

105TH CONGRESS  
1ST SESSION

# H. R. 2140

To amend the Higher Education Act of 1965 to improve accountability  
and reform certain programs.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 10, 1997

Mr. KLINK (for himself, Mr. FOX of Pennsylvania, Mr. KILDEE, Mr. ENGLISH of Pennsylvania, Mr. MASCARA, Ms. DELAURO, Ms. WOOLSEY, Mr. ANDREWS, Mr. DOYLE, Mr. HOLDEN, and Mr. COYNE) introduced the following bill; which was referred to the Committee on Education and the Workforce

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## A BILL

To amend the Higher Education Act of 1965 to improve  
accountability and reform certain programs.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; REFERENCE.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Federal Accountability and Institutional Reform in Edu-  
6       cation Act of 1997”.

7       (b) REFERENCES.—Except as otherwise expressly  
8       provided, whenever in this Act an amendment or repeal  
9       is expressed in terms of an amendment to, or repeal of,

1 a section or other provision, the reference shall be consid-  
2 ered to be made to a section or other provision of the  
3 Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

4 **SEC. 2. FINDINGS.**

5 The Congress finds that—

6 (1) the Federal Government is reducing spend-  
7 ing in all areas, including postsecondary education;

8 (2) reductions in postsecondary education  
9 spending fall on students, institutions, State loan  
10 guaranty agencies and lenders;

11 (3) the administration of postsecondary edu-  
12 cation is the responsibility of the Department of  
13 Education; and

14 (4) reforms should be made to postsecondary  
15 education programs—

16 (A) to provide greater accountability from  
17 the Department, educational institutions, lend-  
18 ers, guaranty agencies, servicers, and secondary  
19 markets; and

20 (B) to enhance institutional compliance  
21 with Department policies.

22 **SEC. 3. STUDENT LOAN COHORT DEFAULT MANAGEMENT**  
23 **REFORMS.**

24 (a) ADMINISTRATIVE AND FISCAL PROCEDURES.—

25 Section 428(c)(2)(A) (20 U.S.C. 1078(c)(2)(A)) is amend-

1 ed by striking “proof that reasonable attempts were  
2 made” and inserting “proof that the institution and the  
3 State licensing board were contacted and other reasonable  
4 attempts were made”

5 (b) REIMBURSEMENT.—Section 428(c)(2)(G) (20  
6 U.S.C. 1078(c)(2)(G)) is amended by striking “certifies  
7 to the Secretary that diligent attempts have been made”  
8 and inserting “demonstrates to the Secretary that diligent  
9 attempts, including direct contact with the institution and  
10 the State licensing board, have been made.”.

11 (c) LIMITATION.—Section 428 (20 U.S.C. 1078) is  
12 amended by adding at the end the following:

13 “(o) LIMITATION.—Notwithstanding any other provi-  
14 sion of this section, the Secretary shall not reimburse or  
15 permit any eligible lender, servicer, or guaranty agency (or  
16 its affiliates) who previously filed a claim for reimburse-  
17 ment on a loan to retain any proceeds from subsequent  
18 collection of a defaulted loan to the extent that such funds,  
19 when added to the amount of prior reimbursement under  
20 this section, exceed 100 percent of the original principal  
21 of the loan.”.

22 (d) NOTICE TO SECRETARY AND PAYMENT OF  
23 LOSS.—The third sentence of section 430(a) (20 U.S.C.  
24 1080(a)) is amended—

1           (1) by inserting “all” after “required to meet”;  
2       and

3           (2) by inserting “the institution and the State  
4       licensing board were contacted and other” after  
5       “submit proof that”.

6       (e) ANNUAL REPORT.—Section 430 (20 U.S.C.  
7       1080) is amended by adding at the end the following:

8       “(f) ANNUAL REPORT.—The Secretary shall report  
9       annually to Congress that lenders, servicers and guaranty  
10      agencies have demonstrated their compliance with servie-  
11      ing and due diligence requirements, under both statute  
12      and regulation. The Secretary shall also provide informa-  
13      tion on the successful practices of low-default lenders,  
14      servicers and guaranty agencies to other financial, servie-  
15      ing and guaranty institutions participating in this title to  
16      encourage duplication of successful servicing and collec-  
17      tion programs.”.

18      (f) NOTICE TO INSTITUTIONS OF CREDIT BUREAU  
19      INFORMATION.—Section 430A(e) (20 U.S.C. 1080a(e)) is  
20      amended by striking “is authorized to” and inserting  
21      “shall”.

22      (g) CIRCUMSTANCES.—Section 435(a)(2) (20 U.S.C.  
23      1085(a)(2)) is amended by adding at the end the follow-  
24      ing:

1           “(D) The circumstances referred to in subpara-  
2           graph (A)(ii) shall be uniformly applied to all eligible  
3           institutions and shall require that such an institu-  
4           tion meet the following criteria:

5                   “(i) Not less than 50 percent of the stu-  
6                   dents enrolled in eligible programs qualify for  
7                   an award under subpart 1 of part A of title IV.

8                   “(ii) The institution’s student completion  
9                   rate is 60 percent or greater.

10                   “(iii) The initial job placement rate of pro-  
11                   gram graduates is 60 percent or greater.”.

12           (h) COHORT DEFAULT RATE.—Section 435(m) (20  
13 U.S.C. 1085(m)) is amended—

14                   (1) in paragraph (1)—

15                           (A) in subparagraph (A), by striking “30  
16                           or more current” and inserting “75 or more  
17                           current”;

18                           (B) in subparagraph (B), by striking “paid  
19                           claims” and inserting “properly paid claims for  
20                           insurance as required by section 430”; and

21                           (C) in subparagraph (C), by striking  
22                           “fewer than 30” and inserting “fewer than 75”;  
23                           and

24                   (2) in paragraph (2)—

1 (A) by redesignating subparagraph (D) as  
2 subparagraph (E); and

3 (B) by inserting after subparagraph (C)  
4 the following new subparagraph:

5 “(D) Any loan for which the Secretary has  
6 reimbursed the guaranty agency for claims on  
7 the insurance on a defaulted loan, and the  
8 agency has subsequently brought the loan into  
9 current repayment under section 428(c)(6),  
10 shall be removed from an institution’s default  
11 rate and the institution’s rate shall be recal-  
12 culated to reflect an accurate percentage of the  
13 borrowers in default for the three most recent  
14 cohorts used to determine institutional eligi-  
15 bility under this subsection.”.

16 **SEC. 4. LIMITED INJUNCTIVE RELIEF.**

17 Section 432(a)(2) (20 U.S.C. 1082(a)(2)) is amended  
18 by striking “Secretary’s control and” and inserting “Sec-  
19 retary’s control, except that, notwithstanding the provi-  
20 sions of this paragraph, any district court of the United  
21 States, in reviewing any final determination of the Sec-  
22 retary concerning eligibility for, or the terms of participa-  
23 tion in, any loan or grant program under this title, may  
24 enter any order that would be appropriate under sections  
25 705 and 706 of title 5, United States Code, and”.

1 **SEC. 5. EXPANDED REVIEW OF LOAN SERVICING AND COL-**  
2 **LECTION RECORDS.**

3 Section 435(a)(3) (20 U.S.C. 1085(a)(3)) is amended  
4 by inserting after “loan servicers” the following “, or at  
5 the request of the institution, a complete copy of the  
6 records,”.

7 **SEC. 6. REPAYMENT TERMS.**

8 (a) **INSURED LOANS.**—Section 427 (20 U.S.C. 1077)  
9 is amended—

10 (1) in subsection (a)(2)—

11 (A) in subparagraph (B), in the matter  
12 preceding clause (i), by striking “over a period”  
13 through “nor more than 10 years” and insert-  
14 ing “in accordance with the repayment plan se-  
15 lected under subsection (d),”;

16 (B) in subparagraph (C), at the end of the  
17 subparagraph, by striking out “the 10-year pe-  
18 riod described in subparagraph (B);” and in-  
19 serting the following: “the length of the repay-  
20 ment period under a repayment plan described  
21 in subsection (d),”;

22 (C) by striking subparagraph (F);

23 (D) by redesignating subparagraphs (G),  
24 (H), and (I) as subparagraphs (F), (G), and  
25 (H), respectively; and

1 (E) in subparagraph (G) (as redesignated  
2 by subparagraph (D)), by striking “the option”  
3 through the end of the subparagraph and in-  
4 serting “the repayment options described in  
5 subsection (d); and”;

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

10 (3) by adding after subsection (c) the following  
11 new subsection:

12 “(d) REPAYMENT PLANS.—

13 “(1) DESIGN AND SELECTION.—In accordance  
14 with regulations of the Secretary, the lender shall  
15 offer a borrower of a loan made under this part the  
16 plans described in this subsection for repayment of  
17 such loan, including principal and interest thereon.

18 No plan may require a borrower to repay a loan in  
19 less than 5 years. The borrower may choose from—

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

23 “(B) an extended repayment plan, with a  
24 fixed annual repayment amount paid over an  
25 extended period of time, not to exceed 30 years,



1           except that the borrower shall repay annually a  
2           minimum amount determined in accordance  
3           with subsection (c);

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

14          “(D) an income-sensitive repayment plan,  
15          with income-sensitive repayment amounts paid  
16          over a fixed period of time prescribed by the  
17          Secretary, not to exceed 25 years, at the end of  
18          which any remaining obligation of the borrower  
19          shall be discharged under section 437(e).

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

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

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

12          (b) GUARANTEED LOANS.—Section 428(b) (20  
 13 U.S.C. 1078) is amended—

14           (1) in paragraph (1)—

15                   (A) in subparagraph (D), by striking  
 16                   clauses (i) and (ii) and the clause designation  
 17                   “(iii)”;

18                   (B) in subparagraph (E)—

19                           (i) in clause (i)—

20                                   (I) by striking “or section  
 21                                   428A,” and inserting “or section  
 22                                   428H,”; and

23                                   (II) by striking “the option”  
 24                                   through the end of the clause and in-

1           serting “the repayment options de-  
2           scribed in paragraph (9); and”; and  
3           (ii) in clause (ii)—

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

9                 (II) by striking “of this sub-  
10                section;” at the end of clause (ii) and  
11                inserting a semicolon; and

12               (C) in subparagraph (L)(i), by inserting  
13               after the clause designation the following: “ex-  
14               cept as otherwise provided by a repayment plan  
15               selected by the borrower under paragraph  
16               (9)(A)(iii) or (iv),”; and

17               (2) by adding after paragraph (8) the following  
18       new paragraph:

19               “(9) 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 part the plans described in this subpara-  
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 (2)(L);

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           by the Secretary, not to exceed 25 years,  
5           at the end of which any remaining obliga-  
6           tion of the borrower shall be discharged  
7           under section 437(e).

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

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

23          “(D) ACCELERATION PERMITTED.—Under  
24          any of the plans described in this paragraph,  
25          the borrower shall be entitled to accelerate,

1 without penalty, repayment on the borrower's  
2 loans under this part.

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

10 (c) CONSOLIDATION LOANS.—Section 428C (20  
11 U.S.C. 1078–3) is amended—

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

14 (2) in subsection (c) by amending paragraph  
15 (2) to read as follows:

16 “(2) REPAYMENT PLANS.—

17 “(A) DESIGN AND SELECTION.—In accord-  
18 ance with regulations of the Secretary, the lend-  
19 er shall offer a borrower of a loan made under  
20 this section the plans described in this para-  
21 graph for repayment of such loan, including  
22 principal and interest thereon. No plan may re-  
23 quire a borrower to repay a loan in less than  
24 5 years. The borrower may choose from—

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

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

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

23 “(iv) an income-sensitive repayment  
24 plan, with income-sensitive repayment  
25 amounts paid over a fixed period of time

1 by the Secretary, not to exceed 25 years,  
2 at the end of which any remaining obliga-  
3 tion of the borrower shall be discharged  
4 under section 437(e).

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) (20 U.S.C.  
21 1087e) is 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,”;



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 (C) in subparagraph (D), by inserting “at  
 6 the end of which any remaining obligation of  
 7 the borrower shall be discharged,” after “25  
 8 years,”; and

9 (2) in paragraph (2), by striking “subpara-  
 10 graph (A), (B), or (C) of paragraph (1).” and in-  
 11 serting “paragraph (1)(A).”.

12 (e) DISCHARGE OF INCOME-SENSITIVE BORROWER  
 13 OBLIGATIONS.—Section 437 (20 U.S.C. 1087) is amended  
 14 by adding at the end the following new subsection:

15 “(e) PAYMENT AFTER 25 YEARS ON INCOME-SEN-  
 16 SITIVE LOANS.—The Secretary shall discharge a borrow-  
 17 er’s liability by repaying to the holder of a loan that is  
 18 subject to an income-sensitive repayment plan the amount  
 19 of the principal and interest that remains unpaid after the  
 20 borrower has completed 25 years of payment in accord-  
 21 ance with the plan.”.

22 **SEC. 7. NEGATIVE AMORTIZATION WAIVER.**

23 Section 437A(b) (20 U.S.C. 1087–0(b)) is amended  
 24 by adding at the end the following new paragraph:

1           “(3) **NEGATIVE AMORTIZATION WAIVER.**—No  
 2       loan shall be considered in default for any purpose  
 3       under this paragraph if the borrower is making reg-  
 4       ularly scheduled payments towards the repayment of  
 5       the borrower’s loan obligation in the amount re-  
 6       quired by the borrower’s repayment plan, even if  
 7       those payments are not sufficient to pay the interest  
 8       accruing on a monthly or quarterly basis.”.

9   **SEC. 8. EQUITY IN LOAN CONSOLIDATION.**

10       Section 428C (1078–3) is amended—

11           (1) in subsection (a)(3)—

12               (A) in subparagraph (A), by inserting “in  
 13       an in-school period,” after “for a consolidation  
 14       loan is”; and

15               (B) in subparagraph (B), by amending  
 16       clause (i) to read as follows:

17                   “(i) Eligible student loans received by  
 18       the eligible borrower may be added to a  
 19       consolidation loan during the 180-day pe-  
 20       riod following the making of such consoli-  
 21       dation loan.”;

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

24                   “(ii) provides that interest shall accrue and  
 25       be paid—

1 “(I) by the Secretary, in the case of  
 2 a consolidation loan made before October  
 3 1, 1997, that consolidated only Federal  
 4 Stafford Loans for which the student bor-  
 5 rower received an interest subsidy under  
 6 section 428;

7 “(II) by the Secretary, in the case of  
 8 a consolidation loan made on or after Oc-  
 9 tober 1, 1997, except that the Secretary  
 10 shall pay such interest only on that portion  
 11 of the loan that repays Federal Stafford  
 12 Loans for which the student borrower re-  
 13 ceived an interest subsidy under section  
 14 428; and

15 “(III) by the borrower, or capitalized,  
 16 in the case of a consolidation loan, or por-  
 17 tion thereof, other than one described in  
 18 subclause (I) or (II);”; and

19 (3) in subsection (c)—

20 (A) in paragraph (1)—

21 (i) in subparagraph (A), by striking  
 22 “subparagraph (B) or (C).” and inserting  
 23 “subparagraph (B), (C), (D), or (E), and  
 24 subject to subparagraph (F).”;

1 (ii) in subparagraph (C), by striking  
2 “after July 1, 1994,” and inserting “after  
3 July 1, 1994 and before October 1,  
4 1997,”; and

5 (iii) by adding after subparagraph (C)  
6 the following new subparagraphs:

7 “(D) A consolidation loan made on or after Oc-  
8 tober 1, 1997, that repays loans made under section  
9 428 of 428H, or a combination thereof, shall bear  
10 interest at an annual rate on the unpaid principal  
11 balance of the loan that is equal to—

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

15 “(ii) the rate specified in section  
16 427A(h)(1) in all other cases.

17 “(E) A consolidation loan made on or after Oc-  
18 tober 1, 1997, that repays loans made under section  
19 428B shall bear interest at an annual rate on the  
20 unpaid principal balance of the loan that is equal to  
21 the rate specified in section 427A(h)(2).

22 “(F) Notwithstanding any other provision of  
23 this section, the Secretary may prescribe in regula-  
24 tion such procedures as may be necessary to ensure  
25 that—

1           “(i) a borrower of a consolidation loan that  
2           repays a combination of loans eligible to be con-  
3           solidated under this section, shall continue to  
4           receive, after consolidation, any interest subsidy  
5           benefits associated with a loan, without extend-  
6           ing such benefits to any other loans consoli-  
7           dated that do not have interest subsidy benefits;

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

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

25                (B) in paragraph (4)—

1 (i) by striking “Repayment” and in-  
2 serting “(A) Except as provided in sub-  
3 paragraph (B), repayment”; and

4 (ii) by adding after subparagraph (A)  
5 (as redesignated by clause (i)) the follow-  
6 ing new subparagraph:

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

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