

105TH CONGRESS
1ST SESSION

H. R. 1435

To amend the Higher Education Act of 1965 to improve the access to and affordability of higher education, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 24, 1997

Mr. CLAY (for himself, Mr. MILLER of California, Mr. MARTINEZ, Mr. OWENS, Mr. PAYNE, Mr. ANDREWS, Mr. SCOTT, Mr. ROMERO-BARCELÓ, Mr. FATTAH, Mr. HINOJOSA, Mrs. MCCARTHY of New York, Mr. TIERNEY, Ms. SANCHEZ, Mr. FORD, Mr. KUCINICH, Mr. LEWIS of Georgia, Ms. WATERS, Mr. HILLIARD, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. RANGEL, Mr. STOKES, Mr. BISHOP, Ms. BROWN of Florida, Ms. CARSON, Mrs. CLAYTON, Mr. CLYBURN, Mr. CUMMINGS, Mr. DIXON, Mr. FLAKE, Ms. MCKINNEY, Mrs. MEEK of Florida, Ms. NORTON, Mr. RUSH, Mr. TOWNS, Mr. WYNN, Mr. SERRANO, Mr. DAVIS of Illinois, and Ms. CHRISTIAN-GREEN) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To amend the Higher Education Act of 1965 to improve the access to and affordability of higher education, 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,*

1 **SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CON-**
 2 **TENTS.**

3 (a) **SHORT TITLE.**—This Act may be cited as the
 4 “College Access and Affordability Act of 1997”.

5 (b) **REFERENCES.**—References in this Act to “the
 6 Act” shall refer to the Higher Education Act of 1965 (20
 7 U.S.C. 1001 et seq.).

8 (c) **TABLE OF CONTENTS.**—The table of contents for
 9 this Act is as follows:

- Sec. 1. Short title; references.
- Sec. 2. Pell grant extension.
- Sec. 3. Loan forgiveness.
- Sec. 4. Extension of exemption.
- Sec. 5. Cost-of-living increases for independent students.
- Sec. 6. Management and recovery of reserves.
- Sec. 7. Repayment terms.
- Sec. 8. Interest rates.
- Sec. 9. Lender and holder risk sharing.
- Sec. 10. Fees and insurance premiums.
- Sec. 11. Functions of guaranty agencies.
- Sec. 12. Repeal of State share of default costs.
- Sec. 13. Consolidation loans.
- Sec. 14. Contracts with other entities.
- Sec. 15. Eligible lender.
- Sec. 16. Special allowance.
- Sec. 17. Student loan marketing association offset fee.
- Sec. 18. Direct loan transition fee.
- Sec. 19. Funds for administrative expenses.
- Sec. 20. Extension of student aid programs.
- Sec. 21. Effective dates.

10 **SEC. 2. PELL GRANT EXTENSION.**

11 Section 401 of the Act (20 U.S.C. 1070a) is amend-
 12 ed—

13 (1) by striking paragraph (2)(A) of subsection
 14 (b) and inserting the following:

1 “(2)(A) The amount of the basic grant for a student
2 eligible under this part shall be—

3 “(i) \$3,300 for academic year 1998–1999,

4 “(ii) \$3,600 for academic year 1999–2000,

5 “(iii) \$3,900 for academic year 2000–2001,

6 “(iv) \$4,200 for academic year 2001–2002, and

7 “(v) \$4,500 for academic year 2002–2003,

8 less an amount equal to the amount determined to be the
9 expected family contribution with respect to that student
10 for that year.”;

11 (2) in paragraph (7) of such subsection, by
12 striking “the appropriate Appropriation Act for this
13 subpart for such year” and inserting “subsection
14 (g)”;

15 (3) by striking paragraph (3) of such subsection
16 and redesignating paragraphs (4) through (8) of
17 such subsection as paragraphs (3) through (7), re-
18 spectively;

19 (4) by striking subsections (g) and (h) and in-
20 serting the following:

21 “(g) AVAILABILITY OF FUNDS.—(1) Each fiscal year,
22 there shall be available to the Secretary of Education from
23 funds not otherwise appropriated, funds to be obligated
24 for the payment of grants under this part in the amounts
25 determined under this section, not to exceed (from such

1 funds not otherwise appropriated) \$8,581,000,000 in fis-
2 cal year 1998, \$9,882,000,000 in fiscal year 1999,
3 \$11,022,000,000 in fiscal year 2000, \$12,183,000,000 in
4 fiscal year 2001, and \$13,288,000,000 in fiscal year 2002.

5 “(2) If the amount made available under paragraph
6 (1) in a fiscal year is not sufficient to pay all grants under
7 this subpart in the amounts determined under this section,
8 the Secretary may make such reductions in awards as may
9 be necessary, by either a fixed or variable percentage re-
10 duction or by a fixed dollar reduction.”; and

11 (5) by redesignating subsection (i) as subsection
12 (h).

13 **SEC. 3. LOAN FORGIVENESS.**

14 (a) **GUARANTEED LOANS.**—Section 437 of the Act is
15 amended—

16 (1) in the section heading, by striking out the
17 period at the end thereof and inserting in lieu there-
18 of a semicolon and “**LOAN FORGIVENESS FOR**
19 **TEACHING**”;

20 (2) by amending the heading for subsection (c)
21 to read as follows: “**DISCHARGE RELATED TO**
22 **SCHOOL CLOSURE OR FALSE CERTIFICATION.**—”;
23 and

24 (3) by adding at the end thereof the following
25 new subsection:

1 “(e) CANCELLATION OF LOANS FOR TEACHING.—(1)
2 The Secretary shall discharge the liability of a borrower
3 of a loan made under section 428, 428H, or 428C (to the
4 extent that a loan made under section 428C repays a loan
5 made under section 428 or 428H) on or after the date
6 of enactment of the College Access and Affordability Act
7 of 1997, to students who have not previously borrowed
8 under any of such sections, by repaying the amount owed
9 on the loan, to the extent specified in paragraph (3), for
10 service described in paragraph (2).

11 “(2) A loan shall be discharged under paragraph (1)
12 for service by the borrower as a full-time teacher for 1
13 or more academic years in a public elementary or second-
14 ary school—

15 “(A)(i) in the school district of a local edu-
16 cational agency that is eligible in that academic year
17 for assistance under title I of the Elementary and
18 Secondary Education Act of 1965; and

19 “(ii) that, for that academic year, has been de-
20 termined by the Secretary to be a school in which
21 the enrollment of children counted under section
22 1124(e) of that Act exceeds 30 percent of the total
23 enrollment of that school; or

24 “(B) as a full-time teacher of mathematics,
25 science, foreign languages, bilingual education, or

1 any other field of expertise where the State edu-
2 cational agency determines to the satisfaction of the
3 Secretary that there is a shortage of qualified teach-
4 ers.

5 “(3)(A) Loans shall be discharged under subpara-
6 graph (A) at the rate of—

7 “(i) 15 percent for the first or second complete
8 academic year of service as described in subpara-
9 graph (B);

10 “(ii) 20 percent for the third or fourth complete
11 year of such service; and

12 “(iii) 30 percent for the fifth complete year of
13 such service.

14 “(B) If a portion of a loan is discharged under sub-
15 paragraph (A) for any year, the entire amount of interest
16 on that loan that accrues for that year shall also be dis-
17 charged by the Secretary.

18 “(C) Nothing in this section shall be construed to au-
19 thorize refunding of any repayment of a loan.

20 “(4) The amount of a loan, and interest on a loan,
21 that is canceled under this subsection shall not be consid-
22 ered income for purposes of the Internal Revenue Code
23 of 1986.

24 “(5) No borrower may, for the same volunteer serv-
25 ice, receive a benefit under both this subsection and sub-

1 title D of title I of the National and Community Service
2 Act of 1990 (42 U.S.C. 12571 et seq.).

3 “(6) The Secretary shall specify in regulations the
4 manner in which lenders shall be reimbursed for loans
5 made under this part, or portions thereof, that are dis-
6 charged under this subsection.

7 “(7) If the list of schools in which a teacher may per-
8 form service pursuant to paragraph (2) is not available
9 before May 1 of any year, the Secretary may use the list
10 for the year preceding the year for which the determina-
11 tion is made to make such service determination.

12 “(8) Any teacher who performs service in a school
13 which—

14 “(A) meets the requirements of paragraph (2)
15 in any year during such service; and

16 “(B) in a subsequent year fails to meet the re-
17 quirements of such subsection,

18 may continue to teach in such school and shall be eligible
19 for loan cancellation pursuant to paragraph (1) with re-
20 spect to such subsequent years.”.

21 (b) DIRECT LOANS.—Part D of title IV of the Act
22 is amended by inserting after section 458 (20 U.S.C.
23 1087h) the following new section:

1 **“SEC. 459. CANCELLATION OF LOANS FOR CERTAIN PUBLIC**
2 **SERVICE.**

3 “(a) CANCELLATION OF PERCENTAGE OF DEBT
4 BASED ON YEARS OF QUALIFYING SERVICE.—

5 “(1) IN GENERAL.—The percent specified in
6 paragraph (3) of the total amount of any loan made
7 under this part after the date of enactment of the
8 College Access and Affordability Act of 1997, to stu-
9 dents who have not previously borrowed under this
10 part, shall be canceled for each complete year of
11 service after such date by the borrower under cir-
12 cumstances described in paragraph (2).

13 “(2) QUALIFYING SERVICE.—Loans shall be
14 canceled under paragraph (1) for service by the bor-
15 rower as a full-time teacher for 1 or more academic
16 years in a public elementary or secondary school—

17 “(A)(i) in the school district of a local edu-
18 cational agency that is eligible in that academic
19 year for assistance under title I of the Elemen-
20 tary and Secondary Education Act of 1965; and

21 “(ii) that, for that academic year, has been
22 determined by the Secretary to be a school in
23 which the enrollment of children counted under
24 section 1124(c) of that Act exceeds 30 percent
25 of the total enrollment of that school; or

1 “(B) as a full-time teacher of mathematics,
2 science, foreign languages, bilingual education,
3 or any other field of expertise where the State
4 educational agency determines to the satisfac-
5 tion of the Secretary that there is a shortage of
6 qualified teachers.

7 “(3) PERCENTAGE OF CANCELLATION.—(A)
8 The percent of a loan which shall be canceled under
9 paragraph (1) of this subsection is—

10 “(i) at the rate of 15 percent for the first
11 or second year of such service,

12 “(ii) 20 percent for the third or fourth
13 year of such service, and

14 “(iii) 30 percent for the fifth year of such
15 service.

16 “(B) If a portion of a loan is canceled under
17 this subsection for any year, the entire amount of in-
18 terest on such loan which accrues for such year shall
19 be canceled.

20 “(C) Nothing in this section shall be construed
21 to authorize refunding of any repayment of a loan.

22 “(4) DEFINITION.—For the purpose of this sec-
23 tion, the term “year” where applied to service as a
24 teacher means an academic year as defined by the
25 Secretary.

1 “(5) TREATMENT OF CANCELED AMOUNTS.—
2 The amount of a loan, and interest on a loan, which
3 is canceled under this section shall not be considered
4 income for purposes of the Internal Revenue Code of
5 1986.

6 “(6) PREVENTION OF DOUBLE BENEFITS.—No
7 borrower may, for the same volunteer service, receive
8 a benefit under both this section and subtitle D of
9 title I of the National and Community Service Act
10 of 1990 (42 U.S.C. 12571 et seq.).

11 “(b) SPECIAL RULES.—

12 “(1) LIST.—If the list of schools in which a
13 teacher may perform service pursuant to subsection
14 (a)(2)(A) is not available before May 1 of any year,
15 the Secretary may use the list for the year preceding
16 the year for which the determination is made to
17 make such service determination.

18 “(2) CONTINUING ELIGIBILITY.—Any teacher
19 who performs service in a school which—

20 “(A) meets the requirements of subsection
21 (a)(2)(A) in any year during such service; and

22 “(B) in a subsequent year fails to meet the
23 requirements of such subsection,

1 may continue to teach in such school and shall be
2 eligible for loan cancellation pursuant to subsection
3 (a)(1) with respect to such subsequent years.”.

4 **SEC. 4. EXTENSION OF EXEMPTION.**

5 Section 435(a) of the Act (20 U.S.C. 1085(a)) is
6 amended—

7 (1) in paragraph (2)(C), by striking “July 1,
8 1998” and inserting “October 1, 2002”;

9 (2) by redesignating paragraph (3) as para-
10 graph (4); and

11 (3) by inserting after paragraph (2) the follow-
12 ing new paragraph:

13 “(3) EXEMPTION FROM RELATED ADMINISTRA-
14 TIVE ACTIONS.—An institution that is exempt from
15 the cohort default rate trigger under paragraph
16 (2)(C) shall also be exempt from administrative ac-
17 tion by the Secretary based solely on such institu-
18 tion’s cohort default rate under sections 668.16(m),
19 668.17(a)(2), and 668.17(a)(3) of title 34 of the
20 Code of Federal Regulations.”.

21 **SEC. 5. ADJUSTMENTS IN NEED ANALYSIS.**

22 (a) STATUTORY ADJUSTMENT IN INCOME PROTEC-
23 TION ALLOWANCE.—

24 (1) DEPENDENT STUDENTS.—Section
25 475(g)(2)(D) of the Act (20 U.S.C.

1 1087oo(g)(2)(D)) is amended by striking “\$1,750”
2 and inserting “\$4,200”.

3 (2) INDEPENDENT STUDENTS WITHOUT DE-
4 PENDENTS (OTHER THAN A SPOUSE).—Section
5 476(b)(1)(A)(iv) of such Act (20 U.S.C.
6 1087pp(b)(1)(A)(iv))is amended—

7 (A) by striking “allowance of—” and in-
8 serting “allowance of the following amount (or
9 a successor amount prescribed by the Secretary
10 under section 478)”;

11 (B) by striking “\$3,000” each place it ap-
12 pears in subclauses (I) and (II) and inserting
13 “\$6,000”; and

14 (C) by striking “\$6,000” in subclause (III)
15 and inserting “\$9,000”.

16 (b) ADMINISTRATIVE ADJUSTMENTS IN INCOME
17 PROTECTION ALLOWANCE.—Section 478(b) of such Act
18 (20 U.S.C. 1087rr(b)) is amended—

19 (1) by striking “For each academic year” and
20 inserting the following:

21 “(1) REVISED TABLES.—For each academic
22 year”; and

23 (2) by adding at the end the following new
24 paragraph:

1 “(2) REVISED AMOUNTS.—For each academic
2 year after academic year 1997–1998, the Secretary
3 shall publish in the Federal Register revised income
4 protection allowances for the purpose of sections
5 475(g)(2)(D) and 476(b)(1)(A)(iv). Such revised al-
6 lowances shall be developed by increasing each of the
7 dollar amounts contained in such section by a per-
8 centage equal to the estimated percentage increase
9 in the Consumer Price Index (as determined by the
10 Secretary) between December 1996 and the Decem-
11 ber next preceding the beginning of such academic
12 year, and rounding the result to the nearest \$10.”.

13 **SEC. 6. MANAGEMENT AND RECOVERY OF RESERVES.**

14 Section 422 of the Act is amended—

15 (1) by amending subsection (g)(1) to read as
16 follows:

17 “(1) AUTHORITY TO RECOVER FUNDS.—(A)
18 Notwithstanding any other provision of law, the re-
19 serve funds of the guaranty agencies, and any assets
20 purchased or developed with such reserve funds, re-
21 gardless of who holds or controls the reserves or as-
22 sets, shall remain the property of the United States.

23 “(B) The Secretary may direct the guaranty
24 agency to require the return, to the guaranty agency
25 or to the Secretary, of any reserve funds or assets

1 held by, or under the control of, any other entity,
2 that the Secretary determines are required—

3 “(i) to pay the program expenses and con-
4 tingent liabilities of the guaranty agency;

5 “(ii) to satisfy the guaranty agency’s re-
6 quirements under subsection (h); or

7 “(iii) for the orderly termination of the
8 guaranty agency’s operations and the liquida-
9 tion of its assets.

10 “(C) The Secretary may direct a guaranty
11 agency, or such agency’s officers or directors, to
12 cease any activity involving expenditure, use, or
13 transfer of the guaranty agency’s reserve funds or
14 assets that the Secretary determines is a
15 misapplication, misuse, or improper expenditure of
16 such funds or assets.”; and

17 (2) by adding after subsection (g) the following
18 new subsections:

19 “(h) RECALL OF RESERVES IN FISCAL YEARS 1998
20 THROUGH 2002; LIMITATIONS ON USE OF RESERVE
21 FUNDS AND ASSETS.—(1)(A) Notwithstanding any other
22 provision of law, the Secretary shall, except as otherwise
23 provided in this subsection, recall from the reserve funds
24 held by guaranty agencies (which for purposes of this sub-

1 section shall include any reserve funds held by, or under
2 the control of, any other entity) not less than—

3 “(i) \$731,000,000 in fiscal year 1998;

4 “(ii) \$127,000,000 in fiscal year 1999;

5 “(iii) \$186,000,000 in each of the fiscal years
6 2000 and 2001; and

7 “(iv) \$1,271,000,000 in fiscal year 2002.

8 “(B) Funds returned to the Secretary under this sub-
9 section shall be deposited in the Treasury.

10 “(C) The Secretary shall require each guaranty agen-
11 cy to return reserve funds under subparagraph (A) based
12 on its proportionate share, as determined by the Sec-
13 retary, of all reserve funds held by guaranty agencies as
14 of September 30, 1996.

15 “(2)(A) Within 45 days of enactment of this sub-
16 section, all reserve funds held by a guaranty agency that
17 have not yet been recalled by the Secretary under para-
18 graph (1) shall be transferred by the guaranty agency to
19 a restricted account (of a type specified by the Secretary)
20 established by the guaranty agency, and be invested in
21 United States Government securities specified by the Sec-
22 retary. The manner and timeframe in which reserve funds
23 so invested are recalled shall be specified by the Secretary,
24 consistent with the requirements of this subsection. Ex-
25 cept as described in subparagraph (B), the guaranty agen-

1 cy shall not use the reserve funds in such account, which
2 shall include the earnings thereon, for any purpose with-
3 out the express permission of the Secretary.

4 “(B)(i) In order to assist guaranty agencies in meet-
5 ing program expenses, the Secretary shall permit the use
6 of not more than an aggregate of \$350,000,000 of the
7 reserve funds held in the restricted accounts described in
8 subparagraph (A) by guaranty agencies with agreements
9 under section 428(c), as working capital to be used for
10 such purposes as the Secretary may specify. The Secretary
11 shall specify the amount of reserve funds in each guaranty
12 agency’s restricted account that may be used as working
13 capital, based on the guaranty agency’s proportionate
14 share of all borrower accounts outstanding on September
15 30, 1996. The guaranty agency shall repay such amount
16 to its restricted account (or return such amount to the
17 Treasury, if so directed by the Secretary) by no later than
18 September 30, 2002, or the date on which such agency’s
19 agreement under section 428(c) ends (through resigna-
20 tion, expiration, or termination), whichever is earlier.

21 “(ii) The guaranty agency may use the earnings from
22 its restricted account for fiscal year 1998 to assist in
23 meeting its operational expenses for such year.

24 “(C) Nonliquid reserve fund assets, such as buildings
25 and equipment purchased or developed by the guaranty

1 agency with reserve funds, and any liquid assets remaining
2 in a guaranty agency's restricted account after the recalls
3 in paragraph (1)(A), shall—

4 “(i) remain the property of the United States;

5 “(ii) be used only for such purposes as the Sec-
6 retary determines are appropriate; and

7 “(iii) be subject to recall by the Secretary no
8 later than the date on which such agency's agree-
9 ment under section 428(c) ends (through resigna-
10 tion, expiration, or termination, as the case may
11 be).”.

12 **SEC. 7. REPAYMENT TERMS.**

13 (a) INSURED LOANS.—Section 427 of the Act is
14 amended—

15 (1) in subsection (a)(2)—

16 (A) in subparagraph (B), in the matter
17 preceding clause (i), by striking “over a period”
18 through “nor more than 10 years” and insert-
19 ing “in accordance with the repayment plan se-
20 lected under subsection (d),”;

21 (B) in subparagraph (C), at the end of the
22 subparagraph, by striking out “the 10-year pe-
23 riod described in subparagraph (B);” and in-
24 serting the following: “the length of the repay-

1 ment period under a repayment plan described
2 in subsection (d);”;

3 (C) by striking subparagraph (F);

4 (D) by redesignating subparagraphs (G),
5 (H), and (I) as subparagraphs (F), (G), and
6 (H), respectively; and

7 (E) in subparagraph (G) (as redesignated
8 by subparagraph (D)), by striking “the option”
9 through the end of the subparagraph and in-
10 serting “the repayment options described in
11 subsection (d); and”;

12 (2) in subsection (c), by striking “in subsection
13 (a)(2)(H),” and inserting the following: “by a repay-
14 ment plan selected by the borrower under subpara-
15 graph (C) or (D) of subsection (d)(1),”; and

16 (3) by adding after subsection (c) the following
17 new subsection:

18 “(d) REPAYMENT PLANS.—

19 “(1) DESIGN AND SELECTION.—In accordance
20 with regulations of the Secretary, the lender shall
21 offer a borrower of a loan made under this part the
22 plans described in this subsection for repayment of
23 such loan, including principal and interest thereon.
24 No plan may require a borrower to repay a loan in
25 less than 5 years. The borrower may choose from—

1 “(A) a standard repayment plan, with a
2 fixed annual repayment amount paid over a
3 fixed period of time, not to exceed 10 years;

4 “(B) an extended repayment plan, with a
5 fixed annual repayment amount paid over an
6 extended period of time, not to exceed 30 years,
7 except that the borrower shall repay annually a
8 minimum amount determined in accordance
9 with subsection (c);

10 “(C) a graduated repayment plan, with an-
11 nual repayment amounts established at 2 or
12 more graduated levels and paid over an ex-
13 tended period of time, not to exceed 30 years,
14 except that the borrower’s scheduled payments
15 shall not be less than 50 percent, nor more
16 than 150 percent, of what the amortized pay-
17 ment on the amount owed would be if the loan
18 were repaid under the standard repayment
19 plan; and

20 “(D) an income-sensitive repayment plan,
21 with income-sensitive repayment amounts paid
22 over a fixed period of time, not to exceed 10
23 years.

24 “(2) LENDER SELECTION OF OPTION IF BOR-
25 ROWER DOES NOT SELECT.—If a borrower of a loan

1 made under this part does not select a repayment
2 plan described in paragraph (1), the lender shall
3 provide the borrower with a repayment plan de-
4 scribed in paragraph (1)(A).

5 “(3) CHANGES IN SELECTIONS.—The borrower
6 of a loan made under this part may change the bor-
7 rower’s selection of a repayment plan under para-
8 graph (1), or the lender’s selection of a plan for the
9 borrower under paragraph (2), as the case may be,
10 under such conditions as may be prescribed by the
11 Secretary in regulation.

12 “(4) ACCELERATION PERMITTED.—Under any
13 of the plans described in this subsection, the bor-
14 rower shall be entitled to accelerate, without penalty,
15 repayment on the borrower’s loans under this part.”.

16 (b) GUARANTEED LOANS.—Section 428(b) of the Act
17 is amended—

18 (1) in paragraph (1)—

19 (A) in subparagraph (D), by striking
20 clauses (i) and (ii) and the clause designation
21 “(iii)”;

22 (B) in subparagraph (E)—

23 (i) in clause (i)—

1 (I) by striking “or section
2 428A,” and inserting “or section
3 428H,”; and

4 (II) by striking “the option”
5 through the end of the clause and in-
6 serting “the repayment options de-
7 scribed in paragraph (9); and”; and
8 (ii) in clause (ii)—

9 (I) by striking “over a period”
10 through “nor more than 10 years”
11 and inserting “in accordance with the
12 repayment plan selected under para-
13 graph (9), and”; and

14 (II) by striking “of this sub-
15 section;” at the end of clause (ii) and
16 inserting a semicolon; and

17 (C) in subparagraph (L)(i), by inserting
18 after the clause designation the following: “ex-
19 cept as otherwise provided by a repayment plan
20 selected by the borrower under paragraph
21 (9)(A)(iii) or (iv),”; and

22 (2) by adding after paragraph (8) the following
23 new paragraph:

24 “(9) REPAYMENT PLANS.—

1 “(A) DESIGN AND SELECTION.—In accord-
2 ance with regulations of the Secretary, the lend-
3 er shall offer a borrower of a loan made under
4 this part the plans described in this subpara-
5 graph for repayment of such loan, including
6 principal and interest thereon. No plan may re-
7 quire a borrower to repay a loan in less than
8 5 years. The borrower may choose from—

9 “(i) a standard repayment plan, with
10 a fixed annual repayment amount paid
11 over a fixed period of time, not to exceed
12 10 years;

13 “(ii) an extended repayment plan,
14 with a fixed annual repayment amount
15 paid over an extended period of time, not
16 to exceed 30 years, except that the bor-
17 rower shall repay annually a minimum
18 amount determined in accordance with
19 paragraph (2)(L);

20 “(iii) a graduated repayment plan,
21 with annual repayment amounts estab-
22 lished at 2 or more graduated levels and
23 paid over an extended period of time, not
24 to exceed 30 years, except that the borrow-
25 er’s scheduled payments shall not be less

1 than 50 percent, nor more than 150 per-
2 cent, of what the amortized payment on
3 the amount owed would be if the loan were
4 repaid under the standard repayment plan;
5 and

6 “(iv) an income-sensitive repayment
7 plan, with income-sensitive repayment
8 amounts paid over a fixed period of time,
9 not to exceed 10 years.

10 “(B) LENDER SELECTION OF OPTION IF
11 BORROWER DOES NOT SELECT.—If a borrower
12 of a loan made under this part does not select
13 a repayment plan described in subparagraph
14 (A), the lender shall provide the borrower with
15 a repayment plan described in subparagraph
16 (A)(i).

17 “(C) CHANGES IN SELECTIONS.—The bor-
18 rower of a loan made under this part may
19 change the borrower’s selection of a repayment
20 plan under subparagraph (A), or the lender’s
21 selection of a plan for the borrower under sub-
22 paragraph (B), as the case may be, under such
23 conditions as may be prescribed by the Sec-
24 retary in regulation.

1 “(D) ACCELERATION PERMITTED.—Under
2 any of the plans described in this paragraph,
3 the borrower shall be entitled to accelerate,
4 without penalty, repayment on the borrower’s
5 loans under this part.

6 “(E) COMPARABLE FFEL AND DIRECT
7 LOAN REPAYMENT PLANS.—The Secretary shall
8 ensure that the repayment plans offered to bor-
9 rowers under this part are comparable, to the
10 extent practicable and not otherwise provided in
11 statute, to the repayment plans offered under
12 part D.”.

13 (c) CONSOLIDATION LOANS.—Section 428C of the
14 Act is amended—

15 (1) in subsection (b)(3)(F), by striking “alter-
16 native”; and

17 (2) in subsection (c) by amending paragraph
18 (2) to read as follows:

19 “(2) REPAYMENT PLANS.—

20 “(A) DESIGN AND SELECTION.—In accord-
21 ance with regulations of the Secretary, the lend-
22 er shall offer a borrower of a loan made under
23 this section the plans described in this para-
24 graph for repayment of such loan, including
25 principal and interest thereon. No plan may re-

1 quire a borrower to repay a loan in less than
2 5 years. The borrower may choose from—

3 “(i) a standard repayment plan, with
4 a fixed annual repayment amount paid
5 over a fixed period of time, not to exceed
6 10 years;

7 “(ii) an extended repayment plan,
8 with a fixed annual repayment amount
9 paid over an extended period of time, not
10 to exceed 30 years, except that the bor-
11 rower shall repay annually a minimum
12 amount determined in accordance with
13 paragraph (3);

14 “(iii) a graduated repayment plan,
15 with annual repayment amounts estab-
16 lished at 2 or more graduated levels and
17 paid over an extended period of time, not
18 to exceed 30 years, except that the borrow-
19 er’s scheduled payments shall not be less
20 than 50 percent, nor more than 150 per-
21 cent, of what the amortized payment on
22 the amount owed would be if the loan were
23 repaid under the standard repayment plan;
24 and

1 “(iv) an income-sensitive repayment
2 plan, with income-sensitive repayment
3 amounts paid over a fixed period of time,
4 not to exceed 10 years.

5 “(B) LENDER SELECTION OF OPTION IF
6 BORROWER DOES NOT SELECT.—If a borrower
7 of a loan made under this section does not se-
8 lect a repayment plan described in subpara-
9 graph (A), the lender shall provide the borrower
10 with a repayment plan described in subpara-
11 graph (A)(i).

12 “(C) CHANGES IN SELECTIONS.—The bor-
13 rower of a loan made under this section may
14 change the borrower’s selection of a repayment
15 plan under subparagraph (A), or the lender’s
16 selection of a plan for the borrower under sub-
17 paragraph (B), as the case may be, under such
18 conditions as may be prescribed by the Sec-
19 retary in regulation.”.

20 (d) DIRECT LOANS.—Section 455(d) of the Act is
21 amended—

22 (1) in paragraph (1)—

23 (A) in subparagraph (B), by inserting after
24 “an extended period of time,” the following:
25 “not to exceed 30 years,”; and

1 (B) in subparagraph (C), by striking “a
2 fixed or extended period of time,” and inserting
3 the following: “an extended period of time, not
4 to exceed 30 years,”; and

5 (2) in paragraph (2), by striking “subpara-
6 graph (A), (B), or (C) of paragraph (1).” and in-
7 serting “paragraph (1)(A).”.

8 **SEC. 8. INTEREST RATES.**

9 (a) **GUARANTEED LOANS.**—Section 427A of the Act
10 is amended—

11 (1) in subsection (g)(2)—

12 (A) by inserting after the paragraph head-
13 ing the subparagraph designation “(A)”;

14 (B) by redesignating subparagraphs (A)
15 and (B) as clauses (i) and (ii), respectively;

16 (C) by striking “paragraph (1),” and in-
17 serting “paragraph (1), and except as provided
18 in subparagraph (B),”; and

19 (D) by adding after subparagraph (A) (as
20 redesignated by subparagraph (A)) the follow-
21 ing new subparagraph:

22 “(B) In the case of loans made or insured
23 under section 428 or 428H for which the first dis-
24 bursement is made on or after October 1, 1997, for
25 purposes of paragraph (1), the rate determined

1 under this paragraph shall, during any 12-month pe-
2 riod beginning on July 1 and ending on June 30, be
3 determined on the preceding June 1 and be equal to
4 the bond equivalent rate of the securities with a
5 comparable maturity, as established by the Sec-
6 retary, except that such rate shall not exceed 8.25
7 percent.”;

8 (2) in subsection (h)—

9 (A) in the heading thereof, by striking
10 “JULY 1, 1998.—” and inserting “OCTOBER 1,
11 1997.—”;

12 (B) in paragraph (1)—

13 (i) by striking “(f), and (g)” and in-
14 serting “and (f),”; and

15 (ii) by striking “July 1, 1998,” and
16 inserting “October 1, 1997,”; and

17 (C) in paragraph (2)—

18 (i) in the heading, by striking “JULY
19 1, 1998.—” and inserting “OCTOBER 1,
20 1997.—”; and

21 (ii) by striking “July 1, 1998,” and
22 inserting “October 1, 1997,”; and

23 (3) in subsection (i)(7)(B), by adding at the
24 end the following: “Notwithstanding any other provi-
25 sion of law, the interest rate determined under this

1 subparagraph shall be used solely to determine the
2 rebate of excess interest required by this paragraph
3 and shall not be used to calculate or pay special al-
4 lowances under section 438.”.

5 (b) DIRECT LOANS.—Section 455(b) of the Act is
6 amended—

7 (1) in paragraph (2)(B)—

8 (A) by redesignating clauses (i) and (ii) as
9 subclauses (I) and (II), respectively;

10 (B) by inserting after the subparagraph
11 heading the clause designation “(i)”;

12 (C) by striking “subparagraph (A),” and
13 inserting “subparagraph (A) and except as pro-
14 vided in clause (ii),”; and

15 (D) by adding after clause (i) (as redesign-
16 ated by subparagraph (B)) the following new
17 clause:

18 “(ii) In the case of Federal Direct Stafford/
19 Ford Loans or Federal Direct Unsubsidized Staf-
20 ford/Ford Loans for which the first disbursement is
21 made on or after October 1, 1997, for purposes of
22 subparagraph (A), the rate determined under this
23 subparagraph shall, during any 12-month period be-
24 ginning on July 1 and ending on June 30, be deter-
25 mined on the preceding June 1 and be equal to the

1 bond equivalent rate of the securities with a com-
2 parable maturity, as established by the Secretary,
3 except that such rate shall not exceed 8.25 per-
4 cent.”;

5 (2) in paragraph (3)—

6 (A) by striking “and (2),” and inserting “,
7 and except as provided in paragraph (2),”; and

8 (B) by striking “made on or after July 1,
9 1998,” and inserting “for which the first dis-
10 bursement is made on or after October 1,
11 1997,”; and

12 (3) in paragraph (4)(B), by striking “July 1,
13 1998,” and inserting “October 1, 1997.”.

14 **SEC. 9. LENDER AND HOLDER RISK SHARING.**

15 Section 428(b)(1)(G) of the Act is amended by strik-
16 ing “not less than 98 percent” and inserting “95 percent”.

17 **SEC. 10. FEES AND INSURANCE PREMIUMS.**

18 (a) INSURANCE PREMIUMS.—

19 (1) IN GENERAL.—Section 428(b)(1)(H) of the
20 Act is amended—

21 (A) by inserting the clause designation
22 “(i)” following the subparagraph designation;

23 (B) by striking “the loan,” and inserting
24 “any loan made under section 428 or 428B be-
25 fore July 1, 1998,”; and

1 (C) after clause (i) (as redesignated by
2 paragraph (1)), by adding “and” and the fol-
3 lowing new clause:

4 “(ii) provides that no insurance premiums
5 shall be charged to the borrower of any loan
6 made under section 428 or 428B on or after
7 July 1, 1998;”.

8 (2) UNSUBSIDIZED LOANS.—Section 428H(h)
9 of the Act is amended—

10 (A) by inserting the paragraph designation
11 “(1)” following the subsection heading;

12 (B) by striking “under this section” and
13 inserting “of a loan made under this section
14 made before July 1, 1998”; and

15 (C) by adding at the end of paragraph (1)
16 (as redesignated by paragraph (1)) the follow-
17 ing new paragraph:

18 “(2) No insurance premium may be charged to the
19 borrower on any loan made under this section made on
20 or after July 1, 1998.”.

21 (b) ORIGINATION FEES.—

22 (1) GUARANTEED LOANS.—Section 438(c) of
23 the Act is amended—

1 (A) in paragraph (2), by striking “para-
2 graph (6)” and inserting “paragraphs (6) and
3 (8)”; and

4 (B) by adding after paragraph (7) the fol-
5 lowing new paragraph:

6 “(8) PHASEOUT OF ORIGINATION FEE ON SUB-
7 SIDIZED LOANS.—In the case of any loan made or
8 insured under section 428, paragraph (2) shall be
9 applied by substituting—

10 “(A) ‘2.0 percent’ for ‘3.0 percent’ with re-
11 spect to such a loan made or insured on or
12 after July 1, 1998, and before January 1,
13 2000,

14 “(B) ‘1.0 percent’ for ‘3.0 percent’ with re-
15 spect to such a loan made or insured during
16 calendar year 2000 or 2001, and

17 “(C) ‘0.0 percent’ for ‘3.0 percent’ with re-
18 spect to such a loan made or insured on or
19 after January 1, 2002.”.

20 (2) DIRECT LOANS.—Section 455(c) of the Act
21 is amended—

22 (A) by striking “The Secretary” and in-
23 serting “(1) For loans made under this part be-
24 fore July 1, 1998, the Secretary”;

1 (B) by striking “of a loan made under this
2 part”; and

3 (C) by adding at the end thereof the fol-
4 lowing new paragraphs:

5 “(2) For loans made under this part on or after July
6 1, 1998, and before January 1, 2002, the Secretary shall
7 charge the borrower an origination fee of—

8 “(A) in the case of Federal Direct Stafford/
9 Ford Loans—

10 “(i) 2.0 percent of the principal amount of
11 the loan in the case of loans made on or after
12 July 1, 1998, and before January 1, 2000, and

13 “(ii) 1.0 percent of the principal amount of
14 the loan in the case of loans made during cal-
15 endar year 2000 or 2001; and

16 “(B) in the case of Federal Direct Unsubsidized
17 Stafford/Ford Loans or Federal Direct PLUS
18 Loans—

19 “(i) 3.0 percent of the principal amount of
20 the loan in the case of loans made on or after
21 July 1, 1998, and before January 1, 2000,

22 “(ii) 2.0 percent of the principal amount of
23 the loan in the case of loans made during cal-
24 endar year 2000, and

1 “(iii) 1.0 percent of the principal amount
2 of the loan in the case of loans made during
3 calendar year 2001.

4 “(3) The Secretary shall not charge the borrower an
5 origination fee on any loan made under this part on or
6 after January 1, 2002.”.

7 **SEC. 11. FUNCTIONS OF GUARANTY AGENCIES.**

8 (a) Section 428 of the Act is further amended—

9 (1) in subsection (a)—

10 (A) in paragraph (1)(B)—

11 (i) in the matter preceding clause (i),
12 by striking “which is insured” and insert-
13 ing “which, before October 1, 1997, is”;
14 and

15 (ii) in clause (ii), by inserting “as in
16 effect the day before the day of enactment
17 of this section,” after “subsection (b),”;
18 and

19 (B) in paragraph (3)—

20 (i) by striking subparagraph (B); and

21 (ii) in subparagraph (A)—

22 (I) in clause (ii), by striking
23 “under any” through the end of the
24 clause and inserting a period;

1 (II) by striking the subparagraph
2 designation “(A)”;

3 (III) by redesignating clauses (i)
4 and (ii) as subparagraphs (A) and
5 (B), respectively; and

6 (IV) by redesignating subclauses
7 (I) and (II) as clauses (i) and (ii), re-
8 spectively;

9 (2) in subsection (b)—

10 (A) by amending the heading to read
11 as follows: “REQUIREMENTS TO QUALIFY
12 LOANS FOR INSURANCE AND INTEREST
13 SUBSIDIES.—”;

14 (B) in paragraph (1)—

15 (i) by amending the heading to read
16 as follows: “REQUIREMENTS.—”;

17 (ii) by amending the matter preceding
18 subparagraph (A) to read as follows: “A
19 loan by an eligible lender shall be insurable
20 by the Secretary, and students who receive
21 such loans shall be entitled to have made
22 on their behalf the payments provided for
23 in subsection (a), under a program of stu-
24 dent loan insurance that—”;

1 (iii) by amending subparagraph (K) to
2 read as follows:

3 “(K) provides that the holder of any such
4 loan will be required to submit to the Secretary,
5 at such time or times and in such manner as
6 the Secretary may prescribe, statements con-
7 taining such information as may be required by
8 regulation for the purpose of enabling the Sec-
9 retary to determine the amount of the payment
10 which must be made with respect to that loan;”;

11 (iv) by amending subparagraph (O) to
12 read as follows:

13 “(O) provides that, if the sale, assignment,
14 or other transfer of a loan made under this part
15 to another holder will result in a change in the
16 identity of the party to whom the borrower
17 must send subsequent payments or direct any
18 communications concerning the loans, then—

19 “(i) the transferor and the transferee
20 shall be required, not later than 45 days
21 from the date the transferee acquires a le-
22 gally enforceable right to receive payment
23 from the borrower on such loan, either
24 jointly or separately to provide a notice to
25 the borrower of—

1 “(I) the sale, assignment, or
2 other transfer;

3 “(II) the identity of the trans-
4 feree;

5 “(III) the name and address of
6 the party to whom subsequent pay-
7 ments or communications must be
8 sent; and

9 “(IV) the telephone numbers of
10 both the transferor and the trans-
11 feree; and

12 “(ii) the transferee shall be required
13 to notify the Secretary, and, upon the re-
14 quest of an institution of higher education,
15 the Secretary shall notify the last such in-
16 stitution the student attended prior to the
17 beginning of the repayment period of any
18 loan made under this part, of—

19 “(I) any sale, assignment, or
20 other transfer of the loan; and

21 “(II) the address and telephone
22 number by which contact may be
23 made with the new holder concerning
24 repayment of the loan;

1 except that this subparagraph shall apply
2 only if the borrower is in the grace period
3 described in section 427(a)(2)(B) or
4 428(b)(7) or is in repayment status.”;

5 (v) in subparagraph (Q), by striking
6 “guarantee” and “428A” and inserting
7 “insurance” and “428H”, respectively;

8 (vi) by amending subparagraph (R) to
9 read as follows:

10 “(R) provides for the making of such re-
11 ports, in such form and containing such infor-
12 mation, including financial information, as the
13 Secretary may reasonably require to carry out
14 the Secretary’s functions under this part and
15 protect the financial interest of the United
16 States, and for keeping such records and for af-
17 fording such access thereto as the Secretary
18 may find necessary to ensure the correctness
19 and verification of such reports;”;

20 (vii) by amending subparagraph (S) to
21 read as follows:

22 “(S) provides that a lender shall pay a de-
23 fault prevention fee in accordance with sub-
24 section (g);”;

25 (viii) in subparagraph (T)—

1 (I) in clause (i), by inserting “,
2 by the guaranty agency, in accordance
3 with regulations prescribed by the
4 Secretary,” after “limitation”; and

5 (II) in clause (ii)—

6 (aa) in the matter preceding
7 subclause (I), by inserting “, in
8 accordance with regulations pre-
9 scribed by the Secretary,” after
10 “institution”;

11 (bb) by striking subclauses
12 (I) and (II); and

13 (cc) by redesignating sub-
14 clauses (III), (IV), and (V) as
15 subclauses (I), (II), and (III), re-
16 spectively;

17 (ix) by amending subparagraph (U) to
18 read as follows:

19 “(U) provides—

20 “(i) for such additional criteria con-
21 cerning the eligibility of lenders described
22 in section 435(d)(1) as may be permitted
23 by the Secretary; and

24 “(ii) an assurance that the guaranty
25 agency will report to the Secretary con-

1 cerning changes in criteria under clause
2 (i), including any procedures in effect
3 under such program to take emergency ac-
4 tion, limit, suspend, or terminate lenders;
5 and”;

6 (x) by striking subparagraphs (V),
7 (W), and (X);

8 (C) by amending paragraph (2) to read as
9 follows:

10 “(2) SKIP-TRACING REQUIREMENT.—In the
11 case of a default claim based on an inability to lo-
12 cate the borrower, a lender shall certify to the Sec-
13 retary, at the time of submission of the default
14 claim, that diligent attempts have been made to lo-
15 cate the borrower through the use of reasonable
16 skip-tracing techniques in accordance with regula-
17 tions prescribed by the Secretary.”;

18 (D) in paragraph (3)(B), by striking the
19 parenthetical through the end of the subpara-
20 graph and inserting a period; and

21 (E) by striking out paragraph (5) and in-
22 serting in lieu thereof the following new para-
23 graph:

24 “(5) COMPLIANCE AUDITS.—(A) Except as pro-
25 vided in subparagraph (B) or by the Single Audit

1 Act Amendments of 1996, an eligible lender that
2 originates or holds more than \$5,000,000 in loans
3 made under this title during an annual audit period
4 shall submit to the Secretary a compliance audit for
5 that audit period which is conducted by a qualified,
6 independent organization or person in accordance
7 with the Government Auditing Standards issued by
8 the Comptroller General, and the regulations of the
9 Secretary.

10 “(B) The Secretary may permit a lender to sub-
11 mit the results of an audit conducted for other pur-
12 poses if the Secretary determines that such other
13 audit results provide the same information as re-
14 quired under subparagraph (A).”;

15 (3) in subsection (c)—

16 (A) by amending the heading to read as
17 follows: “AGREEMENTS WITH GUARANTY
18 AGENCIES.—”

19 (B) in paragraph (3)—

20 (i) in the matter preceding subpara-
21 graph (A), by striking “A guaranty agree-
22 ment” and inserting “An agreement be-
23 tween the Secretary and a guaranty agen-
24 cy”;

1 (ii) in the flush left language at the
2 end of the paragraph, by striking “Guar-
3 anty agencies” and inserting “The Sec-
4 retary”; and

5 (iii) by redesignating paragraph (3) as
6 paragraph (11);

7 (C) by striking paragraphs (1), (2), (4),
8 and (5);

9 (D) by inserting after the subsection head-
10 ing the following new paragraphs:

11 “(1) AUTHORITY TO ENTER INTO AGREE-
12 MENTS.—(A)(i) The Secretary may enter into an
13 agreement with a guaranty agency, under which the
14 Secretary shall insure loans made under this section
15 through the guaranty agency as the agent of the
16 Secretary.

17 “(ii) Any guaranty agency that had an agree-
18 ment with the Secretary under section 428(b) as of
19 the day before the date of enactment of the College
20 Access and Affordability Act of 1997 may enter into
21 an initial agreement with the Secretary under this
22 subsection.

23 “(iii) An agreement under this subsection shall
24 be 5 years in duration, and may be renewed by the
25 Secretary for successive 5-year periods.

1 “(iv) The Secretary may terminate the agree-
2 ment prior to its expiration in accordance with para-
3 graph (9).

4 “(2) EFFECT ON PRIOR GUARANTY AGREE-
5 MENTS AND LOAN INSURANCE BY GUARANTY AGEN-
6 CIES.—(A) All guaranty agreements made under
7 this subsection as it was in effect on the day before
8 the date of enactment of the College Access and Af-
9 fordability Act of 1997 shall terminate not later
10 than 180 days after the date of enactment of that
11 Act.

12 “(B) Notwithstanding any other provision of
13 law—

14 “(i) to the extent that a guaranty agency
15 had insured loans under this part, loan insur-
16 ance by such guaranty agency that is outstand-
17 ing as of the date of the termination under sub-
18 paragraph (A) shall be replaced on such date by
19 loan insurance issued by the Secretary, and the
20 guaranty agency shall be relieved of any further
21 liability thereon;

22 “(ii) the Secretary’s liability for any out-
23 standing liabilities of a guaranty agency (other
24 than outstanding loan insurance under this
25 part), shall not exceed the fair market value of

1 the unrestricted funds of the guaranty agency,
2 which shall consist of—

3 “(I) all accumulated earnings not oth-
4 erwise placed in a restricted account in ac-
5 cordance with section 422(h)(2)(A); and

6 “(II) any working capital that may be
7 provided under section 422(h)(2)(B); and

8 “(iii) for the first year after the date of en-
9 actment of the College Access and Affordability
10 Act of 1997, the Secretary may specify such in-
11 terim administrative measures as the Secretary
12 determines to be necessary for the efficient
13 transfer of the loan insurance function, and to
14 carry out the purposes of this part.

15 “(3) TERMS OF AGREEMENT.—The agreement
16 between the Secretary and a guaranty agency shall
17 include, but not be limited to—

18 “(A) provisions regarding the responsibil-
19 ities of the guaranty agency for—

20 “(i) administering the issuance of in-
21 surance on loans made under this section
22 on behalf of the Secretary;

23 “(ii) monitoring insurance commit-
24 ments made under this section;

25 “(iii) default prevention activities;

1 “(iv) review of default claims made by
2 lenders;

3 “(v) payment of default claims;

4 “(vi) collection of defaulted loans;

5 “(vii) adoption of internal systems of
6 accounting and auditing that are accept-
7 able to the Secretary, and reporting the re-
8 sult thereof to the Secretary on a timely,
9 accurate, and auditable basis;

10 “(viii) timely and accurate collection
11 and reporting of such other data as the
12 Secretary may require to carry out the
13 purposes of the programs under this title;

14 “(ix) monitoring of institutions and
15 lenders participating in the program under
16 this part; and

17 “(x) such other program functions as
18 the Secretary may require of the guaranty
19 agency;

20 “(B) provisions regarding the fees the Sec-
21 retary shall pay to the guaranty agency under
22 the agreement, and other revenues that the
23 guaranty agency may receive thereunder, as de-
24 scribed in paragraphs (4) and (6);

1 “(C) provisions requiring the guaranty
2 agency to carry out its responsibilities under
3 the agreement in accordance with paragraph
4 (5);

5 “(D) provisions regarding the use, in ac-
6 cordance with paragraph (10), of net revenues
7 in excess of the guaranty agency’s need for
8 working capital, as determined after compliance
9 with section 422(h), for such other activities in
10 support of postsecondary education as may be
11 agreed to by the Secretary and the guaranty
12 agency;

13 “(E) provisions regarding such other busi-
14 nesses, previously purchased or developed with
15 reserve funds, that relate to the program under
16 this part and in which the Secretary permits
17 the guaranty agency to engage (as determined
18 on a case-by-case basis);

19 “(F) provisions setting forth such adminis-
20 trative and fiscal procedures as may be nec-
21 essary to protect the United States from the
22 risk of unreasonable loss thereunder, and to en-
23 sure proper and efficient administration of the
24 loan insurance program;

1 “(G) provisions regarding the submission
2 of the results of audits of the guaranty agency
3 that are conducted—

4 “(i) at least annually;

5 “(ii) by a qualified, independent orga-
6 nization or person in accordance with the
7 standards established by the Comptroller
8 General for the audit of governmental or-
9 ganizations, programs, and functions; and

10 “(iii) in accordance with the regula-
11 tions of the Secretary;

12 “(H) provisions requiring the making of
13 such reports, in such form and containing such
14 information, including financial information, as
15 the Secretary may reasonably require to carry
16 out the Secretary’s functions under this part
17 and to protect the Federal fiscal interest, and
18 for keeping such records and for affording such
19 access thereto as the Secretary may find nec-
20 essary or appropriate to ensure the correctness
21 and verification of such reports;

22 “(I) adequate assurances that the guar-
23 anty agency will not engage in any pattern or
24 practice which may result in a denial of a bor-
25 rower’s access to loans under this part because

1 of the borrower's race, sex, color, religion, na-
2 tional origin, age, handicapped status, income,
3 attendance at a particular eligible institution,
4 length of the borrower's educational program,
5 or the borrower's academic year in school;

6 “(J) assurances that—

7 “(i) upon the request of an eligible in-
8 stitution, the guaranty agency shall, sub-
9 ject to clauses (ii) and (iii), furnish to the
10 institution information with respect to stu-
11 dents (including the names and addresses
12 of such students) who received loans made
13 or insured under this part for attendance
14 at the eligible institution and for whom
15 preclaims assistance activities have been
16 requested under subsection (l);

17 “(ii) the guaranty agency shall require
18 the payment by the institution of a reason-
19 able fee (as determined in accordance with
20 regulations prescribed by the Secretary)
21 for such information; and

22 “(iii) the institution may use such in-
23 formation only to remind students of their
24 obligation to repay student loans and may

1 not disseminate the information for any
2 other purpose; and

3 “(K) such other provisions as the Sec-
4 retary may determine to be necessary to protect
5 the United States from the risk of unreasonable
6 loss and to promote the purposes of this part.

7 “(4) FEES AND OTHER REVENUES.—(A)(i) The
8 Secretary shall pay to a guaranty agency with an
9 agreement under this subsection the following uni-
10 form fees:

11 “(I) a 1-time issuance fee for each new
12 loan made under this part that is insured by
13 the Secretary through the guaranty agency; and

14 “(II) an annual maintenance fee for each
15 active borrower account.

16 “(ii) The fees described in clause (i) shall be
17 paid on a quarterly basis, from the funds available
18 under section 458(a), in such amount as the Sec-
19 retary determines, for all guaranty agencies with
20 agreements under this subsection.

21 “(B) A guaranty agency with an agreement
22 under this subsection also may receive revenues de-
23 rived from—

24 “(i) a default prevention fee paid by lend-
25 ers in accordance with subsection (g);

1 “(ii) the collection retention allowance
2 under paragraph (6);

3 “(iii) the interest earned on working cap-
4 ital provided under section 422(h);

5 “(iv) such other businesses, previously pur-
6 chased or developed with reserve funds, that re-
7 late to the program under this part and in
8 which the Secretary permits the guaranty agen-
9 cy to engage (as determined on a case-by-case
10 basis); and

11 “(v) such other fees as may be authorized
12 under this part.

13 “(5) PERFORMANCE REQUIREMENTS.—(A) A
14 guaranty agency with an agreement under this sub-
15 section shall carry out its responsibilities thereunder
16 in accordance with such measurable performance-
17 based standards as the Secretary may specify, and
18 shall submit timely and accurate data to the Sec-
19 retary in support of its performance.

20 “(B) The Secretary shall apply the performance
21 standards uniformly to guaranty agencies with
22 agreements under this subsection.

23 “(C) The Secretary shall assess the perform-
24 ance of each guaranty agency on the basis of the au-
25 dits required under paragraph (3)(G), and shall

1 compare such guaranty agency's performance
2 against the performance of other such guaranty
3 agencies and publicly disseminate such comparison.

4 “(D) The Secretary may impose a fine, in ac-
5 cordance with the terms of the agreement, on a
6 guaranty agency that fails to achieve a specified
7 level of performance on 1 or more performance
8 standards. If the guaranty agency's failure to
9 achieve such performance level results in a financial
10 loss to the United States, the guaranty agency shall
11 indemnify the Secretary for such loss.”;

12 (E) by amending paragraph (6) to read as
13 follows:

14 “(6) COLLECTION RETENTION ALLOWANCE.—

15 “(A) If, after the Secretary has paid a
16 claim on a loan made under this title, any pay-
17 ments are made in discharge of the obligation
18 incurred by the borrower with respect to such
19 loan (including any payments of interest accru-
20 ing on such loan after the payment of the de-
21 fault claim by the Secretary), there shall be
22 paid over to the Secretary that portion of the
23 payments remaining after the guaranty agency
24 with which the Secretary has an agreement
25 under this subsection has deducted from such

1 payments an amount for costs related to the
2 student loan insurance program that—

3 “(i) shall be specified by the Secretary
4 on the basis of the Secretary’s review of
5 payments for similar services in a competi-
6 tive environment; and

7 “(ii) in no case shall exceed 18.5 per-
8 cent of such payments (subject to subpara-
9 graph (B)).

10 “(B) If, after the Secretary has paid a
11 claim on a loan made under this title, and the
12 liability on such loan is discharged by payment
13 of the proceeds of a consolidation loan under
14 this part or under part D, the guaranty agency
15 may not deduct the amount specified in sub-
16 paragraph (A), but may charge the borrower an
17 amount specified by the Secretary and not to
18 exceed 18.5 percent of the principal amount of
19 the defaulted loan at the time of consolidation,
20 to defray the guaranty agency’s collection costs
21 on the defaulted loan to be consolidated.”;

22 (F) by amending paragraph (7) to read as
23 follows:

24 “(7) SECRETARY AUTHORIZED TO RENEW OR
25 MAKE ALTERNATE AGREEMENTS.—Notwithstanding

1 any other provision of law, once the initial agree-
2 ment with a guaranty agency entered into after the
3 date of enactment of the College Access and Afford-
4 ability Act of 1997 has ended (through its expira-
5 tion, the termination of the guaranty agency agree-
6 ment by the Secretary in accordance with paragraph
7 (9), or the resignation of the guaranty agency, as
8 the case may be), the Secretary, in his discretion,
9 may enter into—

10 “(A) another agreement with the guaranty
11 agency;

12 “(B) an alternate agreement under which
13 the functions previously performed by the guar-
14 anty agency shall be performed by another
15 State or private nonprofit agency with which
16 the Secretary has an agreement under this sub-
17 section; or

18 “(C) a contract under section 428E.”;

19 (G) by amending paragraph (9) to read as
20 follows:

21 “(9) TERMINATION OF GUARANTY AGENCY
22 AGREEMENTS.—(A) A guaranty agency’s agreement
23 under this subsection may be ended in advance of its
24 expiration date in accordance with subparagraph (B)

1 or (C). If its agreement is so ended, the guaranty
2 agency shall immediately—

3 “(i) cease to be an agent of the Secretary
4 for purposes of the program under this part;
5 and

6 “(ii) surrender all remaining liquid and
7 nonliquid reserve funds, and assets purchased
8 or developed with reserve funds, still held by
9 the guaranty agency (including reserves held
10 by, or under the control of, any other entity) to
11 the Secretary or the Secretary’s designated
12 agent.

13 “(B) A guaranty agency’s agreement under this
14 subsection shall be void, and the Secretary shall im-
15 mediately so notify such guaranty agency, if—

16 “(i) the guaranty agency fails to comply in
17 a timely manner with the recall of reserve re-
18 quirements of section 422(h);

19 “(ii) the guaranty agency fails to increase
20 the amount of funds in its unrestricted account
21 (as measured by comparing the amount of
22 funds in such account at the beginning and end
23 of a year) for each of 2 years (that may or may
24 not be consecutive) in the 5-year period of the
25 agreement under this subsection;

1 “(iii) any other agreement that the guar-
2 anty agency has with the Secretary is termi-
3 nated;

4 “(iv) the guaranty agency becomes insol-
5 vent or declares bankruptcy; or

6 “(v) there is any legal impediment to the
7 guaranty agency substantially performing its re-
8 sponsibilities under the agreement.

9 “(C) The Secretary shall, after notice and op-
10 portunity for a hearing, terminate a guaranty agen-
11 cy that has substantially failed to achieve an accept-
12 able level of performance under its agreement with
13 the Secretary. A substantial performance failure
14 under this subparagraph may include the existence
15 of material internal control weaknesses relating to
16 data quality in the guaranty agency’s audits for each
17 of 2 years (that may or may not be consecutive) in
18 the 5-year period of the agreement under this sub-
19 section.

20 “(D) Notwithstanding any other provision of
21 Federal or State law, if the Secretary has termi-
22 nated or is seeking to terminate a guaranty agency’s
23 agreement in advance of its expiration date—

1 “(i) no State court may issue any order af-
2 fecting the Secretary’s actions with respect to
3 such guaranty agency;

4 “(ii) any contract with respect to the ad-
5 ministration of reserve funds held by a guar-
6 anty agency, or the administration of any assets
7 purchased or developed with the reserve funds
8 of the guaranty agency, that is entered into or
9 extended by the guaranty agency, or any other
10 party on behalf of or with the concurrence of
11 the guaranty agency, after the date of enact-
12 ment of the College Access and Affordability
13 Act of 1997 shall provide that the contract is
14 terminable by the Secretary upon 30 days no-
15 tice to the contracting parties if the Secretary
16 determines that such contract includes an im-
17 permissible transfer of the reserve funds or as-
18 sets, or is otherwise inconsistent with the terms
19 or purposes of this section; and

20 “(iii) no provision of State law shall apply
21 to the actions of the Secretary in terminating
22 the operations of a guaranty agency.”; and

23 (H) by adding after paragraph (9) the fol-
24 lowing new paragraph:

1 “(10) USE OF SURPLUS FUNDS.—(A) A guar-
2 anty agency with an agreement under this sub-
3 section may retain the amount determined in accord-
4 ance with subparagraph (B) for activities in support
5 of postsecondary education that are approved by the
6 Secretary.

7 “(B)(i) A guaranty agency may retain 50 per-
8 cent of its net revenues for fiscal year 1998 in ex-
9 cess of the guaranty agency’s need for working cap-
10 ital for such year, as determined after compliance
11 with section 422(h), for approved activities.

12 “(ii) A guaranty agency may retain for ap-
13 proved activities for fiscal year 1999 and succeeding
14 fiscal years the lesser of—

15 “(I) 50 percent of its net revenues for such
16 year in excess of its need for working capital,
17 as determined after compliance with section
18 422(h); or

19 “(II) the amount of its net revenues for
20 such year in excess of its need for working cap-
21 ital, as determined after compliance with sec-
22 tion 422(h), that is equal to a uniform percent-
23 age, established annually by the Secretary, of
24 Federal revenues received by the guaranty
25 agency for the preceding year. In determining

1 such percentage, the Secretary shall take into
2 account all guaranty agencies' revenues and
3 costs for the preceding year to determine an
4 adequate level of economic incentive for guar-
5 anty agencies to maximize their efficiency.”;

6 (4) by amending subsection (g) to read as fol-
7 lows:

8 “(g) DEFAULT PREVENTION FEE PAID BY LEND-
9 ERS.—(1) An eligible lender shall pay a guaranty agency,
10 to which such lender referred a delinquent loan, a default
11 prevention fee of not to exceed \$100 per borrower account
12 if the guaranty agency succeeds in bringing such loan into
13 current repayment status.

14 “(2) The Secretary shall prescribe in regulations the
15 circumstances in which a lender may obtain a refund of
16 a default prevention fee if the borrower of a loan on which
17 such fee was paid subsequently defaults on such loan.”;
18 and

19 (5) in subsection (l)—

20 (A) in paragraph (1), by striking the para-
21 graph designation and the paragraph heading;
22 and

23 (B) by striking paragraph (2).

24 (b) Section 435(j) of the Act is amended by striking
25 “section 428(b).” and inserting “section 428(c).”

1 **SEC. 12. REPEAL OF STATE SHARE OF DEFAULT COSTS.**

2 Section 428 of the Act is further amended by striking
3 subsection (n).

4 **SEC. 13. CONSOLIDATION LOANS.**

5 (a) Section 428C of the Act is further amended—

6 (1) in subsection (a)(3)—

7 (A) in subparagraph (A), by inserting “in
8 an in-school period,” after “for a consolidation
9 loan is”; and

10 (B) in subparagraph (B), by amending
11 clause (i) to read as follows:

12 “(i) Eligible student loans received by
13 the eligible borrower may be added to a
14 consolidation loan during the 180-day pe-
15 riod following the making of such consoli-
16 dation loan.”;

17 (2) in subsection (b)(4)(C), by amending clause
18 (ii) to read as follows:

19 “(ii) provides that interest shall accrue and
20 be paid—

21 “(I) by the Secretary, in the case of
22 a consolidation loan made before October
23 1, 1997, that consolidated only Federal
24 Stafford Loans for which the student bor-
25 rower received an interest subsidy under
26 section 428;

1 “(II) by the Secretary, in the case of
2 a consolidation loan made on or after Oc-
3 tober 1, 1997, except that the Secretary
4 shall pay such interest only on that portion
5 of the loan that repays Federal Stafford
6 Loans for which the student borrower re-
7 ceived an interest subsidy under section
8 428; and

9 “(III) by the borrower, or capitalized,
10 in the case of a consolidation loan, or por-
11 tion thereof, other than one described in
12 subclause (I) or (II);”; and

13 (3) in subsection (c)—

14 (A) in paragraph (1)—

15 (i) in subparagraph (A), by striking
16 “subparagraph (B) or (C).” and inserting
17 “subparagraph (B), (C), (D), or (E), and
18 subject to subparagraph (F).”;

19 (ii) in subparagraph (C), by striking
20 “after July 1, 1994,” and inserting “after
21 July 1, 1994 and before October 1,
22 1997,”; and

23 (iii) by adding after subparagraph (C)
24 the following new subparagraphs:

1 “(D) A consolidation loan made on or after Oc-
2 tober 1, 1997, that repays loans made under section
3 428 of 428H, or a combination thereof, shall bear
4 interest at an annual rate on the unpaid principal
5 balance of the loan that is equal to—

6 “(i) the rate specified in section 427A(g),
7 in the case of a borrower in an in-school or
8 grace period; or

9 “(ii) the rate specified in section
10 427A(h)(1) in all other cases.

11 “(E) A consolidation loan made on or after Oc-
12 tober 1, 1997, that repays loans made under section
13 428B shall bear interest at an annual rate on the
14 unpaid principal balance of the loan that is equal
15 to the rate specified in section 427A(h)(2).

16 “(F) Notwithstanding any other provision of
17 this section, the Secretary may prescribe in regula-
18 tion such procedures as may be necessary to ensure
19 that—

20 “(i) a borrower of a consolidation loan that
21 repays a combination of loans eligible to be con-
22 solidated under this section, shall continue to
23 receive, after consolidation, any interest subsidy
24 benefits associated with a loan, without extend-

1 ing such benefits to any other loans consoli-
2 dated that do not have interest subsidy benefits;

3 “(ii) in the case of a consolidation loan
4 that repays a combination of loans described in
5 subparagraphs (D) and (E), the interest rate
6 on such consolidation loan shall be calculated in
7 a manner that reflects the interest rate applica-
8 ble to loans made under each such subpara-
9 graph; and

10 “(iii) in the case of a consolidation loan
11 that repays a loan eligible to be consolidated
12 under this section other than those described in
13 subparagraphs (D) and (E), the interest rate
14 applicable to such other loan shall be the inter-
15 est rate described in subparagraph (D) if such
16 other loan is considered by the Secretary to be
17 subsidized, and the interest rate described in
18 subparagraph (E) if such other loan is consid-
19 ered by the Secretary to be unsubsidized.”; and

20 (B) in paragraph (4)—

21 (i) by striking “Repayment” and in-
22 serting “(A) Except as provided in sub-
23 paragraph (B), repayment”; and

1 (ii) by adding after subparagraph (A)
2 (as redesignated by clause (i)) the follow-
3 ing new subparagraph:

4 “(B) In the case of a consolidation loan that re-
5 pays a loan made under this part for which the bor-
6 rower is in an in-school period at the time the con-
7 solidation application is received, the repayment pe-
8 riod for such consolidation loan shall commence
9 after the completion of a grace period, as described
10 in section 428(b)(7)(i).”.

11 **SEC. 14. CONTRACTS WITH OTHER ENTITIES.**

12 Part B of title IV of the Act is amended by inserting
13 after section 428D the following new section:

14 **“SEC. 428E. CONTRACT AUTHORITY.**

15 “The Secretary may enter into 1 or more contracts
16 to carry out any of the functions that otherwise would be
17 carried out by a guaranty agency with an agreement under
18 section 428(c).”.

19 **SEC. 15. ELIGIBLE LENDER.**

20 Section 435(d) of the Act is amended—

21 (1) in paragraph (1), by striking “(6),” and in-
22 serting “(7),”; and

23 (2) by adding after paragraph (6) the following
24 new paragraph:

1 “(7) UNIFORM TERMS AND CONDITIONS.—Sub-
2 ject to such exceptions as the Secretary may pre-
3 scribe in regulations, the term ‘eligible lender’ shall
4 not include any lender that offers different terms
5 and conditions to different borrowers of the same
6 type of loan made or insured under this part.”.

7 **SEC. 16. SPECIAL ALLOWANCE.**

8 Section 438 of the Act is amended—

9 (1) in subsection (a)(3), by striking “quarterly
10 rate” each place it appears and inserting “rate”;
11 and

12 (2) in subsection (b)—

13 (A) in paragraph (2)—

14 (i) by striking “subparagraphs (B),
15 (C), (D), (E), and (F)” and inserting
16 “subparagraphs (B), (C), (D), (E), (F),
17 and (G)”; and

18 (ii) by adding after subparagraph (F)
19 the following new subparagraph:

20 “(G)(i) Notwithstanding any other provision of
21 this section, in the case of loans made or insured
22 under this part for which the first disbursement is
23 made on or after October 1, 1997, the special allow-
24 ance paid pursuant to this subsection shall be com-

1 puted for any 12-month period beginning on July 1
2 and ending on June 30 by—

3 “(I) determining the bond equivalent rate
4 on the preceding June 1 of the securities with
5 a comparable maturity, as established by the
6 Secretary; and

7 “(II) subtracting the applicable interest
8 rate on such loans from such amount.

9 “(ii) The amount of special allowance computed
10 under clause (i) shall be paid in quarterly incre-
11 ments for the 3-month periods described in para-
12 graph (1).”; and

13 (B) in paragraph (3), in the second sen-
14 tence, by striking “determined for any such 3-
15 month period shall be paid promptly after the
16 close of such period,” and inserting “calculated
17 under this subsection shall be paid promptly
18 after the close of the 3-month period for which
19 such special allowance payment is due,”.

20 **SEC. 17. STUDENT LOAN MARKETING ASSOCIATION OFFSET**

21 **FEE.**

22 Section 439(h)(7) of the Act is amended by adding
23 after subparagraph (C) the following new subparagraph:

24 “(D) The calculation of the fee required under
25 subparagraph (A) or (B), as the case may be, shall

1 be determined on the basis of the principal amount
2 of all loans (except for loans made under section
3 428C, 439(o) or 439(q))—

4 “(i) owned, in whole or in part, by the As-
5 sociation, any subsidiary of the Association, or
6 any company, trust or other entity owned by, or
7 controlled by, the Association; or

8 “(ii) held by a trust (including by a trustee
9 on behalf of a trust), or by any other entity in
10 which the Association, or any subsidiary, holds
11 more than a minimal beneficial interest (as de-
12 termined by the Secretary).”.

13 **SEC. 18. DIRECT LOAN TRANSITION FEE.**

14 Section 452(b) of the Act is amended to read as fol-
15 lows:

16 “(b) **TRANSITION FEES.**—The Secretary shall pay
17 fees to institutions of higher education (or a consortium
18 of those institutions) with agreements under section
19 454(b), in the 1st year of their participation in the pro-
20 gram authorized by this part, in order to compensate for
21 costs associated with their transition to the program. The
22 fees shall not exceed an average of \$10 per borrower at
23 all institutions receiving the fees.”.

1 **SEC. 19. FUNDS FOR ADMINISTRATIVE EXPENSES.**

2 Section 458(a) of the Act is amended, in the first
3 sentence, by striking “\$260,000,000” through the end of
4 the sentence and inserting the following: “\$532,000,000
5 in fiscal year 1998, \$610,000,000 in fiscal year 1999,
6 \$705,000,000 in fiscal year 2000, \$806,000,000 in fiscal
7 year 2001, and \$904,000,000 in fiscal year 2002.”.

8 **SEC. 20. EXTENSION OF STUDENT AID PROGRAMS.**

9 Title IV of the Act is amended—

10 (1) in section 401(a)(1), by striking “Septem-
11 ber 30, 1998,” and inserting “September 30,
12 2002.”;

13 (2) in section 424(a), by striking “1998.” and
14 “2002.” and inserting “2002.” and “2006.”, respec-
15 tively;

16 (3) in section 428(a)(5), by striking “1998,”
17 and “2002.” and inserting “2002,” and “2006.”, re-
18 spectively;

19 (4) in section 428C(e), by striking “1998.” and
20 inserting “2002.”; and

21 (5) in section 466—

22 (A) in subsection (a)—

23 (i) in the matter preceding paragraph
24 (1), by striking “September 30, 1996,”
25 and “March 31, 1997,” and inserting

1 “September 30, 2002,” and “March 31,
2 2003”, respectively; and

3 (ii) in paragraph (1), by striking
4 “September 30, 1996,” and inserting
5 “September 30, 2002,”;

6 (B) in subsection (b), by striking “Septem-
7 ber 30, 1996,” and inserting “September 30,
8 2002,”; and

9 (C) in subsection (c), by striking out “Oc-
10 tober 1, 1997,” and inserting “October 1,
11 2002,”.

12 **SEC. 21. EFFECTIVE DATES.**

13 (a) IN GENERAL.—Except as otherwise provided in
14 this section, the amendments made by this title shall take
15 effect on the date of enactment of this Act.

16 (b) PELL GRANTS.—Section 2 is effective for the cal-
17 culation of Pell Grant awards for award years beginning
18 on or after July 1, 1998.

19 (c) REPAYMENT TERMS.—Section 7 is effective for
20 a loan made under part B or part D of title IV of the
21 Act for which the first disbursement is made on or after
22 October 1, 1997.

23 (d) INTEREST RATES.—Section 8(a)(3) and section
24 428(b)(5)(C) of the Act (as added by section 11(a)(2)(E))
25 are effective as if they were enacted on July 23, 1992.

1 (e) LENDER AND HOLDER RISK SHARING; CON-
2 TRACTS WITH OTHER ENTITIES; ELIGIBLE LENDER.—
3 Sections 9, 14, and 15 take effect on October 1, 1997.

4 (f) SPECIAL ALLOWANCE.—Section 16 is effective for
5 a loan made or insured under part B of title IV of the
6 Act for which the first disbursement is made on or after
7 October 1, 1997.

8 (g) STUDENT LOAN MARKETING ASSOCIATION OFF-
9 SET FEE.—Section 17 is effective as if it were enacted
10 on August 10, 1993, but does not apply to the privatized
11 entity that may be created as a result of the Student Loan
12 Marketing Association Reorganization Act of 1996 (title
13 VI of the Departments of Labor, Health and Human Serv-
14 ices, Education and Related Agencies Appropriations Act,
15 1997, as enacted by section 101(e) of division A of Public
16 Law 104–208).

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