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and benefits for fiscal years nineteen hundred and eighty-one and nineteen hundred and eighty-two where the amounts otherwise available are insufficient for the purpose; provided said adjustments may be paid during fiscal year nineteen hundred and eighty-three, and provided that the commissioner of administration is further authorized to allocate the cost of such salary adjustments and benefits to the several state or other funds to which such items of appropriation are charged; and provided, further, that copies of each said collective bargaining agreement together with an analysis of all cost items contained in said agreement and all changes to be made in the schedules of permanent and temporary positions required by said agreement, shall be filed with the house and senate committees on ways and means prior to the transfer or allocation of any amounts necessary to meet with the cost of said adjustments and benefits; and provided, further, that no transfers shall be made without the prior approval of the house and senate committees on ways and means, and provided further that this appropriation shall expire June thirtieth, nineteen hundred and eight-three.

SECTION 2. From the unexpended balance remaining in item 1599-2095 of section two of chapter three hundred and fifty-one of the acts of nineteen hundred and eighty-one, the sum of two hundred fifty-three thousand, one hundred and fifty-eight dollars is hereby transferred to item 1599-3311 and made available for the payment of salary adjustments and other economic benefits under said agreement for the nineteen hundred and eighty-one and nineteen hundred and eighty-two fiscal years, and to meet the costs of salary adjustments and other economic benefits necessary to provide equal salary adjustments or benefits to employees employed in "confidential" positions which would otherwise be covered by this collective bargaining agreement.

SECTION 3. This act shall take effect upon its passage.

Approved July 20, 1982.

Chap. 356. AN ACT RELATIVE TO THE NEW ENGLAND
EDUCATION LOAN MARKETING CORPORATION.

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Whereas, The deferred operation of this act would tend to defeat its purpose, which is to increase immediately the availability of funds through the New England Education Loan Marketing Corporation for the making of loans under the federally-guaranteed student loan programs, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience. _____

Be it enacted, etc., as follows:

SECTION 1. It is hereby found and declared that programs of guaranteed and insured loans to or for the benefit of students which rely upon the participation of private lenders have provided and continue to provide substantial assistance to the citizens of the commonwealth and others in enabling students to pursue programs of postsecondary education beneficial to themselves and to the commonwealth generally. It is hereby further found and declared that the success of guaranteed and insured loan programs for students has been of significant benefit to the banking community and to the economy of the commonwealth. In order to assure the continued viability of such guaranteed and insured loan programs for students, it is necessary and desirable to provide an efficient, stable secondary market to which such loans may be sold, transferred or pledged in exchange for funds with which the original lender can continue or increase participation in the program. It is hereby found and declared that a secondary market for guaranteed and insured loans to or for the benefit of students is in the best interests of the banking community, the commonwealth and, most particularly, students in that necessary and related financial transactions will be made with the assistance of local institutions and firms, lenders will be assured of access to a secondary market upon terms and conditions reflective of the traditional and evolving banking practices of the region and students and their families will receive better and more efficient servicing of their loans by an entity responsive to the educational and economic climate of the region.

SECTION 2. Chapter fifteen B of the General Laws is hereby repealed.

SECTION 3. The following words and phrases, as used in this act, shall, unless the context otherwise requires, have the following meanings:

"Board", the board of directors of the Corporation.

"Code", the Internal Revenue Code of 1954.

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"Corporation", The New England Education Loan Marketing Corporation created by section four of this act.

"Former act", chapter fifteen B of the General Laws, inserted by section one hundred and ninety-one of chapter three hundred and fifty-one of the acts of nineteen hundred and eighty-one.

"Guaranty agency", any agency of any state, or any nonprofit private institution or organization, which has entered into an agreement with the Secretary of Education pursuant to Section 428 of the Higher Education Act.

"Higher education act", the Higher Education Act of 1965 and the regulations promulgated thereunder, or any successor provisions of comparable import.

"Initial board", the board of directors described in paragraph (b) of section four of the former act as constituted upon the date of approval of this act.

"Secretary of education", the Secretary of the United States Department of Education, or any predecessor or successor officer, board, body, commission or agency under the Higher Education Act.

SECTION 4. There is hereby created a private, nonprofit corporation to be known as The New England Education Loan Marketing Corporation. The corporation is established and shall operate exclusively for the purpose of acquiring student loan notes incurred under the Higher Education Act and shall devote any income, after payment of expenses, debt service and the creation of reserves for the same, to the purchase of additional student loan notes, all within the meaning of Section 103(e) of the Code; provided, however, that the corporation shall have authority to operate for such other purposes, and shall have authority to devote its income as aforesaid for such other purposes, as said Section 103(e), or a successor provision of comparable import, may allow, as said Section 103(e) or such successor provision may be amended from time to time, to the extent that such purposes do not preclude the corporation from being an organization described in Section 501(c) (3) of the Code or a successor provision of comparable import. The corporation shall not engage in any activities which would preclude it from being an organization described in Section 501(c) (3) of the Code or a successor provision of comparable import. For the purposes of Section 435(g) (1) (F) of the Higher Education Act, the corporation shall be deemed to be an agency of the commonwealth functioning as a secondary market.

SECTION 5. The corporation shall be governed by a board of

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directors, which shall exercise and be responsible for the management of all of the affairs of the corporation, including the making, amending and altering of by-laws, and the members of which shall constitute the members of the corporation. The board may delegate to any committee of the board or to any officer of the corporation any action which the board is empowered to take. The board shall consist of not less than fifteen nor more than twenty-one members, one-third or, if the total membership of the board is not divisible by three, approximately one-third of whom shall be representative of lending institutions, one-third of whom shall be representative of educational institutions and one-third of whom shall be representative of the general public. The corporation shall be governed until July first, nineteen hundred and eighty-three by the initial board. Members of the initial board shall be eligible for reappointment to successive terms on the board, provided that after July first, nineteen hundred and eighty-three no more than three members of the board may also concurrently be members of the board of directors of the Massachusetts Higher Education Assistance Corporation. After the expiration of the term of the initial board, members of the board shall serve for such terms as may be established by bylaw. Members of the board shall be eligible for reappointment to successive terms. Members of the board shall serve without compensation but shall be reimbursed for all expenses reasonably incurred by them in the performance of their duties. The board, including the initial board, shall elect its own successors and fill all vacancies, provided that if at any time there are no directors, a court of competent jurisdiction may be petitioned to appoint successor directors. After the effective date of this act, the initial board may vote to confirm and validate the actions, including organizational details, taken pursuant to the former act prior to the date of such vote and thereupon any such act shall be deemed to be a valid and binding act of the corporation as of the date of any such act.

SECTION 6. The corporation shall be subject to, and shall have the powers and privileges conferred by the provisions of, chapter one hundred and eighty of the General Laws and section nine A and paragraphs (e) to (j), inclusive, (l), (n), (o) and (p), of section nine of chapter one hundred and fifty-six B of the General Laws, except insofar as said provisions are inconsistent with or otherwise limited or restricted by the provisions of this act. The corporation may exercise the foregoing powers to perform all actions necessary or convenient to effect its purposes. The corporation shall have no stock.

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Without limiting the generality of the foregoing, the corporation is expressly authorized to incur liabilities; to issue bonds, notes and other evidences of indebtedness; to acquire student loan notes, without regard to the place of origination of any such notes or to the location or residency of the maker, seller, purchaser or assignee of any such notes or to the location of any educational institution, incurred under the Higher Education Act, to pay expenses and debt service and create reserves for the same, all within the meaning of Section 103(e) of the Code; to encumber and otherwise create and grant liens on and security interests in its properties and assets, whether real, personal or mixed; to pledge, assign and otherwise create and grant liens on and security interests in its revenues; and to enter into contracts and agreements and execute instruments with any person or persons or public or private entity or entities, including without limitation the Secretary of Education and any guaranty agency, relative to the guaranty, insurance, purchase, sale, servicing, processing, pledging or assignment of any such student loan note incurred under the Higher Education Act or otherwise in furtherance of its purposes. The corporation may purchase, receive, take or otherwise acquire, own, hold, sell, lend, exchange, transfer or otherwise dispose of, pledge, use and otherwise deal in and with its own bonds, notes and other evidences of indebtedness.

SECTION 7. Notwithstanding the provisions of chapter one hundred and six of the General Laws, any pledge of, or grant of a lien on or security interest in, the revenues or other properties of the corporation in a resolution authorizing the issuance of bonds, notes or other evidences of indebtedness or in a trust agreement securing the same shall be valid and binding from the time when such pledge or grant shall be made, such revenues or other properties shall immediately be subject to the lien of any such pledge or grant without any physical delivery thereof or further act and any such lien shall be valid and binding against all parties having claims of any kind, in tort, contract or otherwise, against the corporation, irrespective of whether such parties have notice thereof. Neither any such resolution or trust agreement nor any financing statement, continuation statement or other instrument by which a pledge or security interest may be created or by which the interest of the corporation in any revenues or other properties may be assigned need be filed in any public records in order to perfect the security interest or lien thereof as against third parties.

SECTION 8. Bonds, notes and other evidences of

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indebtedness issued by the corporation are hereby made securities in which all insurance companies, trust companies, savings banks, co-operative banks, credit unions, banking associations, investment companies, other financial institutions, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them.

SECTION 9. The corporation shall not be required to pay any taxes upon its property or income or be subject to the provisions of chapter sixty-three of the General Laws or to any other taxes measured by its property or income. Bonds, notes and other evidences of indebtedness issued by the corporation, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within the commonwealth.

SECTION 10. The provisions of chapter one hundred and ten A of the General Laws shall not apply to securities issued by the corporation.

SECTION 11. The corporation shall establish and maintain proper accounting and related records and shall prepare and issue a written report annually, a copy of which shall be provided to the governor and to the clerks of the house and senate within ninety days after the end of the fiscal year of the corporation. The corporation shall not be required to file reports with the attorney general or the state secretary.

SECTION 12. The corporation shall not voluntarily dissolve, or otherwise terminate its existence, so long as any of its debt obligations shall be outstanding. Upon dissolution, liquidation or other termination of the corporation, all rights and properties of the corporation shall pass to and be vested in the commonwealth, subject to the rights of lienholders and other creditors, unless the by-laws provide that they may be distributed among one or more organizations described in Section 501(c) (3) of the Code or a successor provision of comparable import.

SECTION 13. Chapter 15C of the General Laws is hereby amended by striking out section 3, as appearing in chapter 803 of the acts of 1981, and inserting in place thereof the following section:-

Section 3. In this chapter, the following words and terms shall, unless the context otherwise requires, have the following meanings:-

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(a) "Authority", the College Student Loan Authority established by section four.

(b) "Authority loans", loans by the authority from the proceeds of bonds for the purpose of funding education loans.

(c) "Bonds" or "revenue bonds", revenue bonds or notes of the authority issued under the provisions of this chapter, including revenue refunding bonds or notes.

(d) "Bond resolution", the resolution or resolutions of the Authority and the trust agreement, if any, authorizing the issuance of and providing for the terms and conditions applicable to bonds.

(e) "Borrower", a student or any person who has received or agreed to pay an education loan on behalf of a student.

(f) "Default insurance", insurance, letters of credit, standby credit agreements, take-out commitments, agreements or other forms of credit insuring against default or guaranteeing timely payment with respect to education loans, Authority loans or bonds.

(g) "Default reserve fund", a fund established pursuant to a bond resolution for the purpose of securing education loans, authority loans or bonds.

(h) "Education loan", a loan to a borrower to finance or refinance a student's attendance at an institution for higher education made by or on behalf of such an institution or by a financial institution which loan is made from or in anticipation of an Authority loan or purchased by the Authority.

(i) "Loan funding deposit", monies or other property deposited by or on behalf of an institution for higher education with the Authority, guarantor or a trustee for the purpose of (a) providing security for bonds, (b) funding a default reserve fund, (c) acquiring default insurance, or (d) defraying costs of the Authority, such monies or properties to be in such amounts as deemed necessary by the Authority or guarantor as a condition for such institution's participation in the Authority's programs.

(j) "Institution for higher education", a nonprofit degree-granting educational institution within the commonwealth, whether public or private, authorized by law to provide a program of education beyond the high school level.

(k) "Participating institution for higher education", an institution for higher education which, pursuant to the provisions of this chapter, undertakes the financing directly or indirectly of education loans as provided in this chapter.

(l) "Parent", any parent, legal guardian or sponsor of a student at an institution for higher education.

(m) "Education loan series portfolio", all education loans made

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by or on behalf of a specific institution for higher education or participations therein by the Authority and one or more financial institutions which are funded in whole or in part from the proceeds of an authority loan to such institution out of the proceeds of a related specific bond issue through the Authority.

SECTION 14. Section 4 of said chapter 15C, as so appearing, is hereby amended by adding the following paragraph: -

(h) Notwithstanding any provision of chapter two hundred and sixty-eight A, a present or former employee of the commonwealth, or of any political subdivision thereof, or of any state, county or municipal agency as defined in said chapter two hundred and sixty-eight A may be a borrower of an education loan. Nor shall participating institutions for higher education be subject to the provisions of section ninety-six of chapter one hundred and forty.

SECTION 15. Section 5 of said chapter 15C, as so appearing, is hereby amended by striking out paragraph (j) and inserting in place thereof the following paragraph: -

(j) to contract with a guarantor to provide security for the payment of education loans through the issuance of default insurance or letters of credit or other credit arrangements or to provide a guarantee of payment covering all or a portion of each education loan made by or on behalf of the Authority or by or on behalf of an institution for higher education from the proceeds of an Authority loan.

SECTION 16. Said section 5 of said chapter 15C, as so appearing, is hereby further amended by striking out paragraph (l) and inserting in place thereof the following two paragraphs: -

(l) to purchase education loans from or to make Authority loans to participating institutions for higher education or financial institutions and require that the proceeds of such Authority loans be used for making education loans, funding reserves, providing for capitalized interest and paying other costs and fees involved in making education loan or issuing bonds.

($\frac{1}{2}$) to sell education loans or Authority loans to such buyers on such terms and in such amounts as the Authority may determine.

SECTION 17. Paragraph (c) of section 10 of said chapter 15C, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence: - The revenue bonds or notes shall be authorized by

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resolution of the members of the Authority and shall bear such date or dates and mature at such time or times not exceeding thirty years from the date of issuance from their respective dates, bear interest at such rate or rates, payable at such time or times, be in such denominations, be in such form either coupon or registered, carry such registration or conversion privileges, be executed with manual or facsimile signatures in such manner, be payable in lawful money of the United States at such place or places, and be subject to such terms of redemption, as such resolution or resolutions may provide.

SECTION 18. Paragraph (d) of said section 10 of said chapter 15C, as so appearing, is hereby amended by striking out clause (1) and inserting in place thereof the following clause:- (1) pledging all or any part of the authority loans, education loans or revenues derived from the Authority loans and education loans with respect to which such bonds or notes are to be issued.

SECTION 19. Said paragraph (d) of said section 10 of said chapter 15C, as so appearing, is hereby further amended by striking out clause (10) and inserting in place thereof the following clause:- (10) the procedure, if any, by which the terms of any contract with bondholders, bonds may be amended.

SECTION 20. Section 11 of said chapter 15C, as so appearing, is hereby amended by striking out the second sentence.

SECTION 21. Section 13 of said chapter 15C, as so appearing, is hereby amended by striking out the first two sentences and inserting in place thereof the following sentence:- The Authority shall fix, revise, charge and collect fees and is empowered to contract with any person, partnership, association or corporation, or other body, public or private, in respect thereof such that the fees and other amounts payable with respect to any program or programs of the Authority shall be sufficient at all times, (a) to pay or provide for the administrative costs and expenses of such program, (b) to pay the principal of, the premium, if any, and the interest on outstanding bonds or notes of the Authority issued in respect of such program to the extent that other revenues of the Authority pledged for the payment of the bonds or notes are insufficient to pay the bonds or notes as they become due and payable, (c) to create and maintain reserves which may but need not be required or provided for in the bond resolution relating to such

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bonds or notes of the Authority, and (d) to establish and maintain whatever education loan servicing, control, or audit procedures are deemed to be necessary or appropriate to the operations of the Authority.

SECTION 22. The third sentence of said section 13 of said chapter 15C, as so appearing, is hereby amended by striking out, in line 3, the word "shall" and inserting in place thereof the word:- may.

SECTION 23. Section 18 of said chapter 15C, as so appearing, is hereby amended by inserting after the word "seventeen", in line 2, the words:- or as provided in any bond resolution applicable to any bonds of the Authority.

SECTION 24. Section 20 of said chapter 15C, as so appearing, is hereby amended by striking out the first and second sentences and inserting in place thereof the following sentence:- The Authority shall keep an accurate account of all its activities and of all its receipts and expenditures and shall annually make a report thereof as of the end of its fiscal year to its members, to the governor and to the state auditor, such reports to be in a form prescribed by the members, with the written approval of said auditor.

SECTION 25. The second paragraph of section 22 of said chapter 15C, as so appearing, is hereby amended by striking out, in line 14, the word "financial" and inserting in place thereof the word:- financing.

SECTION 26. Said chapter 15C is hereby further amended by adding the following two sections:-

Section 27. Upon dissolution, liquidation or other termination of the Authority, all rights and properties of the Authority shall pass to and be vested in the commonwealth, subject to the rights of lienholders and other creditors. In addition, any net earnings of the Authority, beyond that necessary for retirement of any indebtedness or to implement the public purpose or purposes or program of the commonwealth, shall not inure to the benefit of any person other than the commonwealth.

Section 28. The provisions of this act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

SECTION 26A. Section 96 of chapter 140 of the General Laws,

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as most recently amended by section 1 of chapter 964 of the acts of 1980, is hereby amended by adding the following paragraph:-

The provisions of this section and of sections ninety-six A to one hundred fourteen, inclusive, shall not apply to loans to any student, or to any parent, legal guardian or sponsor of a student, made by any non-profit, public or independent post-secondary educational institution within the commonwealth authorized by law to grant degrees, by the commonwealth or by any agency or instrumentality thereof; provided, that such institutions may not take, receive, reserve, or charge interest, expenses and other consideration for making or securing a loan of six thousand dollars or less in excess of those permitted by section one hundred.

SECTION 27. Sections one to twelve, inclusive, of this act shall take effect as of July first, nineteen hundred and eighty-one.

Approved July 20, 1982.

Chap. 357. **AN ACT INCORPORATING CERTAIN RECURRING BUDGETARY PROVISIONS INTO THE GENERAL LAWS.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately incorporate certain recurring budgetary provisions into the General Laws, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience. _____

Be it enacted, etc., as follows:

SECTION 1. Section 28 of chapter 7 of the General Laws, as most recently amended by section 7 of chapter 767 of the acts of 1981, is hereby further amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

Subject to approval of the commissioner of administration and the governor, the said administrator shall make, and from time to time may amend, rules which shall regulate vacation leave, sick leave and other leave with pay and overtime compensation, maintenance charges, or payments in lieu thereof, travel and meals for persons traveling within or without the commonwealth, for permanent and temporary employees and for officers other than those exempted by such rules; provided, however, that