursement of principal is  
25                   made on or after July 1, 2006, if the

1 applicable interest rate for any 3-  
2 month period exceeds the special al-  
3 lowance rate applicable to such loan  
4 under this subparagraph for such pe-  
5 riod, then an adjustment shall be  
6 made by calculating the excess inter-  
7 est in the amount computed under  
8 subclause (II) of this clause, and by  
9 crediting the excess interest to the  
10 Government not less often than annu-  
11 ally.

12 “(II) CALCULATION OF EX-  
13 CESS.—The amount of any adjust-  
14 ment of interest on a loan to be made  
15 under this subsection for any quarter  
16 shall be equal to—

17 “(aa) the applicable interest  
18 rate minus the special allowance  
19 rate determined under this sub-  
20 paragraph; multiplied by

21 “(bb) the average daily prin-  
22 cipal balance of the loan (not in-  
23 cluding unearned interest added  
24 to principal) during such cal-  
25 endar quarter; divided by

1 “(cc) four.”.

2 **SEC. 4. STUDENT LOAN BORROWER CHOICE OF LOAN**

3 **CONSOLIDATOR.**

4 Section 428C(b)(1)(A) of the Higher Education Act  
5 of 1965 (20 U.S.C. 1078–3(b)(1)(A)) is amended by strik-  
6 ing “and (i) the lender holds” and all that follows through  
7 “selected for consolidation”).

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