

105TH CONGRESS
1ST SESSION

S. 560

To amend the Higher Education Act of 1965 to provide significantly increased financial aid for needy students, provide universal access to postsecondary education, reduce student loan costs while improving student loan benefits, to streamline the Federal Family Education Loan Program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 10, 1997

Mr. DASCHLE (for himself and Mr. KENNEDY) (by request) introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

A BILL

To amend the Higher Education Act of 1965 to provide significantly increased financial aid for needy students, provide universal access to postsecondary education, reduce student loan costs while improving student loan benefits, to streamline the Federal Family Education Loan Program, 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 TITLE I—STUDENT FINANCIAL AID PROVISIONS

2 SHORT TITLE; REFERENCES

3 SEC. 101. (a) SHORT TITLE.—This title may be cited
4 as the “Student Financial Aid Improvements Act of
5 1997”.

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

9 PART A—PELL GRANTS

10 PELL GRANT MAXIMUM AWARD

11 SEC. 111. Section 401(b)(2)(A) of the Act is amend-
12 ed by adding at the end thereof the following: “Except
13 as otherwise provided in this section, in no case shall the
14 maximum basic grant be less than \$3,000.”.

15 PART B—STUDENT LOAN PROVISIONS

16 MANAGEMENT AND RECOVERY OF RESERVES

17 SEC. 121. (a) Section 422 of the Act is amended—

18 (1) by amending subsection (g)(1) to read as
19 follows:

20 “(1) AUTHORITY TO RECOVER FUNDS.—(A)

21 Notwithstanding any other provision of law, the re-
22 serve funds of the guaranty agencies, and any assets
23 purchased or developed with such reserve funds, re-
24 gardless of who holds or controls the reserves or as-
25 sets, shall remain the property of the United States.

1 “(B) The Secretary may direct the guaranty
2 agency to require the return, to the guaranty agency
3 or to the Secretary, of any reserve funds or assets
4 held by, or under the control of, any other entity,
5 that the Secretary determines are required—

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

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

10 “(iii) for the orderly termination of the
11 guaranty agency’s operations and the liquida-
12 tion of its assets.

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

20 (2) by adding after subsection (g) the following
21 new subsections:

22 “(h) RECALL OF RESERVES IN FISCAL YEARS 1997
23 THROUGH 2002; LIMITATIONS ON USE OF RESERVE
24 FUNDS AND ASSETS.—(1)(A) Notwithstanding any other
25 provision of law, the Secretary shall, except as otherwise

1 provided in this subsection, recall from the reserve funds
2 held by guaranty agencies (which for purposes of this sub-
3 section shall include any reserve funds held by, or under
4 the control of, any other entity) not less than—

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

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

7 “(iii) \$186,000,000 in each of the fiscal years
8 2000 and 2001; and

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

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

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

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

1 consistent with the requirements of this subsection. Ex-
2 cept as described in subparagraph (B), the guaranty agen-
3 cy shall not use the reserve funds in such account, which
4 shall include the earnings thereon, for any purpose with-
5 out the express permission of the Secretary.

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

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

1 “(C) Non-liquid reserve fund assets, such as build-
 2 ings and equipment purchased or developed by the guar-
 3 anty agency with reserve funds, and any liquid assets re-
 4 maining in a guaranty agency’s restricted account after
 5 the recalls in paragraph (1)(A), shall—

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

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

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

14 REPAYMENT TERMS

15 SEC. 122. (a) Section 427 of the Act is amended—

16 (1) in subsection (a)(2)—

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

22 (B) in subparagraph (C), at the end of the
 23 subparagraph, by striking out “the 10-year pe-
 24 riod described in subparagraph (B);” and in-
 25 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

1 less than five years. The borrower may choose
2 from—

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

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

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

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

1 “(2) LENDER SELECTION OF OPTION IF BOR-
 2 ROWER DOES NOT SELECT.—If a borrower of a loan
 3 made under this part does not select a repayment
 4 plan described in paragraph (1), the lender shall
 5 provide the borrower with a repayment plan de-
 6 scribed in paragraph (1)(A).

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

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

18 (b) Section 428(b) of the Act is amended—

19 (1) in paragraph (1)—

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

23 (B) in subparagraph (E)—

24 (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 sserting “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 five 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 ten 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 ten 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) Section 428C of the Act is amended—

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

16 (2) in subsection (c)—

17 (A) by amending paragraph (2) to read as
18 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 five 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 ten 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 ten 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) Section 455(d) of the Act is amended—

21 (1) in paragraph (1)—

22 (A) in subparagraph (B), by inserting after
23 “an extended period of time,” the following:
24 “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 INTEREST RATES

9 SEC. 123. (a) Section 427A of the Act is amended—
 10 (1) in subsection (g)(2)—

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

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

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

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

21 “(B) In the case of loans made or insured
 22 under section 428 or 428H for which the first
 23 disbursement is made on or after October 1,
 24 1997, for purposes of paragraph (1), the rate
 25 determined under this paragraph shall, during
 26 any 12-month period beginning on July 1 and

1 ending on June 30, be determined on the pre-
2 ceding June 1 and be equal to the bond equiva-
3 lent rate of the securities with a comparable
4 maturity, as established by the Secretary, ex-
5 cept that such rate shall not exceed 8.25 per-
6 cent.”;

7 (2) in subsection (h)—

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

11 (B) in paragraph (1)—

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

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

16 (C) in paragraph (2)—

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

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

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

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

4 (b) Section 455(b) of the Act is amended—

5 (1) in paragraph (2)(B)—

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

8 (B) by inserting after the subparagraph
9 heading the clause designation “(i)”;

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

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

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

1 equivalent rate of the securities with a
2 comparable maturity, as established by the
3 Secretary, except that such rate shall not
4 exceed 8.25 percent.”;

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-
10bursement 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 LENDER AND HOLDER RISK SHARING

15 SEC. 124. Section 428(b)(1)(G) of the Act is amend-
16 ed by striking “not less than 98 percent” and inserting
17 “95 percent”.

18 FEES AND INSURANCE PREMIUMS

19 SEC. 125. (a) Section 428(b)(1)(H) of the Act is
20 amended—

21 (1) by inserting the clause designation “(i)” fol-
22 lowing the subparagraph designation;

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

1 (3) after clause (i) (as redesignated by para-
2 graph (1)), by adding “and” and the following new
3 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 (b) Section 428H(h) of the Act is amended—

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

11 (2) by striking “under this section” and insert-
12 ing “of a loan made under this section made before
13 July 1, 1998”; and

14 (3) by adding at the end of paragraph (1) (as
15 redesignated by paragraph (1)) the following new
16 paragraph:

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

20 (d) Section 438(c) of the Act is amended—

21 (1) in paragraph (2), by striking “paragraph
22 (6)” and inserting “paragraphs (6) and (8)”; and

23 (2) by adding after paragraph (7) the following
24 new paragraph:

1 “(8) ORIGINATION FEE ON SUBSIDIZED LOANS
2 ON OR AFTER JULY 1, 1998.—In the case of any loan
3 made or insured under section 428 on or after July
4 1, 1998, paragraph (2) shall be applied by substitut-
5 ing ‘2.0 percent’ for ‘3.0 percent’.”.

6 (e) Section 455(c) of the Act is amended—

7 (1) by striking “The Secretary” and inserting
8 “(1) For loans made under this part before July 1,
9 1998, the Secretary”;

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

12 (3) by adding at the end thereof the following
13 new paragraph:

14 “(2) For loans made under this part on or after
15 July 1, 1998, the Secretary shall charge the bor-
16 rower an origination fee of—

17 “(A) 2.0 percent of the principal amount
18 of the loan, in the case of Federal Direct Staf-
19 ford/Ford Loans; or

20 “(B) 3.0 percent of the principal amount
21 of the loan, in the case of Federal Direct
22 Unsubsidized Stafford/Ford Loans or Federal
23 Direct PLUS Loans.”.

24 FUNCTIONS OF GUARANTY AGENCIES

25 SEC. 126. (a) Section 428 of the Act is further
26 amended—

1 (1) in subsection (a)—

2 (A) in paragraph (1)(B)—

3 (i) in the matter preceding clause (i),
4 by striking “which is insured” and insert-
5 ing “which, before October 1, 1997, is”;
6 and

7 (ii) in clause (ii), by inserting “as in
8 effect the day before the day of enactment
9 of this section,” after “subsection (b),”;
10 and

11 (B) in paragraph (3)—

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

13 (ii) in subparagraph (A)—

14 (I) in clause (ii), by striking
15 “under any” through the end of the
16 clause and inserting a period;

17 (II) by striking the subparagraph
18 designation “(A)”;

19 (III) by redesignating clauses (i)
20 and (ii) as subparagraphs (A) and
21 (B), respectively; and

22 (IV) by redesignating subclauses
23 (I) and (II) as clauses (i) and (ii), re-
24 spectively;

25 (2) in subsection (b)—

1 (A) by amending the heading to read as
2 follows: “REQUIREMENTS TO QUALIFY LOANS
3 FOR INSURANCE AND INTEREST SUB-
4 SIDIES.—”;

5 (B) in paragraph (1)—

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

8 (ii) by amending the matter preceding
9 subparagraph (A) to read as follows: “A
10 loan by an eligible lender shall be insurable
11 by the Secretary, and students who receive
12 such loans shall be entitled to have made
13 on their behalf the payments provided for
14 in subsection (a), under a program of stu-
15 dent loan insurance that—”;

16 (iii) by amending subparagraph (K) to
17 read as follows:

18 “(K) provides that the holder of any such
19 loan will be required to submit to the Secretary,
20 at such time or times and in such manner as
21 the Secretary may prescribe, statements con-
22 taining such information as may be required by
23 regulation for the purpose of enabling the Sec-
24 retary to determine the amount of the payment
25 which must be made with respect to that loan;”;

1 (iv) by amending subparagraph (O) to
2 read as follows:

3 “(O) provides that, if the sale, assignment,
4 or other transfer of a loan made under this part
5 to another holder will result in a change in the
6 identity of the party to whom the borrower
7 must send subsequent payments or direct any
8 communications concerning the loans, then—

9 “(i) the transferor and the transferee
10 shall be required, not later than 45 days
11 from the date the transferee acquires a le-
12 gally enforceable right to receive payment
13 from the borrower on such loan, either
14 jointly or separately to provide a notice to
15 the borrower of—

16 “(I) the sale, assignment, or
17 other transfer;

18 “(II) the identity of the trans-
19 feree;

20 “(III) the name and address of
21 the party to whom subsequent pay-
22 ments or communications must be
23 sent; and

1 “(IV) the telephone numbers of
2 both the transferor and the trans-
3 feree; and

4 “(ii) the transferee shall be required
5 to notify the Secretary, and, upon the re-
6 quest of an institution of higher education,
7 the Secretary shall notify the last such in-
8 stitution the student attended prior to the
9 beginning of the repayment period of any
10 loan made under this part, of—

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

13 “(II) the address and telephone
14 number by which contact may be
15 made with the new holder concerning
16 repayment of the loan;

17 except that this subparagraph shall apply
18 only if the borrower is in the grace period
19 described in section 427(a)(2)(B) or
20 428(b)(7) or is in repayment status.”;

21 (v) in subparagraph (Q), by striking
22 “guarantee” and “428A” and inserting
23 “insurance” and “428H”, respectively;

24 (vi) by amending subparagraph (R) to
25 read as follows:

1 “(R) provides for the making of such re-
2 ports, in such form and containing such infor-
3 mation, including financial information, as the
4 Secretary may reasonably require to carry out
5 the Secretary’s functions under this part and
6 protect the financial interest of the United
7 States, and for keeping such records and for af-
8 fording such access thereto as the Secretary
9 may find necessary to ensure the correctness
10 and verification of such reports;”;

11 (vii) by amending subparagraph (S) to
12 read as follows:

13 “(S) provides that a lender shall pay a de-
14 fault prevention fee in accordance with sub-
15 section (g);

16 (viii) in subparagraph (T)—

17 (I) in clause (i), by inserting “,
18 by the guaranty agency, in accordance
19 with regulations prescribed by the
20 Secretary,” after “limitation”; and

21 (II) in clause (ii)—

22 (aa) in the matter preceding
23 subclause (I), by inserting “, in
24 accordance with regulations pre-

1 scribed by the Secretary,” after
2 “institution”;

3 (bb) by striking subclauses
4 (I) and (II); and

5 (cc) redesignating sub-
6 clauses (III), (IV), and (V) as
7 subclauses (I), (II), and (III), re-
8 spectively;

9 (ix) by amending subparagraph (U) to
10 read as follows:

11 “(U) provides—

12 “(i) for such additional criteria
13 concerning the eligibility of lenders
14 described in section 435(d)(1) as may
15 be permitted by the Secretary; and

16 “(ii) an assurance that the guar-
17 anty agency will report to the Sec-
18 retary concerning changes in criteria
19 under clause (i), including any proce-
20 dures in effect under such program to
21 take emergency action, limit, suspend,
22 or terminate lenders; and”;

23 (x) by striking subparagraphs
24 (V), (W), and (X);

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

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

11 (D) in paragraph (3)(B), by striking the
12 parenthetical through the end of the subpara-
13 graph and inserting a period; and

14 (E) by striking out paragraph (5) and in-
15 serting in lieu thereof the following new para-
16 graph:

17 “(5) COMPLIANCE AUDITS.—(A) Except as pro-
18 vided in subparagraph (B) or by the Single Audit
19 Act Amendments of 1996, an eligible lender that
20 originates or holds more than \$5,000,000 in loans
21 made under this title during an annual audit period
22 shall submit to the Secretary a compliance audit for
23 that audit period which is conducted by a qualified,
24 independent organization or person in accordance
25 with the Government Auditing Standards issued by

1 the Comptroller General, and the regulations of the
2 Secretary.

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

8 (3) in subsection (c)—

9 (A) by amending the heading to read as
10 follows: “AGREEMENTS WITH GUARANTY
11 AGENCIES.—”;

12 (B) in paragraph (3)—

13 (i) in the matter preceding subpara-
14 graph (A), by striking “A guaranty agree-
15 ment” and inserting “An agreement be-
16 tween the Secretary and a guaranty agen-
17 cy”;

18 (ii) in the flush left language at the
19 end of the paragraph, by striking “Guar-
20 anty agencies” and inserting “The Sec-
21 retary”; and

22 (iii) by redesignating paragraph (3) as
23 paragraph (11);

24 (C) by striking paragraphs (1), (2), (4),
25 and (5);

1 (D) by inserting after the subsection head-
2 ing the following new paragraphs:

3 “(1) AUTHORITY TO ENTER INTO AGREE-
4 MENTS.—(A)(i) The Secretary may enter into an
5 agreement with a guaranty agency, under which the
6 Secretary shall insure loans made under this section
7 through the guaranty agency as the agent of the
8 Secretary.

9 “(ii) Any guaranty agency that had an agree-
10 ment with the Secretary under section 428(b) as of
11 the day before the date of enactment of the Student
12 Financial Aid Improvements Act of 1997 may enter
13 into an initial agreement with the Secretary under
14 this subsection.

15 “(iii) An agreement under this subsection shall
16 be five years in duration, and may be renewed by
17 the Secretary for successive five-year periods.

18 “(iii) The Secretary may terminate the agree-
19 ment prior to its expiration in accordance with para-
20 graph (9).

21 “(2) EFFECT ON PRIOR GUARANTY AGREE-
22 MENTS AND LOAN INSURANCE BY GUARANTY AGEN-
23 CIES.—(A) All guaranty agreements made under
24 this subsection as it was in effect on the day before
25 the date of enactment of the Student Financial Aid

1 Improvements Act of 1997 shall terminate not later
2 than 180 days after the date of enactment of that
3 Act.

4 “(B) Notwithstanding any other provision of
5 law—

6 “(i) to the extent that a guaranty agency
7 had insured loans under this part, loan insur-
8 ance by such guaranty agency that is outstand-
9 ing as of the date of the termination under sub-
10 paragraph (A) shall be replaced on such date by
11 loan insurance issued by the Secretary, and the
12 guaranty agency shall be relieved of any further
13 liability thereon;

14 “(ii) the Secretary’s liability for any out-
15 standing liabilities of a guaranty agency (other
16 than outstanding loan insurance under this
17 part), shall not exceed the fair market value of
18 the unrestricted funds of the guaranty agency,
19 which shall consist of—

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

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

1 “(iii) for the first year after the date of en-
2 actment of the Student Financial Aid Improve-
3 ments Act of 1997, the Secretary may specify
4 such interim administrative measures as the
5 Secretary determines to be necessary for the ef-
6 ficient transfer of the loan insurance function,
7 and to carry out the purposes of this part.

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

11 “(A) provisions regarding the responsibil-
12 ities of the guaranty agency for—

13 “(i) administering the issuance of in-
14 surance on loans made under this section
15 on behalf of the Secretary;

16 “(ii) monitoring insurance commit-
17 ments made under this section;

18 “(iii) default prevention activities;

19 “(iv) review of default claims made by
20 lenders;

21 “(v) payment of default claims;

22 “(vi) collection of defaulted loans;

23 “(vii) adoption of internal systems of
24 accounting and auditing that are accept-
25 able to the Secretary, and reporting the re-

1 sult thereof to the Secretary on a timely,
2 accurate, and audible basis;

3 “(viii) timely and accurate collection
4 and reporting of such other data as the
5 Secretary may require to carry out the
6 purposes of the programs under this title;

7 “(ix) monitoring of institutions and
8 lenders participating in the program under
9 this part; and

10 “(x) such other program functions as
11 the Secretary may require of the guaranty
12 agency;

13 “(B) provisions regarding the fees the Sec-
14 retary shall pay to the guaranty agency under
15 the agreement, and other revenues that the
16 guaranty agency may receive thereunder, as de-
17 scribed in paragraphs (4) and (6);

18 “(C) provisions requiring the guaranty
19 agency to carry out its responsibilities under
20 the agreement in accordance with paragraph
21 (5);

22 “(D) provisions regarding the use, in ac-
23 cordance with paragraph (10), of net revenues
24 in excess of the guaranty agency’s need for
25 working capital, as determined after compliance

1 with section 422(h), for such other activities in
2 support of postsecondary education as may be
3 agreed to by the Secretary and the guaranty
4 agency;

5 “(E) provisions regarding such other busi-
6 nesses, previously purchased or developed with
7 reserve funds, that relate to the program under
8 this part and in which the Secretary permits
9 the guaranty agency to engage (as determined
10 on a case-by-case basis);

11 “(F) provisions setting forth such adminis-
12 trative and fiscal procedures as may be nec-
13 essary to protect the United States from the
14 risk of unreasonable loss thereunder, and to en-
15 sure proper and efficient administration of the
16 loan insurance program;

17 “(G) provisions regarding the submission
18 of the results of audits of the guaranty agency
19 that are conducted--

20 “(i) at least annually;

21 “(ii) by a qualified, independent orga-
22 nization or person in accordance with the
23 standards established by the Comptroller
24 General for the audit of governmental or-
25 ganizations, programs, and functions; and

1 “(iii) in accordance with the regula-
2 tions of the Secretary;

3 “(H) provisions requiring the making of
4 such reports, in such form and containing such
5 information, including financial information, as
6 the Secretary may reasonably require to carry
7 out the Secretary’s functions under this part
8 and to protect the Federal fiscal interest, and
9 for keeping such records and for affording such
10 access thereto as the Secretary may find nec-
11 essary or appropriate to ensure the correctness
12 and verification of such reports;

13 “(I) adequate assurances that the guar-
14 anty agency will not engage in any pattern or
15 practice which may result in a denial of a bor-
16 rower’s access to loans under this part because
17 of the borrower’s race, sex, color, religion, na-
18 tional origin, age, handicapped status, income,
19 attendance at a particular eligible institution,
20 length of the borrower’s educational program,
21 or the borrower’s academic year in school;

22 “(J) assurances that—

23 “(i) upon the request of an eligible in-
24 stitution, the guaranty agency shall, sub-
25 ject to clauses (ii) and (iii), furnish to the

1 institution information with respect to stu-
2 dents (including the names and addresses
3 of such students) who received loans made
4 or insured under this part for attendance
5 at the eligible institution and for whom
6 preclaims assistance activities have been
7 requested under subsection (l);

8 “(ii) the guaranty agency shall require
9 the payment by the institution of a reason-
10 able fee (as determined in accordance with
11 regulations prescribed by the Secretary)
12 for such information; and

13 “(iii) the institution may use such in-
14 formation only to remind students of their
15 obligation to repay student loans and may
16 not disseminate the information for any
17 other purpose; and

18 “(K) such other provisions as the Sec-
19 retary may determine to be necessary to protect
20 the United States from the risk of unreasonable
21 loss and to promote the purposes of this part.

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

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

4 “(II) an annual maintenance fee for each
5 active borrower account.

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

11 “(B) A guaranty agency with an agreement
12 under this subsection also may receive revenues de-
13 rived from—

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

16 “(ii) the collection retention allowance
17 under paragraph (6);

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

20 “(iv) such other businesses, previously pur-
21 chased or developed with reserve funds, that re-
22 late to the program under this part and in
23 which the Secretary permits the guaranty agen-
24 cy to engage (as determined on a case-by-case
25 basis); and

1 “(v) such other fees as may be authorized
2 under this part.

3 “(5) PERFORMANCE REQUIREMENTS.—(A) A
4 guaranty agency with an agreement under this sub-
5 section shall carry out its responsibilities thereunder
6 in accordance with such measurable performance-
7 based standards as the Secretary may specify, and
8 shall submit timely and accurate data to the Sec-
9 retary in support of its performance.

10 “(B) The Secretary shall apply the performance
11 standards uniformly to guaranty agencies with
12 agreements under this subsection.

13 “(C) The Secretary shall assess the perform-
14 ance of each guaranty agency on the basis of the au-
15 dits required under paragraph (3)(G), and shall
16 compare such guaranty agency’s performance
17 against the performance of other such guaranty
18 agencies and publicly disseminate such comparison.

19 “(D) The Secretary may impose a fine, in ac-
20 cordance with the terms of the agreement, on a
21 guaranty agency that fails to achieve a specified
22 level of performance on one or more performance
23 standards. If the guaranty agency’s failure to
24 achieve such performance level results in a financial

1 loss to the United States, the guaranty agency shall
2 indemnify the Secretary for such loss.”;

3 (E) by amending paragraph (6) to read as
4 follows:

5 “(6) COLLECTION RETENTION ALLOWANCE.—

6 (A) If, after the Secretary has paid a claim on a
7 loan made under this title, any payments are made
8 in discharge of the obligation incurred by the bor-
9 rower with respect to such loan (including any pay-
10 ments of interest accruing on such loan after the
11 payment of the default claim by the Secretary),
12 there shall be paid over to the Secretary that portion
13 of the payments remaining after the guaranty agen-
14 cy with which the Secretary has an agreement under
15 this subsection has deducted from such payments an
16 amount for costs related to the student loan insur-
17 ance program that—

18 “(i) shall be specified by the Secretary on
19 the basis of the Secretary’s review of payments
20 for similar services in a competitive environ-
21 ment; and

22 “(ii) in no case shall exceed 18.5 percent
23 of such payments (subject to subparagraph
24 (B)).

1 “(B) If, after the Secretary has paid a claim on
2 a loan made under this title, and the liability on
3 such loan is discharged by payment of the proceeds
4 of a consolidation loan under this part or under part
5 D, the guaranty agency may not deduct the amount
6 specified in subparagraph (A), but may charge the
7 borrower an amount specified by the Secretary and
8 not to exceed 18.5 percent of the principal amount
9 of the defaulted loan at the time of consolidation, to
10 defray the guaranty agency’s collection costs on the
11 defaulted loan to be consolidated.”;

12 (F) by amending paragraph (7) to read as
13 follows:

14 “(7) SECRETARY AUTHORIZED TO RENEW OR
15 MAKE ALTERNATE AGREEMENTS.—Notwithstanding
16 any other provision of law, once the initial agree-
17 ment with a guaranty agency entered into after the
18 date of enactment of the Student Financial Aid Im-
19 provements Act of 1997 has ended (through its expi-
20 ration, the termination of the guaranty agency
21 agreement by the Secretary in accordance with para-
22 graph (9), or the resignation of the guaranty agency,
23 as the case may be), the Secretary, in his discretion,
24 may enter into—

1 “(A) another agreement with the guaranty
2 agency;

3 “(B) an alternate agreement under which
4 the functions previously performed by the guar-
5 anty agency shall be performed by another
6 State or private nonprofit agency with which
7 the Secretary has an agreement under this sub-
8 section; or

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

10 (G) by amending paragraph (9) to read as
11 follows:

12 “(9) TERMINATION OF GUARANTY AGENCY
13 AGREEMENTS.—(A) A guaranty agency’s agreement
14 under this subsection may be ended in advance of its
15 expiration date in accordance with subparagraph
16 (B), or (C). If its agreement is so ended, the guar-
17 anty agency shall immediately—

18 “(i) cease to be an agent of the Secretary
19 for purposes of the program under this part;
20 and

21 “(ii) surrender all remaining liquid and
22 non-liquid reserve funds, and assets purchased
23 or developed with reserve funds, still held by
24 the guaranty agency (including reserves held
25 by, or under the control of, any other entity) to

1 the Secretary or the Secretary’s designated
2 agent.

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

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

9 “(ii) the guaranty agency fails to increase
10 the amount of funds in its unrestricted account
11 (as measured by comparing the amount of
12 funds in such account at the beginning and end
13 of a year) for each of two years (that may or
14 may not be consecutive) in the five year period
15 of the agreement under this subsection;

16 “(iii) any other agreement that the guar-
17 anty agency has with the Secretary is termi-
18 nated;

19 “(iv) the guaranty agency becomes insol-
20 vent or declares bankruptcy; or

21 “(v) there is any legal impediment to the
22 guaranty agency substantially performing its re-
23 sponsibilities under the agreement.

24 “(C) The Secretary shall, after notice and op-
25 portunity for a hearing, terminate a guaranty agen-

1 cy that has substantially failed to achieve an accept-
2 able level of performance under its agreement with
3 the Secretary. A substantial performance failure
4 under this subparagraph may include the existence
5 of material internal control weaknesses relating to
6 data quality in the guaranty agency's audits for each
7 of two years (that may or may not be consecutive)
8 in the five year period of the agreement under this
9 subsection.

10 “(D) Notwithstanding any other provision of
11 Federal or State law, if the Secretary has termi-
12 nated or is seeking to terminate a guaranty agency's
13 agreement in advance of its expiration date—

14 “(i) no State court may issue any order af-
15 fecting the Secretary's actions with respect to
16 such guaranty agency;

17 “(ii) any contract with respect to the ad-
18 ministration of reserve funds held by a guar-
19 anty agency, or the administration of any assets
20 purchased or developed with the reserve funds
21 of the guaranty agency, that is entered into or
22 extended by the guaranty agency, or any other
23 party on behalf of or with the concurrence of
24 the guaranty agency, after the date of enact-
25 ment of the Student Financial Aid Improve-

1 ments Act of 1997 shall provide that the con-
2 tract is terminable by the Secretary upon 30
3 days notice to the contracting parties if the
4 Secretary determines that such contract in-
5 cludes an impermissible transfer of the reserve
6 funds or assets, or is otherwise inconsistent
7 with the terms or purposes of this section; and

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

11 (H) by adding after paragraph (9) the fol-
12 lowing new paragraph:

13 “(10) USE OF SURPLUS FUNDS.—(A) A guar-
14 anty agency with an agreement under this sub-
15 section may retain the amount determined in accord-
16 ance with subparagraph (B) for activities in support
17 of postsecondary education that are approved by the
18 Secretary.

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

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

4 “(I) 50 percent of its net revenues for such
5 year in excess of its need for working capital,
6 as determined after compliance with section
7 422(h); or

8 “(II) the amount of its net revenues for
9 such year in excess of its need for working cap-
10 ital, as determined after compliance with sec-
11 tion 422(h), that is equal to a uniform percent-
12 age, established annually by the Secretary, of
13 federal revenues received by the guaranty agen-
14 cy for the preceding year. In determining such
15 percentage, the Secretary shall take into ac-
16 count all guaranty agencies’ revenues and costs
17 for the preceding year to determine an adequate
18 level of economic incentive for guaranty agen-
19 cies to maximize their efficiency.”;

20 (4) by amending subsection (g) to read as fol-
21 lows:

22 “(g) DEFAULT PREVENTION FEE PAID BY LEND-
23 ERS.—(1) An eligible lender shall pay a guaranty agency,
24 to which such lender referred a delinquent loan, a default
25 prevention fee of not to exceed \$100 per borrower account

1 if the guaranty agency succeeds in bringing such loan into
2 current repayment status.

3 “(2) The Secretary shall prescribe in regulations the
4 circumstances in which a lender may obtain a refund of
5 a default prevention fee if the borrower of a loan on which
6 such fee was paid subsequently defaults on such loan.”;
7 and

8 (5) in subsection (l)—

9 (A) in paragraph (1), by striking the para-
10 graph designation and the paragraph heading;
11 and

12 (B) by striking paragraph (2).

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

15 REPEAL OF STATE SHARE OF DEFAULT COSTS

16 SEC. 127. Section 428 of the Act is further amended
17 by striking subsection (n).

18 CONSOLIDATION LOANS

19 SEC. 128. (a) Section 428C of the Act is further
20 amended—

21 (1) in subsection (a)(3)—

22 (A) in subparagraph (A), by inserting “in
23 an in-school period,” after “for a consolidation
24 loan is”; and

25 (B) in subparagraph (B), by amending
26 clause (i) to read as follows:

1 “(i) Eligible student loans re-
2 ceived by the eligible borrower may be
3 added to a consolidation loan during
4 the 180-day period following the mak-
5 ing of such consolidation loan.”;

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

8 “(ii) provides that interest shall ac-
9 crue and be paid—

10 “(I) by the Secretary, in the case
11 of a consolidation loan made before
12 October 1, 1997 that consolidated
13 only Federal Stafford Loans for which
14 the student borrower received an in-
15 terest subsidy under section 428;

16 “(II) by the Secretary, in the
17 case of a consolidation loan made on
18 or after October 1, 1997, except that
19 the Secretary shall pay such interest
20 only on that portion of the loan that
21 repays Federal Stafford Loans for
22 which the student borrower received
23 an interest subsidy under section 428;
24 and

1 “(III) by the borrower, or cap-
2 italized, in the case of a consolidation
3 loan, or portion thereof, other than
4 one described in subclause (I) or
5 (II);”; and

6 (3) in subsection (c)—

7 (A) in paragraph (1)—

8 (i) in subparagraph (A), by striking
9 “subparagraph (B) or (C).” and inserting
10 “subparagraph (B), (C), (D), or (E), and
11 subject to subparagraph (F).”;

12 (ii) in subparagraph (C), by striking
13 “after July 1, 1994,” and inserting “after
14 July 1, 1994 and before October 1,
15 1997,”; and

16 (iii) by adding after subparagraph (C)
17 the following new subparagraphs:

18 “(D) A consolidation loan made on or after
19 October 1, 1997, that repays loans made under
20 section 428 or 428H, or a combination thereof,
21 shall bear interest at an annual rate on the un-
22 paid principal balance of the loan that is equal
23 to—

1 “(i) the rate specified in section
2 427A(g), in the case of a borrower in an
3 in-school or grace period; or

4 “(ii) the rate specified in section
5 427A(h)(1) in all other cases.

6 “(E) A consolidation loan made on or after
7 October 1, 1997, that repays loans made under
8 section 428B shall bear interest at an annual
9 rate on the unpaid principal balance of the loan
10 that is equal to the rate specified in section
11 427A(h)(2).

12 “(F) Notwithstanding any other provision
13 of this section, the Secretary may prescribe in
14 regulation such procedures as may be necessary
15 to ensure that—

16 “(i) a borrower of a consolidation loan
17 that repays a combination of loans eligible
18 to be consolidated under this section, shall
19 continue to receive, after consolidation, any
20 interest subsidy benefits associated with a
21 loan, without extending such benefits to
22 any other loans consolidated that do not
23 have interest subsidy benefits;

24 “(ii) in the case of a consolidation
25 loan that repays a combination of loans de-

1 scribed in subparagraphs (D) and (E), the
2 interest rate on such consolidation loan
3 shall be calculated in a manner that re-
4 flects the interest rate applicable to loans
5 made under each such subparagraph; and

6 “(iii) in the case of a consolidation
7 loan that repays a loan eligible to be con-
8 solidated under this section other than
9 those described in subparagraphs (D) and
10 (E), the interest rate applicable to such
11 other loan shall be the interest rate de-
12 scribed in subparagraph (D) if such other
13 loan is considered by the Secretary to be
14 subsidized, and the interest rate described
15 in subparagraph (E) if such other loan is
16 considered by the Secretary to be
17 unsubsidized.”; and

18 (B) in paragraph (4)—

19 (i) by striking “Repayment” and in-
20 sserting “(A) Except as provided in sub-
21 paragraph (B), repayment”; and

22 (ii) by adding after subparagraph (A)
23 (as redesignated by clause (i)) the follow-
24 ing new subparagraph:

1 “(B) In the case of a consolidation loan
 2 that repays a loan made under this part for
 3 which the borrower is in an in-school period at
 4 the time the consolidation application is re-
 5 ceived, the repayment period for such consolida-
 6 tion loan shall commence after the completion
 7 of a grace period, as described in section
 8 428(b)(7)(i).”.

9 CONTRACTS WITH OTHER ENTITIES

10 SEC. 129. Part B of title IV of the Act is amended
 11 by inserting after section 428D the following new section:

12 “CONTRACT AUTHORITY

13 “SEC. 428E. The Secretary may enter into one or
 14 more contracts to carry out any of the functions that oth-
 15 erwise would be carried out by a guaranty agency with
 16 an agreement under section 428(e).”.

17 ELIGIBLE LENDER

18 SEC. 130. Section 435(d) of the Act is amended—

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

21 (2) by adding after paragraph (6) the following
 22 new paragraph:

23 “(7) UNIFORM TERMS AND CONDITIONS.—Sub-
 24 ject to such exceptions as the Secretary may pre-
 25 scribe in regulations, the term ‘eligible lender’ shall
 26 not include any lender that offers different terms

1 and conditions to different borrowers of the same
2 type of loan made or insured under this part.”.

3 SPECIAL ALLOWANCE

4 SEC. 131. Section 438 of the Act is amended—

5 (1) in subsection (a)(3), by striking “quarterly
6 rate” each place it appears and inserting “rate”;
7 and

8 (2) in subsection (b)—

9 (A) in paragraph (2)—

10 (i) by striking “subparagraphs (B),
11 (C), (D), (E), and (F)” and inserting
12 “subparagraphs (B), (C), (D), (E), (F),
13 and (G)”;

14 (ii) by adding after subparagraph (F)
15 the following new subparagraph:

16 “(G)(i) Notwithstanding any other provi-
17 sion of this section, in the case of loans made
18 or insured under this part for which the first
19 disbursement is made on or after October 1,
20 1997, the special allowance paid pursuant to
21 this subsection shall be computed for any 12-
22 month period beginning on July 1 and ending
23 on June 30 by—

24 “(I) determining the bond equivalent
25 rate on the preceding June 1 of the securi-

1 ties with a comparable maturity, as estab-
2 lished by the Secretary; and

3 “**(II)** subtracting the applicable inter-
4 est rate on such loans from such amount.

5 “(ii) The amount of special allowance com-
6 puted under clause (i) shall be paid in quarterly
7 increments for the 3-month periods described in
8 paragraph (1).”; and

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

16 STUDENT LOAN MARKETING ASSOCIATION OFFSET FEE

17 SEC. 132. Section 439(h)(7) of the Act is amended
18 by adding after subparagraph (C) the following new sub-
19 paragraph:

20 “(D) The calculation of the fee required
21 under subparagraph (A) or (B), as the case
22 may be, shall be determined on the basis of the
23 principal amount of all loans (except for loans
24 made under sections 428C, 439(o) or 439(q))—

25 “(i) owned, in whole or in part, by the
26 Association, any subsidiary of the Associa-

1 \$806,000,000 in fiscal year 2001, and \$904,000,000 in
2 fiscal year 2002.”.

3 PART C—NEED ANALYSIS AND GENERAL PROVISIONS

4 HOPE SCHOLARSHIP NEED ANALYSIS AMENDMENTS

5 SEC. 141. (a) CALCULATION OF AVAILABLE IN-

6 COME.—(1) Section 475 of the Act is amended—

7 (A) by amending subsection (c)(1)(A) to read
8 as follows:

9 “(A) the sum of—

10 “(i) Federal income taxes;

11 “(ii) the amount of any tax credit
12 taken under section 24A of the Internal
13 Revenue Code of 1986; and

14 “(iii) the amount by which tax liabil-
15 ity determined without regard to the de-
16 duction provided under section 221 of the
17 Internal Revenue Code exceeds the amount
18 of tax liability determined after taking
19 such deduction into account;” and

20 (B) by amending subsection (g)(2)(A) to read
21 as follows:

22 “(A) the sum of—

23 “(i) Federal income taxes;

1 “(ii) the amount of any tax credit
2 taken by the student under section 24A of
3 the Internal Revenue Code of 1986; and

4 “(iii) the amount by which tax liabil-
5 ity determined without regard to the de-
6 duction provided under section 221 of the
7 Internal Revenue Code exceeds the amount
8 of tax liability determined after taking
9 such deduction into account;”.

10 (2) Section 476(b)(1)(A)(i) of the Act is amended to
11 read as follows:

12 “(A) the sum of—

13 “(i) Federal income taxes;

14 “(ii) the amount of any tax credit
15 taken under section 24A of the Internal
16 Revenue Code of 1986; and

17 “(iii) the amount by which tax liabil-
18 ity determined without regard to the de-
19 duction provided under section 221 of the
20 Internal Revenue Code exceeds the amount
21 of tax liability determined after taking
22 such deduction into account;”.

23 (3) Section 477(b)(1)(A) of the Act is amended to
24 read as follows:

25 “(A) the sum of—

- 1 “(i) Federal income taxes;
- 2 “(ii) the amount of any tax credit
- 3 taken under section 24A of the Internal
- 4 Revenue Code of 1986; and
- 5 “(iii) the amount by which tax liabil-
- 6 ity determined without regard to the de-
- 7 duction provided under section 221 of the
- 8 Internal Revenue Code exceeds the amount
- 9 of tax liability determined after taking
- 10 such deduction into account;”.

11 (b) DEFINITIONS.—Section 480 of the Act is amend-

12 ed—

13 (1) in subsection (a)(2)—

14 (A) by striking “and no portion” and in-

15 serting “no portion”; and

16 (B) by inserting after “(42 U.S.C. 12571

17 et seq.),” the following: “and no portion of any

18 tax credit taken under section 24A of the Inter-

19 nal Revenue Code of 1986;”;

20 (2) in subsection (b)—

21 (A) in paragraph (13), by striking “and”

22 at the end of the paragraph;

23 (B) by redesignating paragraph (14) as

24 paragraph (15); and

1 (C) by inserting after paragraph (13) the
2 following new paragraph:

3 “(14) any tax deduction taken under section
4 221 of the Internal Revenue Code of 1986; and”;
5 (3) in subsection (e)—

6 (A) in paragraph (3), by striking “and” at
7 the end of the paragraph;

8 (B) in paragraph (4), by striking the pe-
9 riod at the end of the paragraph and inserting
10 “; and”; and

11 (C) by adding after paragraph (4) the fol-
12 lowing new paragraph:

13 “(5) any tax credit taken under section 24A of
14 the Internal Revenue Code of 1986; and”;

15 (4) in subsection (j), by adding after paragraph
16 (3) the following new paragraph:

17 “(4) Notwithstanding paragraph (1), a tax
18 credit taken under section 24A of the Internal Reve-
19 nue Code of 1986 shall not be treated as estimated
20 financial assistance for purposes of section 471(3).”.

21 INCOME PROTECTION ALLOWANCE FOR INDEPENDENT

22 STUDENTS WITHOUT DEPENDENTS

23 SEC. 142. (a) Section 476(b) of the Act is amended—

24 (1) in paragraph (1)—

25 (A) in subparagraph (A)—

1 (i) by amending clause (iv) to read as
 2 follows:

3 “(iv) an income protection allowance,
 4 determined in accordance with paragraph
 5 (4);” and

6 (ii) in clause (v), by striking “para-
 7 graph (4);” and inserting “paragraph
 8 (5);” and

9 (B) in subparagraph (B), by striking
 10 “paragraph (5).” and inserting “paragraph
 11 (6).”;

12 (2) by redesignating paragraphs (4) and (5) as
 13 paragraphs (5) and (6), respectively; and

14 (3) by inserting after paragraph (3) the follow-
 15 ing new paragraph:

16 “(4) INCOME PROTECTION ALLOWANCE.—The
 17 income protection allowance is determined by the fol-
 18 lowing table (or a successor table prescribed by the
 19 Secretary under section 478):

“INCOME PROTECTION ALLOWANCE

Family size (including student)	Number in college	
	1	2
1	8,000	
2	10,520	8,720.”

20 (b) Section 478(b) of the Act is amended by striking
 21 “sections 475(c)(4) and 477(b)(4).” and inserting “sec-
 22 tions 475(c)(4), 476(b)(4), and 477(b)(4).”.

1 HOPE SCHOLARSHIP DEFINITIONS

2 SEC. 143. Section 481 of the Act is amended by add-
3 ing after subsection (f) the following new subsection:

4 “(g) HOPE SCHOLARSHIP DEFINITIONS.—(1) As
5 necessary for purposes of the tax credit provided under
6 section 24A of the Internal Revenue Code of 1986, and
7 the deduction provided under section 221 of such Code,
8 the Secretary of Education shall define in regulation the
9 following terms:

10 “(A) academic period;

11 “(B) normal full-time workload;

12 “(C) first two years of postsecondary education;

13 “(D) qualifying grade point average;

14 “(E) job skills; and

15 “(F) new job skills.

16 “(2) Notwithstanding any other provision of law, the
17 regulations described in paragraph (1) shall not be subject
18 to section 482(c).”.

19 EXTENSION OF STUDENT AID PROGRAMS

20 SEC. 144. Title IV of the Act is amended—

21 (1) in section 401(a)(1), by striking “Septem-
22 ber 30, 1998,” and inserting “September 30,
23 1999,”;

24 (2) in section 424(a), by striking “1998.” and
25 “2002.” and inserting “2002.” and “2006.”, respec-
26 tively;

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

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

6 (5) in section 466—

7 (A) in subsection (a)—

8 (i) in the matter preceding paragraph
9 (1), by striking “September 30, 1996,”
10 and March 31, 1997,” and inserting “Sep-
11 tember 30, 1998,” and March 31, 1999”,
12 respectively; and

13 (ii) in paragraph (1), by striking
14 “September 30, 1996,” and inserting
15 “September 30, 1998,”;

16 (B) in subsection (b), by striking “Septem-
17 ber 30, 1996,” and inserting “September 30,
18 1998,”; and

19 (C) in subsection (c), by striking out “Oc-
20 tober 1, 1997,” and inserting “October 1,
21 1998,”.

1 PART D—EFFECTIVE DATES

2 EFFECTIVE DATES

3 SEC. 151. (a) Except as otherwise provided in this
4 section, the amendments made by this title shall take ef-
5 fect on the date of enactment of this Act.

6 (b) Section 211 is effective for the calculation of Pell
7 Grant awards for award years beginning on or after July
8 1, 1998.

9 (c) Section 222 is effective for a loan made under
10 part B or part D of title IV of the Act for which the first
11 disbursement is made on or after October 1, 1997.

12 (d) Section 223(a)(3) and section 428(b)(5)(C) of the
13 Act (as added by section 226(a)(2)(E)) are effective as
14 if they were enacted on July 23, 1992.

15 (e) Sections 224, 229, and 230 take effect on October
16 1, 1997.

17 (f) Section 231 is effective for a loan made or insured
18 under part B of title IV of the Act for which the first
19 disbursement is made on or after October 1, 1997.

20 (g) Section 232 is effective as if it were enacted on
21 August 10, 1993, but does not apply to the privatized en-
22 tity that may be created as a result of the Student Loan
23 Marketing Association Reorganization Act of 1996 (Title
24 VI of the Departments of Labor, Health and Human Serv-
25 ices, Education, and Related Agencies Appropriations Act,

1 1997, as enacted by section 101(e) of Division A of Public
2 Law 104–208).

3 (h) Section 242 is effective for determinations of need
4 for academic years beginning on or after July 1, 1998.

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