without compensation in addition to that received for their services as officers or employees of the United States.

(2) TRAVEL EXPENSES.—The members of the task force shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the task force.

(3) STAFF.—

(A) IN GENERAL.—The Chairperson of the task force may, without regard to the civil service laws, appoint and terminate such personnel as may be necessary to enable the task force to perform its duties.

(B) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the task force may procure temporary and intermittent service under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed under GS–13 of the General Schedule established under section 5332 of title 5, United States Code.

(e) TERMINATION OF TASK FORCE.—The task force shall terminate 30 days after the date on which the task force submits its reports to the Congress and to Indian tribes under subsection (b)(2).

(f) EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.—All of the activities of the task force conducted under this title shall be exempt from the Federal Advisory Committee Act (5 U.S.C. App.).

(g) PROHIBITION.—Beginning on the date of enactment of this Act, no provision of any internal manual or handbook or other written procedure purporting to govern the conduct of the Department in relation to Indian tribes shall be binding upon any Indian tribe unless that provision has been promulgated as a final regulation in accordance with applicable Federal law.

SEC. 303. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

By Mr. LEAHY (for himself, Mr. GREGG, Mr. JEFFORDS, Ms. SNOWE, Ms. COLLINS, Mr. SMITH of New Hampshire, Mr. MOYNIHAN, Mr. KERRY and Mr. KENNEDY):

S. 546. A bill to implement the recommendations of the Northern Forest Lands Council; to the Committee on Agriculture, Nutrition, and Forestry.

THE NORTHERN FOREST STEWARDSHIP ACT

Mr. LEAHY. Mr. President, today I am pleased to join my colleague Senator GREGG and Senators JEFFORDS, SNOWE, COLLINS, MOYNIHAN and SMITH in introducing the Northern Forest Stewardship Act of 1997 and the Family Forestland Preservation Tax Act. I am proud that this legislation has the entire support of the Senate delegations from the Northern Forest States of Vermont, New Hampshire, Maine, as well as Senators from other parts of the region.

Today's legislation is about empowering communities within the 26-million-acre Northern Forest—the largest contiguous forest east of the Mississippi River. This great natural resource criss crosses New York, Vermont, New Hampshire, and Maine. But as we near the end of the 20th century, growth pressures on the Northern Forest have increased. The thousands of people who live in this region have wrestled with how to maintain economies that provide jobs while preserving the environment that makes the region such a special place.

Recognizing the challenge facing these communities, Senator Warren Rudman and I sponsored the Northern Forest Lands Study in 1990. Thousands of people who live in the Northern Forest participated in the study which lasted 4 years. Upon the conclusion of the study, the Northern Forest Lands Council was established to develop specific recommendations to address the issues identified in the study.

As one might expect, the majority of these recommendations focused on local and State issues. However, some of the ideas proposed by the Northern Forest Lands Council requested changes in Federal law. Today, we are here to move forward the council recommendations that need these modifications.

Here is an example of what Congress can achieve when it heeds the public's voice. It is founded on extensive research, open discussion, consensus decisions, and visionary problem solving by the people who have a stake in the future of the forest. Legislation rarely embodies such a thorough effort by so diverse a constituency.

This legislation will reaffirm the council's vision of the Northern Forest as a working landscape of interlocking parts and pieces, reinforcing each other: small and rural communities, industrial forest land, family and individual ownerships, small woodlots, recreation land, public and private conservation land.

These bills focus on three key goals of the council: fostering stewardship of private land, building knowledge and information on forest resources, and increasing funds available for land conservation. These are goals shared by the people and representatives of the Northern Forest region and provide the foundation for the bipartisan support of this legislation in the House and the Senate.

This legislation also recognizes the extraordinary resources the 26-million-acre Northern Forest region provides to local communities and visitors alike. The forests within the region are rich in natural resources and values cherished by residents and visitors: timber, fiber, and wood for forest products and energy supporting successful businesses and providing stable jobs for residents; lakes, ponds, rivers, and streams unspoiled by pollution or crowding human development; viable tracts of land for wildlife habitat and recreational use, and protected areas to help preserve the biological integrity of the region.

Given the nature of the council's recommendations, one piece of legislation to implement all the recommendations was not feasible, therefore we are introducing this package of bills. It is our hope that these bills will both be taken up in the appropriate committees of this Congress and will move through Congress as complementary legislation.

Passing this legislation is a priority for me personally and for Vermont. It will highlight the importance of the forest resources to our region and to the Nation. It will help State, local, and community groups draw upon Federal assistance to work toward the goals of the council. And, it will reaffirm these goals and the shared commitment to protect the environmental and economic heritage of the region.

Mr. President, I ask unanimous consent that the bill on the part of myself, and Senators GREGG, JEFFORDS, SNOWE, COLLINS, SMITH of New Hampshire, MOYNIHAN, KERRY of Massachusetts, and Mr. KENNEDY be introduced and appropriately referred.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

Mr. JEFFORDS. Mr. President, I am pleased to be an original cosponsor of the Family Forest Land Preservation Tax Act and the Northern Forest Stewardship Act and commend both Senator LEAHY and Senator GREGG for their leadership in these bills. Both bills include recommendations from the Northern Forest Lands Council that address the general consensus of the residents in the Northern Forest region.

Since the Northern Forest Lands Council's creation in 1990, hundreds of citizens have been seeking ways for Maine, New Hampshire, New York, and Vermont to maintain the traditional patterns of land ownership and use of the Northern Forest. For over 4 years the council conducted indepth research, assessed data, consulted with experts, held public meetings, and listened to thousands of people who live and work in the region. The recommendations that are incorporated in both the Stewardship Act and the Preservation Tax Act, represent the thoughtful work of many individuals who live and work in the Northern Forest region and hundreds of hours of forums and public meetings.

Mr. President, I am grateful and appreciate the dedication and vision of the members of the Northern Forest Lands Council and the thousands of people who participated in the process. I am grateful, because the 26-million-acre forest that stretches from eastern Maine through New Hampshire and Vermont and across New York provides important and valuable resources. This forest region is home to 1 million residents. The people that work and live in this region have a bond to the land. Hunting, fishing, trapping, walking, and hiking in the woods have been a way of life for generations.

Nearly 85 percent of the Northern Forest is privately owned. For years, these lands have provided a diversity of environmental and economic benefits.

Families and individuals have taken care of their forests for generations providing economic viability to communities and overall economic health to the region as well as maintaining opportunities for recreation, natural beauty, and wildlife. The traditional values within the forest regions are also cherished by those who live outside the region. Seventy million people live within a day's drive of the Northern Forest. They too, realize the importance of the Northern Forest for its source of clean water, clean air, and vast diversity.

Mr. President, the Preservation Tax Act and the Stewardship Act are needed to protect and maintain the traditional and valuable uses of the Northern Forest. Complex social and economic forces, some originating outside the region, have led to competing and conflicting uses of the Northern Forest. These two bills will help keep the Northern Forest productive and protected.

The Family Forest Land Preservation Tax Act will help encourage private forest land owners to conserve their productive forests. Since well managed productive forests are such an essential element to the traditional values of the Northern Forest region, the Preservation Tax Act is vital to maintaining sound forest management. Although this bill was based on recommendation from citizens in the Northern Forest region, it will benefit forest lands in all States. It's important because it allows for post-mortem donations of conservation easements for estate tax purposes, creates an estate tax alternative for heirs who choose to maintain the property as forest land for 25 years, provides a partial inflation adjustment for timber, creates an incentive for the sale of conservation easements to public agencies, and eliminates the 100-hour passive loss rule for forest land income.

Mr. President, the Preservation Tax Act and the Stewardship Act are needed to relieve the pressure on forest land owners and provide incentives to maintain and protect the forests that so many work and enjoy. Both bills support the Northern Forest Council recommendations by promoting a sound foundation for a diversified economy and stable communities, opportunities for quality recreation, and long-term protection of the diversity of plant and animal species in the region. These bills are important steps in addressing the many interests in the Northern Forest region. Several years of participation and involvement from interested parties throughout the region have helped develop useful recommendations that recognize the diversified opportunities of one of the regions most important resources.

It is my hope that both bills will move swiftly through the Senate and House and become law. I urge my colleagues to support these bills.

By Mr. MCCAIN (for himself, Mrs. HUTCHISON, Mr. LOTT, Mr. STEVENS, Mr. NICKLES, Mr. CRAIG, Mr. ASHCROFT, and Mr. WARNER):

S. 547. A bill to provide for continuing appropriations in the absence of regular appropriations for fiscal year 1998; to the Committee on Appropriations.

THE GOVERNMENT SHUTDOWN PREVENTION ACT

Mr. MCCAIN. Mr. President, today I and Senator HUTCHISON and Senator LOTT and Senator NICKLES, Senator STEVENS, and Senator CRAIG are introducing the Government Shutdown Prevention Act. This bill creates a statutory continuing resolution as sort of a safety net CR, which would trigger only if the appropriation acts do not become law or if there is no governing continuing resolution in place.

I want to emphasize here, after a long series of negotiations with the House, with the advice and consent and leadership of the majority leader, Senator LOTT, and the active participation and leadership of Senator STEVENS especially, the chairman of the Appropriations Committee, negotiations with the Speaker, the Appropriations Committee chairman, Mr. LIVINGSTON, in the House, and also Majority Leader ARMEY, we have come up with this legislation.

Mr. President, this legislation is important. It must be done soon. I believe the lesson of the last 2 years is that we cannot allow the Government to be shut down again. Nor can we allow the threat of a Government shutdown to be so impactful that we fiscal conservatives are somehow forced to appropriate billions—in the case of last year around $8 billion—additional because of the threat of a Government shutdown. So, this is very important legislation. It is not something that I am idly throwing into the hopper.

I thank Senator HUTCHISON for her efforts and participation on this bill. What this legislation does is ensures that the Government will not shut down and that Government shutdowns cannot be used for political games. This safety net continuing resolution basically would set spending for fiscal year 1998 at 98 percent of 1997 fiscal year levels.

In other words, the way this would work is if we could not get agreement on the appropriations bills, rather than the threat of a shutdown of Government or parts of Government because of failure to appropriate funding for their continued effort, this would be funded at 98 percent of the previous year's level. That would ensure, if any kind of standoff between the Congress and the White House occurs, that vital Government functions will continue and Government employees will continue to serve the public.

It is our intention to move this bill quickly. It is very important we act before the appropriations season begins in earnest. Therefore, it is the intent of Senator HUTCHISON and myself to move this bill as soon as possible, specifically on the emergency supplemental appropriations bill that will be before this body probably within a month or so.

We all saw the effects of gridlock in the past. No one wins when the Government shuts down. Shutdowns only confirm the American people's suspicions that we are more interested in political gain than doing the Nation's business. The American people are tired of gridlock. They want the Government to work for them, not against them. The budget process in the last Congress, in my view, was a fiasco and, more important, in the view of the American people.

Our Founding Fathers would have been ashamed of our inability to execute the power of the purse in a responsible fashion. I am sure they would have been quite shocked by the 27 days that the Government was shut down, 13 continuing resolutions, and almost $6 billion in blackmail money that was given the administration to ensure that the Government did not shut down a third time.

Although Republicans shouldered the blame for the Government shutdown, President Clinton and his colleagues were equally at fault for using it for their political gain. Republicans were outmaneuvered by President Clinton because we were not prepared for him to use the budget process for his own political purposes. We thought that by doing the right thing—passing the first balanced budget in a generation, and fiscally sound appropriations bills—that we would eventually prevail. What we did not realize was that the President was more interested in playing politics with the budget than actually balancing it. This year we have to be prepared for these games and launch a preemptive strike to ensure that basic Government operations will not be put at risk during the next budget battle.

This legislation does not erode the power of the appropriators and gives them ample opportunity to do their job. It is only if the appropriations process is not completed by the beginning of the fiscal year, as was the case in the last Congress, that the safety net continuing resolution will go into effect.

In addition, I emphasize that entitlements are fully protected in this legislation. The bill specifically states that entitlements such as Social Security—as obligated by law—will be paid regardless of what appropriations bills are passed or not passed.

According to President Clinton, the combined cost of last year's Government shutdown was $1.5 billion. However, this figure does not begin to account for the millions of dollars lost by small businesses who depend on the Government being open. In my State of Arizona, during the Government shutdown the Grand Canyon was closed for the first time in 76 years. I heard from people who work close to the Grand Canyon. These were not Government employees. These were independent small business men and women. They

told me that the shutdown cost them thousands of dollars because people could not go to the park. According to a CRS report, local communities near national parks alone lost an estimated $14.2 million per day in tourism revenues as a direct result of the Government shutdown, for a total of nearly $400 million over the course of the shutdown.

The cost of the Government shutdown cannot be measured in just dollars and cents. During the shutdown millions of Americans could not get crucial social services. For example, 10,000 new Medicare applications, 212,000 Social Security card requests, 360,000 individual office visits and 800,000 toll-free calls for information and assistance were turned away each day. There were even more delays in services for some of the most vulnerable in our society, including 13 million recipients of AFDC, 273,000 foster care children, over 100,000 children receiving adoption assistance services and over 100,000 Head Start children—not to mention the new patients that were not accepted into clinical research centers, the 7 million visitors who could not attend national parks, or the 2 million visitors turned away at museums and monuments. And the list goes on and on.

In addition, our Federal employees were left in fear wondering whether they would be paid, would they have to go to work, would they be able to pay their bills on time. In my State of Arizona, for example, of the 40,383 Federal employees, over 15,000 of them were furloughed in the last Government shutdown. I do not want to put these workers at risk ever again.

A 1991 GAO report confirmed that permanent funding lapse legislation is a necessity. In their report they stated, ''Shutting down the Government during temporary funding gaps is an inappropriate way to encourage compromise on the budget.''

Neither party can afford another break of faith with the American people. Our constituents are tired of constantly being disappointed by the actions of Congress and the President. They are tired of our not being prepared for what appears to be the inevitable. That is why this legislation is so important. We want the American people to know that there are some of us in Congress who are thinking ahead and who do not want a replay of the last Congress.

I want to especially note the support of our good friend, Senator STEVENS, the distinguished Senator from Alaska and chairman of the Appropriations Committee. His support of this bill is crucial, and I thank him for it. I wish him well in overseeing the appropriations process.

While I am sure we will all have our differences, I am confident he will be able to do his best to ensure that the Senate enacts the appropriations bills in an efficient and expeditious manner. Let us show the American people that we have learned our lessons from the last Congress. Passing this preventive measure will go a long way to restore America's faith that politics or stalled negotiations will not stop Government operations. It will prove to our constituents that we will never again allow a Government shutdown or threat of Government shutdown to be used for political gain. I hope the Senate will act quickly on this important matter.

I thank the Senator from Texas, Senator HUTCHISON, who is on the floor, for her continued efforts on behalf of this legislation. The State of Texas is a very large State. It was very heavily impacted, as was my State. As I say, we fully intend to move this legislation onto the supplemental appropriations bill, which should be before the body either this month or sometime next month.

I want to say that this is not an idea that Senator HUTCHISON and I came up with. It was an idea that is supported throughout the Congress. We engaged in serious and sincere negotiations with the leader, Senator LOTT, whose leadership was vital in this endeavor.

Mrs. HUTCHISON. Mr. President, I thank the Senator from Arizona because he and I talked about this when we saw the debacle of the closing of the Government 2 years ago. We thought this is not the way to run a railroad or a government.

We have talked about this for a long time, but it was Senator MCCAIN who said we are going to fix this and we are going to fix it in a responsible way. The Senator from Arizona has provided great leadership, and with the Senator from Arizona, we have gotten the other leaders of our Congress—we certainly have Senator STEVENS, the chairman of the Appropriations Committee, who deserves a lot of credit for helping on this; the majority leader, Senator LOTT; the majority whip, Senator NICKLES; Senator CRAIG; Senator ASHCROFT, and many Members have been talking about what we can do to run this Government in a responsible way. So the Senator from Arizona and I are introducing this bill together to try to provide for a good, solid, easy way to make sure that things keep going if we get bogged down in tough negotiations.

This may seem like a kind of small, inside-the-beltway-process issue. People might say, ''A continuing resolution, so what, big deal, why are you doing that?'' This small thing will have huge ramifications if any parts of our Government are not funded on September 30, because what happens is that when you get into the heat of negotiations, threat of Government shutdowns become a leverage point for one or the other side. It can work either way.

But the issue is the American people, the people who were mentioned by Senator MCCAIN, the Federal employees and their families not knowing for sure that they are going to get paychecks, people who have planned their family vacations for over a year and they go to the Grand Canyon and it is closed or they come to Washington, DC, to visit this Capitol and it is closed or they cannot get into the Smithsonian or the National Gallery of Art; people who are planning their vacations or business travel and they find their passport has expired and they cannot get a new passport, so their dreams go up in smoke—these are people who are affected by a shutdown of Government.

This very small process issue becomes a real quality-of-life issue for everyone in our country who is in need of regular Government service. That is why we are acting now. We are trying to provide for a smooth transition if we bog down in negotiations, hitting against the end of the fiscal year, September 30 of this year. We want to make sure that if we in Congress cannot agree with the President that we are still able to negotiate in good faith for what is right, rather than bumping up against a deadline and fearing that Government is going to shut down and cause a disruption in the lives of so many families in our country.

We wanted to do it right now. As Senator MCCAIN said, we are intending to put this bill on the supplemental resolution that will be coming before Congress probably by the end of this month. We want to do it now before the heat of battle so that we will know that this is not going to be a tool used by either side.

Some people have said, ''Does this cut for Republicans or does it cut for Democrats?'' It cuts for the American people. It might go either way. It might hurt Republicans, it might hurt Democrats, but who will not get hurt if we pass this are the people of America, and that is who we are here to represent.

I want to talk for a minute about the 98 percent that we are going to fund in the continuing resolution. People may say, ''Well, why not 100 percent, why not 90 percent?'' We wanted 98 percent because in our original budget resolution, when Congress decided to get serious about balancing the budget of this country, we set a trajectory starting at fiscal year 1995, actually and going to the year 2002 that would have a cut of about 2 percent each year in the growth rate of spending, because we felt that that was a responsible approach.

Ninety-eight percent is a 2-percent cut in the 1997 budget that we are in right now. A 2-percent cut makes sure that we are not going to go over our budget projections and hurt our ability to balance the budget if, in fact, we go into this continuing resolution. But it also funds at 98 percent, which I think is virtually full funding, programs that are ongoing and necessary.

If there is any agency in Government that cannot do with 98 percent of its present budget, then I would like to introduce them to the real people in America who have had to balance budgets and cut budgets every day of their lives. I think 98 percent is certainly

something that the Government can live with, because we know that families and businesses in this country have cut much more than 2 percent in any fiscal year in their own lives. We think 98 percent covers expenses responsibly, but it keeps within our budget projections so that we have the ability to slow the rate of growth of spending, and so the Congress still has some leeway to make the decisions going into the next fiscal year of what actually needs to be cut without running, if we did go 2 or 3 months, into having to cut more because we were overspending in some areas. So that is how we came up with the number of 98 percent.

Mr. President, I think we are taking a very responsible action today. I hope that we will have 100 percent vote in the Senate. I have not really talked to anyone who is against this bill, but I think it is something if we can agree on in a bipartisan way, we will clearly make the people of America sure that we are not going to have some kind of disruption in their lives, whether it is their family vacation or business travel or going into a museum or a national park they would like to go into or, if you are a Federal employee or a veteran, we do not want you to worry that your pay or your benefits are going to be there.

This will provide for that smooth transition, and I hope Congress will take this responsible action, do this now before we even know what the issues are so that the smooth transition is there and we can negotiate on the budget in a way that is responsible, that does meet the needs of our country, but also makes sure that in the end, we are going to continue to march toward the year 2002 with a balanced budget for the United States of America.

I am very pleased to be able to cosponsor with Senator MCCAIN the McCain-Hutchison Government Shutdown Prevention Act. We are joined in the cosponsorship by Senators STEVENS, NICKLES, CRAIG, ASHCROFT, our majority leader, Senator LOTT, and I ask unanimous consent that Senator WARNER be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Those are the original cosponsors. I hope that we have 100 cosponsors by the time this bill comes to the floor. I would like for it to go on a voice vote. That may be a pipe dream, but, nevertheless, I think it would be responsible Government, and I think it would be right for the American people.

Mr. CRAIG. Mr. President, I rise to join Senators HUTCHISON of Texas and MCCAIN, Chairman STEVENS, our majority leader, Senator LOTT, and others, as an original cosponsor of the Government Shutdown Prevention Act.

Under this bill, if fiscal year 1998 starts before any of the 13 regular appropriations bills become law, no part of the Government would shut down because of the delay.

Funding would automatically continue at 98 percent of fiscal year 1997 levels.

Some of us feel 98 percent is too high. And automatic continuing appropriations may not be the perfect way to fund programs.

But this process would meet two important tests, best described by two old, familiar rules of thumb:

There is an old saying: ''When you find yourself in a hole, stop digging.''

And we all know the First Rule of Medicine: ''Do no harm.''

These two rules of thumb explain why we need the Government Shutdown Prevention Act.

This is not a long-term, structural change in the budget process. It's not a plan to balance the budget. But it is a very much-needed stopgap reform, in case of another budget impasse. Indeed, it may prevent such an impasse.

It will help us work toward a balanced budget, without disrupting the lives and work of millions of innocent bystanders, both inside and outside the Federal Government.

The first step toward balancing the budget is, stop digging.

For 36 of the last 37 years, the government has overspent. Every year, no matter what the process, no matter what the negotiations, spending goes up.

Many times—not just last year—liberals have threatened to shut down the government if they didn't get their spending hikes.

This bill says, ''No More!'' to that upward spiral. If there's gridlock, at least spending will not go up as a result. It will go down, just slightly.

We also need to remind the budget doctors: Do no harm.

In the last two Government shutdowns, in Idaho—We had a VA hospital wonder if it would have critical medicines on hand from week to week; we had small businesses wonder if they should deliver goods that Government offices had ordered—and if they would ever get paid; and we had Government workers first worry about feeding their families and making their house payments, and then outraged that they were ordered not to do the jobs they and other taxpayers were paying for.

This bill says, ''We will not allow these innocent Americans to be taken hostage again, by either side in a budget dispute.''

Keeping the Government open at 98 percent of current spending is a responsible, fair, even generous formula. And it is consistent with the reasonable fiscal restraint that we have begun, with the last Congress, to work for.

The time to pass this reform is now.

Once the appropriations process begins in earnest, too many parties are going to look at any reform like this in terms of whether they win or lose, compared with what's in their appropriations bill, or what they might get if their allies threaten another Government shutdown.

Now is the time we are most likely to see this reform judged on it own merits, for what it is: Shutdown prevention, a level playing field, legislation for the public good.

I urge my colleagues to join as cosponsors of this bill, and to support every effort to enact this reform into law as quickly as possible.

By Mr. LUGAR:

S. 549. A bill to amend the Internal Revenue Code of 1986 to provide that certain cash rentals of farmland will not cause recapture of special estate tax valuation; to the Committee on Finance.

S. 550. A bill to amend the Internal Revenue Code of 1986 to increase the gift tax exclusion to $25,000; to the Committee on Finance.

ESTATE AND GIFT TAX LEGISLATION

Mr. LUGAR. Mr. President, I introduce two pieces of legislation aimed at minimizing the burden of the estate and gift tax on Americans. The first would provide Americans with a powerful estate tax planning tool by raising the tax-free gift limit to $25,0000 from the current $10,000. The second bill would correct a longstanding agricultural problem that effectively limits the ability of farmers to rent farmland that they have inherited to other family members.

The Senate Agriculture Committee held hearings at the end of February to study the impact of estate and gift taxes on farmers. As a farmer and chairman of the Agriculture Committee, I understand the far-reaching effect that the inheritance tax has on rural America. Testimony revealed that farmers are six times more likely to pay estate taxes than other Americans due to the capital-intensive nature of the farm business. Commercial farms, those core farms that produce 85 percent of the Nation's agricultural products, may be 15 times more likely to pay inheritance taxes than other individuals. As the average age of farmers approaches 60 years, a quarter of all farmers could confront the inheritance tax over the next 20 years.

I have already introduced three comprehensive bills on this subject—the first bill would eliminate the inheritance tax entirely; the second phases it out gradually; and the third raises the unified credit exemption to $5 million from the current $600,000 level. By raising the level of exempted property to this amount, the Federal Government would relieve 96 percent of the Americans who currently file estate tax returns from this burden.

Although repeal of this tax ultimately is the best course of action, I understand that sufficient momentum may not exist to achieve this end. In the mean time, Congress should provide Americans with estate planning alternatives that help facilitate the passing of their estates to the next generation. These two bills further this goal.

The first bill would simply raise the yearly nontaxable gift amount from the current $10,000 to $25,000. Congress

unified the estate and gift titles of the Tax Code in 1976, subjecting a decedent's lifetime taxable gifts and taxable estate to one rate structure. Under current law, the first $10,000 of gifts made by a donor during a calendar year to any individual are not included in the donor's taxable gift amount for that year. Nor does this $10,000 gift lower the decedent's unified credit exemption, which allows each individual to pass on $600,000 of assets without incurring estate and gift taxes. Over the years, inflation has eroded this $10,000 amount, which has not been increased since 1982. Under my proposal, individuals could give $25,000 each year without estate and gift tax consequence. Through the current practice known as ''gift splitting,'' a couple could give up to $50,000 tax free each year. Raising the gift exemption amount would be a positive first step for Congress to take in helping with the transfer of family businesses and farms to the next generation.

My second bill would correct a longstanding agricultural problem in the Tax Code that disqualifies farm heirs from receiving special use valuation for estate tax purposes because they cash leased the farm property to another member of the family. Section 2032A of the Tax Code provides heirs the option of valuing qualified farm property at its current use rather than valuing the property at its highest and most developed use. If the heir who inherited the property ceases to use it in its qualified use within 10 years, an additional recapture tax is imposed to regain the benefit of the special use valuation. Some tax courts have held that the cash leasing of the property to members of the decedent's family is not a qualified use, thus triggering the recapture tax provision. Congress partially fixed this problem in 1988 in regard to spouses, but other qualified heirs remain unable to cash lease the property to members of the family. My legislation would correct this wrinkle in the law by allowing qualified heirs to cash lease the inherited special use property to members of the decedent's family or members of the spouse's family without triggering the recapture tax. This bill is retroactive to December 31, 1976, when section 2032A was enacted into law.

Congress intended to grant family businesses and farms some level of protection from the estate and gift tax through section 2032A, and farmers have relied on this provision for estate planning purposes over the years. During the Senate Agriculture hearings on estate taxes, the U.S. Department of Agriculture testified that the special use valuation reduced the number of taxable estates and the total Federal estate and gift taxes for all farm estates by about one-third. The American Farmland Trust gave witness to the fact that more than half of farm production in the United States occurs in counties that are metropolitan or adjacent to metropolitan areas. Without special use valuation for estate tax purposes, much of our Nation's agricultural land would be valued as strip malls or housing developments, rather than as farmland. Lessening the gross estate through section 2032A allows the next generation of farmers to maintain this land in agricultural production and helps slow urban sprawl. My legislation would make this good provision better.

Mr. President, I am hopeful that my Senate colleagues will join me in supporting these two estate and gift tax initiatives that provide Americans with means for protecting their lifetime of savings and hard work. I ask unanimous consent that both bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 549

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTAIN CASH RENTALS OF FARMLAND NOT TO CAUSE RECAPTURE OF SPECIAL ESTATE TAX VALUATIONS.

(a) IN GENERAL.—Subsection (c) of section 2032A of the Internal Revenue Code of 1986 (relating to tax treatment of dispositions and failures to use for qualified use) is amended by adding at the end the following new paragraph:

''(8) CERTAIN CASH RENTAL NOT TO CAUSE RECAPTURE.—For purposes of this subsection, a qualified heir shall not be treated as failing to use property in a qualified use solely because such heir rents such property on a net cash basis to a member of the decedent's family or a member of the decedent's spouse's family, but only if, during the period of the lease, such member uses such property in a qualified use.''

(b) CONFORMING AMENDMENT.—Section 2032A(b)(5)(A) of such Code is amended by striking the last sentence.

(c) EFFECTIVE DATE; WAIVER.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to rentals occurring after December 31, 1976.

(2) WAIVER OF STATUTE OF LIMITATION.—If on the date of enactment of this Act (or at any time within 1 year after such date of enactment) refund or credit of any overpayment of tax resulting from the application of the amendments made by this section is barred by any law or rule of law, refund or credit of such overpayment shall, nevertheless, be made or allowed if claim therefor is filed before the date 1 year after the date of enactment of this Act.

S. 550

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN GIFT TAX EXCLUSION

(a) IN GENERAL.—Section 2503(b) of the Internal Revenue Code of 1986 (relating to exclusions from gifts) is amended by striking ''$10,000'' and inserting ''$25,000''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to gifts made after December 31, 1997.

By Mr. GREGG:

S. 551. A bill to amend the Occupational Safety and Health Act of 1970 to make modifications to certain provisions; to the Committee on Labor and Human Resources.

THE OSHA MODERNIZATION ACT

Mr. GREGG. Mr. President, I rise in introducing the Occupational Safety and Health Modernization Act. Let me say at the outset that in proposing and considering OSHA reform, worker safety was my first concern. I am firmly committed to ensuring a safe and healthy workplace and will not support legislation which puts that in jeopardy. I believe in this bill that I have accomplished a true modernization of OSHA without compromising the safety of our workers in any way.

Throughout my career in public office, I have worked to make government more efficient and more user and consumer friendly. Federal Government agencies have grown so large and become so bureaucratic that they are often not providing the kinds of personal services and proper oversight that was originally intended when they were created. Too often Government carries a heavy stick, but no carrot, when it interacts with individual citizens and businesses throughout our country.

I believe that it is high time we take a close look at how we can improve the way government works and, at the same time, provide incentives for the private sector to act more responsibly. Americans will be better served in a climate where people in government, and in business, can work together to solve problems in a spirit of cooperation, rather than in an atmosphere strictly of threats, intimidation, and punitive measures.

When OSHA was enacted, its intended purpose was to make the workplace free from ''recognized hazards that are causing, or likely to cause death or serious physical harm to * * * employees.'' As is the case with many programs established by Congress over the years, OSHA has developed a well-earned reputation for over-regulation. OSHA has moved from its original purpose of protecting workers to hindering businesses with excessive mandates.

While I feel that much of the problem within OSHA is of a cultural nature, the bill we are introducing today will concentrate on relieving OSHA's oppressive and burdensome regulations, thereby removing a feeling among American employers and employees that OSHA is the ''bad cop.'' My legislation puts in place partnerships for assuring safety and health in the workplace.

This balanced approach will include a consultation program, voluntary compliance and third party certification, employee involvement, warnings in lieu of citations for nonserious violations, and reduced penalties for nonserious violations. This legislation will use incentives, rather than penalties, to enhance workplace safety. It will allow companies with clean safety records to implement their own health and safety programs.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 551

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the ''OSHA Modernization Act of 1997''.

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

SEC. 2. EMPLOYEE PARTICIPATION.

Section 4 (29 U.S.C. 653) is amended by adding at the end the following:

''(c) In order to carry out the purpose of this Act to encourage employers and employees in their efforts to reduce the number of occupational safety and health hazards, an employee participation program—

''(1) in which employees participate;

''(2) which exists for the purpose, in whole or in part, of dealing with employees concerning safe and healthful working conditions; and

''(3) which does not have, claim, or seek authority to negotiate or enter into collective bargaining agreements with the employer or to amend existing collective bargaining agreements between the employer and any labor organization,

shall not constitute a labor organization for purposes of section 8(a)(2) of the National Labor Relations Act (29 U.S.C. 158(a)(2)) or a representative for purposes of sections 1 and 2 of the Railway Labor Act (45 U.S.C. 151 and 151a). Nothing in this section shall be construed to affect employer obligations under section 8(a)(5) of the National Labor Relations Act (29 U.S.C. 158(a)(5)) to deal with a certified or recognized employee representative with respect to health and safety matters to the extent otherwise required by law.''.

SEC. 3. INSPECTIONS.

(a) TRAINING AND AUTHORITY OF SECRETARY.—Section 8 (29 U.S.C. 657) is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following:

''(g)(1) Except as provided in paragraph (2), the Secretary shall not conduct routine inspections of, or enforce any standard, rule, regulation, or order under this Act with respect to—

''(A) any person who is engaged in a farming operation that does not maintain a temporary labor camp and that employs 10 or fewer employees; or

''(B) any employer of not more than 10 employees if the employer is included within a category of employers having an occupational injury or a lost workday case rate (determined under the Standard Industrial Classification Code for which such data are published) that is less than the national average rate as most recently published by the Secretary acting through the Bureau of Labor Statistics under section 24.

''(2) In the case of persons who are not engaged in farming operations, paragraph (1) shall not be construed to prohibit the Secretary from—

''(A) providing consultations, technical assistance, and educational and training services and conducting surveys and studies under this Act;

''(B) conducting inspections or investigations in response to complaints of employees, issuing citations for violations of this Act found during the inspections, and assessing a penalty for the violations that are not corrected within a reasonable abatement period;

''(C) taking any action authorized by this Act with respect to imminent dangers;

''(D) taking any action authorized by this Act with respect to a report of an employment accident that is fatal to at least 1 employee or that results in the hospitalization of at least 3 employees, and taking any action pursuant to an investigation conducted with respect to the report; and

''(E) taking any action authorized by this Act with respect to complaints of discrimination against employees for exercising the rights of the employees under this Act.''.

(b) INSPECTIONS BASED ON EMPLOYEE COMPLAINTS.—Section 8(f) (29 U.S.C. 657(f)) is amended to read as follows:

''(f)(1)(A) An employee or a representative of an employee who believes that a violation of a safety or health standard exists that threatens physical harm, or that an imminent danger exists, may request an inspection by providing notice of the violation or danger to the Secretary or an authorized representative of the Secretary.

''(B) The notice under subparagraph (A) shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall state whether the alleged violation or danger described in subparagraph (A) has been brought to the attention of the employer and if so, whether the employer has refused to take any action to correct the alleged violation or danger.

''(C)(i) The notice under subparagraph (A) shall be signed by the employee or the representative of the employee and a copy shall be provided to the employer or the agent of the employer not later than the time of arrival of an occupational safety and health agency inspector to conduct the inspection.

''(ii) Upon the request of the person providing the notice under subparagraph (A), the name of the person and the names of individual employees referred to in the notice shall not appear in the copy of the notice or on any record published, released, or made available pursuant to subsection (i).

''(D)(i) If, upon receipt of the notice under subparagraph (A), the Secretary determines that there are reasonable grounds to believe the violation or danger described in subparagraph (A) exists, the Secretary may conduct an inspection in accordance with this subsection as soon as practicable. Except as provided in clause (ii), the inspection shall be conducted for the limited purpose of determining whether the violation or danger exists.

''(ii) During an inspection described in clause (i), the Secretary may take appropriate actions with respect to health and safety violations that are not within the scope of the inspection and that are observed by the Secretary or an authorized representative of the Secretary during the inspection.

''(2) If the Secretary determines either before, or as a result of, an inspection conducted under this subsection that there are not reasonable grounds to believe a violation or danger described in paragraph (1)(A) exists, the Secretary shall notify the complaining employee or employee representative of the determination and, upon request by the employee or employee representative, shall provide a written statement of the reasons for the determination of the Secretary.

''(3) The Secretary or an authorized representative of the Secretary may, as a method of investigating an alleged violation or danger under this subsection, attempt, if feasible, to contact an employer by telephone, facsimile, or other appropriate methods to determine whether—

''(A) the employer has taken corrective actions with respect to the alleged violation or danger; or

''(B) there are reasonable grounds to believe that a hazard exists.

''(4) The Secretary is not required to conduct an inspection under this subsection if the Secretary determines that a request for an inspection was made for reasons other than the safety and health of the employees of an employer or that the employees of an employer are not at risk.''.

SEC. 4. WORKSITE-BASED INITIATIVES.

(a) PROGRAM.—The Act (29 U.S.C. 651 et seq.) is amended by inserting after section 8 the following:

''SEC. 8A. HEALTH AND SAFETY MODERNIZATION INITIATIVES.

''(a) IN GENERAL.—The Secretary shall establish a program to encourage voluntary employer and employee efforts to provide safe and healthful working conditions.

''(b) EXEMPTION.—In establishing a program under subsection (a), the Secretary shall, in accordance with subsection (c), provide an exemption from all safety and health inspections and investigations for a place of employment maintained by an employer participating in the program, except that this subsection shall not apply to inspections and investigations conducted for the purpose of—

''(1) determining the cause of a workplace accident that resulted in the death of 1 or more employees or the hospitalization of 3 or more employees; or

''(2) responding to a request for an inspection pursuant to section 8(f)(1).

''(c) EXEMPTION REQUIREMENTS.—To qualify for an exemption under subsection (b), an employer shall provide to the Secretary evidence that, with respect to the employer—

''(1) during the preceding year, the place of employment or conditions of employment have been reviewed or inspected under—

''(A) a consultation program provided by recipients of grants under section 7(c)(1) or 23(g);

''(B) a certification or consultation program provided by an insurance carrier or other private business entity pursuant to a State program, law, or regulation; or

''(C) a workplace consultation program provided by a qualified person certified by the Secretary, for purposes of providing workplace consultations,

that includes a means of ensuring that serious hazards identified in a consultation are corrected within an appropriate time and that, where applicable, permits an employee (of the employer) who is a representative of a health and safety employee participation program to accompany a consultant during a workplace inspection; or

''(2) the place of employment has an exemplary safety and health record and the employer maintains a safety and health program for the workplace that includes—

''(A) procedures for assessing hazards to the employees of the employer that are inherent to the operations or business of the employer;

''(B) procedures for correcting or controlling the hazards in a timely manner based upon the severity of the hazards; and

''(C) an employee participation program that, at a minimum—

''(i) includes regular consultation between the employer and the nonsupervisory employees of the employer regarding safety and health issues;

''(ii) includes the opportunity for the nonsupervisory employees of the employer to make recommendations regarding hazards in the workplace and to receive responses or to implement improvements in response to the recommendations; and

''(iii) ensures that the participating nonsupervisory employees of the employer have

training or expertise on safety and health issues consistent with the responsibilities of the employees.

''A person that conducts a review or inspection under paragraph (1)(B) shall meet standards established by the Secretary and shall be certified by the Secretary.

''(d) MODEL PROGRAM.—The Secretary shall publish and make available to employers a model safety and health program that if completed by the employer shall be considered to meet the requirements for an exemption under this section.

''(e) CERTIFICATION.—The Secretary may require that, to claim the exemption under subsection (b), an employer provides certification to the Secretary and notice to the employees of the employer of the eligibility of the employer for the exemption. The Secretary may conduct random audits of the records of employers to ensure against falsification of the records by the employers.

''(f) RECORDS.—Records of a safety and health inspection, audit, or review that is conducted by an employer and that is not conducted under a program described in subsection (a) shall not be required to be disclosed to the Secretary unless—

''(1) the Secretary is conducting an investigation involving a fatality or a serious injury of an employee of the employer; or

''(2) the employer has not taken measures to address serious hazards in the workplace of the employer identified during the inspection, audit, or review.''.

(b) DEFINITION.—Section 3 (29 U.S.C. 652) is amended by adding at the end the following:

''(15) The term 'exemplary safety and health record' means a record that the Secretary shall establish annually for each industry that identifies the employers in the industry that provide safe and healthful working conditions for the employees of the employers. The record shall include employers that have had, in the most recent reporting period, no employee death caused by occupational injury and fewer lost workdays due to occupational injury and illness than the average for the industry of which the employer is a part.''.

SEC. 5. EMPLOYER DEFENSES.

Section 9 (29 U.S.C. 658) is amended by adding at the end the following:

''(d) No citation may be issued under subsection (a) to an employer unless the employer knew, or with the exercise of reasonable diligence, would have known, of the presence of an alleged violation. No citation shall be issued under subsection (a) to an employer for an alleged violation of section 5, any standard, rule, or order promulgated pursuant to section 6, any other regulation promulgated under this Act, or any other occupational safety and health standard, if the employer demonstrates that—

''(1) the employees of the employer have been provided with the proper training and equipment to prevent such a violation;

''(2) work rules designed to prevent such a violation have been established and adequately communicated to the employees by the employer and the employer has taken reasonable measures to discipline employees when violations of the work rules have been discovered;

''(3) the failure of employees to observe work rules led to the violation; and

''(4) reasonable measures have been taken by the employer to discover any such violation.

''(e) A citation issued under subsection (a) to an employer who violates the requirements of section 5, of any standard, rule, or order promulgated pursuant to section 6, or any other regulation promulgated under this Act shall be vacated if the employer demonstrates that employees of the employer were protected by alternative methods that were equally or more protective of the safety and health of the employees than the methods required by the standard, rule, order, or regulation in the factual circumstances underlying the citation.

''(f) Subsections (d) and (e) shall not be construed to eliminate or modify other defenses that may exist to any citation.''.

SEC. 6. INSPECTION QUOTAS.

Section 9 (29 U.S.C. 658), as amended by section 5, is further amended by adding at the end the following:

''(g) The Secretary shall not establish any quota for any subordinate within the Occupational Safety and Health Administration (including any regional director, area director, supervisor, or inspector) with respect to the number of inspections conducted, citations issued, or penalties collected.''.

SEC. 7. WARNINGS IN LIEU OF CITATIONS.

Subsection (a) of section 9 (29 U.S.C. 658(a)) is amended to read as follows:

''(a)(1) Except as provided in paragraph (2), if, upon an inspection or investigation, the Secretary or an authorized representative of the Secretary believes that an employer has violated a requirement of section 5, of any regulation, rule, or order promulgated pursuant to section 6, or of any regulations prescribed pursuant to this Act, the Secretary may with reasonable promptness issue a citation to the employer. Each citation shall be in writing and shall describe with particularity the nature of an violation, including a reference to the provision of the Act, regulation, rule, or order alleged to have been violated. The citation shall fix a reasonable time for the abatement of the violation.

''(2) The Secretary or the authorized representative of the Secretary—

''(A) may issue a warning in lieu of a citation with respect to a violation that has no significant relationship to employee safety or health; and

''(B) may issue a warning in lieu of a citation in cases in which an employer in good faith acts promptly to abate a violation if the violation is not a willful or repeated violation.

''(3) Nothing in this Act shall be construed as prohibiting the Secretary or the authorized representative of the Secretary from providing technical or compliance assistance to an employer in correcting a violation discovered during an inspection or investigation under this Act without issuing a citation.''.

SEC. 8. REDUCED PENALTIES FOR NONSERIOUS VIOLATIONS AND MITIGATING CIRCUMSTANCES.

Section 17 (29 U.S.C. 666) is amended—

(1) in subsection (c), by striking ''up to $7,000'' and inserting ''not more than $100'';

(2) by striking subsection (i) and inserting the following:

''(i) Any employer who violates any of the posting or paperwork requirements, other than serious or fraudulent reporting requirement deficiencies, prescribed under this Act shall not be assessed a civil penalty for such a violation unless the Secretary determines that the employer has violated subsection (a) or (d) with respect to the posting or paperwork requirements.''; and

(3) by striking subsection (j) and inserting the following:

''(j)(1) The Commission shall have authority to assess all civil penalties under this section. In assessing a penalty under this section for a violation, the Commission shall give due consideration to the appropriateness of the penalty with respect to—

''(A) the size of an employer;

''(B) the number of employees exposed to the violation;

''(C) the likely severity of any injuries directly resulting from the violation;

''(D) the probability that the violation could result in injury or illness;

''(E) the good faith of the employer in correcting the violation after the violation has been identified;

''(F) the extent to which employee misconduct was responsible for the violation;

''(G) the effect of the penalty on the ability of an employer to stay in business;

''(H) the history of previous violations by an employer; and

''(I) whether the violation is the sole result of the failure of an employer to meet a requirement under this Act, or prescribed by regulation, with respect to the posting of notices, the preparation or maintenance of occupational safety and health records, or the preparation, maintenance, or submission of any written information.

''(2)(A) A penalty assessed under this section shall be reduced by not less than 25 percent in any case in which the employer—

''(i) maintains a safety and health program described in section 8A(a) for the worksite where the violation, for which the penalty was assessed, occurred; or

''(ii) demonstrates that the worksite where the violation, for which the penalty was assessed, occurred has an exemplary safety and health record.

If the employer maintains a program described in clause (i) and has the record described in clause (ii), the penalty shall be reduced by not less than 50 percent.

''(B) A penalty assessed against an employer for a violation other than a violation that—

''(i) has been previously cited by the Secretary;

''(ii) creates an imminent danger;

''(iii) has caused death; or

''(iv) has caused a serious incident,

shall be reduced by not less than 75 percent if the worksite where the violation occurred has been reviewed or inspected under a program described in section 8A(c)(1) during the 1-year period before the date of the citation for the violation, and the employer has complied with recommendations by the Secretary to bring the employer into compliance within a reasonable period of time.''.

SEC. 9. CONSULTATION SERVICES.

Section 21(c) (29 U.S.C. 670(c)) is amended—

(1) by striking ''(c) The'' and inserting ''(c)(1) The''; and

(2) by adding at the end the following:

''(2)(A) The Secretary shall, through the authority granted under section 7(c) and paragraph (1), enter into cooperative agreements with States for the provision of consultation services by such States to employers concerning the provision of safe and healthful working conditions. A State that has a plan approved under section 18 shall be eligible to enter into a cooperative agreement under this paragraph only if the plan does not include provisions for federally funded consultation to employers.

''(B)(i) Except as provided in clause (ii), the Secretary shall reimburse a State that enters into a cooperative agreement under subparagraph (A) in an amount that equals 90 percent of the costs incurred by the State for the provision of consultation services under such agreement.

''(ii) A State shall be fully reimbursed by the Secretary for—

''(I) training approved by the Secretary for State staff operating under a cooperative agreement; and

''(II) specified out-of-State travel expenses incurred by the staff.

''(iii) A reimbursement paid to a State under this subparagraph shall be limited to costs incurred by such State for the provision of consultation services under this paragraph and the costs described in clause (ii).

''(C) Notwithstanding any other provision of law, not less than 15 percent of the total amount of funds appropriated for the Occupational Safety and Health Administration for a fiscal year shall be used for education, consultation, and outreach efforts.''.

SEC. 10. VOLUNTARY PROTECTION PROGRAMS.

(a) COOPERATIVE AGREEMENTS.—The Secretary of Labor shall establish cooperative agreements with employers to encourage the establishment of comprehensive safety and health management systems that include—

(1) requirements for systematic assessment of hazards in the workplace;

(2) comprehensive hazard prevention, mitigation, and control programs;

(3) active and meaningful management and employee participation in the voluntary program described in subsection (b); and

(4) employee safety and health training.

(b) VOLUNTARY PROTECTION PROGRAM.—The Secretary of Labor shall establish a voluntary protection program to encourage the achievement of excellence in both the technical and managerial protection of employees from occupational hazards as follows:

(1) APPLICATION.—Volunteers for the program shall be required to submit an application to the Secretary of Labor demonstrating that the worksite with respect to which the application is made meets such qualifications as the Secretary of Labor may prescribe for participation in the program.

(2) ONSITE EVALUATIONS.—The representatives of the Secretary of Labor shall conduct onsite evaluations of the worksite of the participants in the program to ensure a high level of protection of employees of the participants. The onsite evaluations shall not result in enforcement citations under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), unless representatives of the Secretary of Labor observe hazards for which no agreement can be made to abate the hazards within a reasonable time period.

(3) INFORMATION.—Volunteers who are approved by the Secretary of Labor for participation in the program shall assure the Secretary of Labor that information about the safety and health program of the volunteers shall be made readily available to the Secretary of Labor to share with employers.

(4) REEVALUATIONS.—Periodic reevaluations by the Secretary of Labor of the volunteers shall be required for continued participation in the program.

(5) EXEMPTIONS.—A site with respect to which a program has been approved shall, during participation of a volunteer in the program, be exempt from inspections and certain paperwork requirements to be determined by the Secretary of Labor, except that this paragraph shall not apply to inspections arising from employee complaints, fatalities, catastrophes, or significant toxic releases.

(c) ANNUAL FEE.—The Secretary of Labor may charge an annual fee to participants in a voluntary protection program described in subsection (b). The fee shall be in an amount determined by the Secretary of Labor, and amounts collected shall be deposited in the general treasury of the United States.

By Mr. GREGG (for himself, Mr. LEAHY, Mr. JEFFORDS, Ms. COLLINS, Ms. SNOWE and Mr. SMITH of New Hampshire):

S. 552. A bill to amend the Internal Revenue Code of 1986 to preserve family held forest lands, and for other purposes; to the Committee on Finance.

THE FAMILY FORESTLAND PRESERVATION TAX ACT OF 1997

Mr. GREGG. Mr. President, I introduce the Family Forestland Preservation Tax Act of 1997 on behalf of myself, Mr. LEAHY, Mr. JEFFORDS, Mr. D'AMATO, Ms. COLLINS, Ms. SNOWE, and Mr. SMITH of New Hampshire. This bill amends several key tax provisions to help landowners keep their lands in long-term private forest ownership and management. Without these changes, many landowners will continue to be forced to sell or change the use of their land.

This bill derives from four years of work by the Northern Forest Lands Council [NFLC]. The NFLC was created in 1990 to seek ways for Maine, New Hampshire, Vermont, and New York to maintain the traditional patterns of land ownership and use in the forest that covers this Nation's Northeast. The Northern Forest is a 26-million-acre stretch of land, home to 1 million residents and within a 2-hour drive of 70 million people. Nearly 85 percent of the forest is privately owned. Times have changed, however, and social and economic forces have begun to affect the traditional patterns of land use with more and more land being marketed for development.

This bill will help maintain traditional patterns and, thus, preserve the forest by adjusting several estate tax provisions. This bill would allow heirs to make postmortem donations of conservation easements on undeveloped estate land and allow the valuation of undeveloped land at current use value for estate tax purposes if the owner or heir agrees to maintain the land in its current use for a period of 25 years. This bill also would establish a partial inflation adjustment for timber sales by allowing a tax credit not to exceed 50 percent. This will encourage landowners to maintain their timberland for long-term stewardship, which is both economically and environmentally desirable. Also, the bill would eliminate the requirement that landowners generally must work 100-hours-per-year in forest management on their forest properties to be allowed to deduct normal management expenses from timber activities against nonpassive income. Currently, landowners are required to capitalize these losses until timber is harvested. This legislation, though prompted by the NFLC's work, will benefit not only the four states that make up the Northern Forest, but also all States with forest land and all who enjoy the multiple uses of forest land. I urge my colleagues to support this bill, which will not only protect the historic current use patterns, but also allow the rustic beauty of our forests to be enjoyed by all.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 552

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Family Forestland Preservation Tax Act of 1997''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—ESTATE TAX PROVISIONS

SEC. 101. ESTATE TAX TREATMENT OF QUALIFIED CONSERVATION EASEMENT.

(a) IN GENERAL.—Section 2031 (relating to the definition of gross estate) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) EXCLUSION OF CONSERVATION EASEMENT.—

''(1) IN GENERAL.—If an executor elects the application of this subsection, with respect to any real property included in the gross estate, there shall be excluded from the gross estate the value of a qualified conservation contribution (as defined in section 170(h)(1)) of a qualified real property interest described in section 170(h)(2)(C) in such real property made by the decedent or a member of the decedent's family within 9 months after the date of the decedent's death.

''(2) CERTAIN CONTRIBUTIONS NOT INCLUDED.—For purposes of paragraph (1), section 170(h)(4)(A) shall be applied without regard to clause (iv) thereof in determining whether there is a qualified conservation contribution.

''(3) FAMILY MEMBER.—For purposes of paragraph (1), the term 'member of the decedent's family' has the same meaning given such term by section 2032A(e)(2).

''(4) ELECTION.—An election under paragraph (1) shall be made on the return of tax imposed by section 2001. Such an election, once made, shall be irrevocable.''

(b) CARRYOVER BASIS.—Section 1014(a) (relating to basis of property acquired from a decedent) is amended by striking the period at the end of paragraph (3) and inserting '', or'', and by inserting at the end the following new paragraph:

''(4) in the case of property subject to a qualified conservation easement excluded from the gross estate of the decedent under section 2031(c), the basis of the property in the hands of the decedent.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1997, which include land subject to qualified conservation easements granted after December 31, 1997.

SEC. 102. SPECIAL ESTATE TAX VALUATION OF FOREST LANDS.

(a) IN GENERAL.—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by inserting after section 2032A the following new section:

''SEC. 2032B. VALUATION OF CERTAIN FORESTLAND.

''(a) VALUE BASED ON USE OF PROPERTY AS FORESTLAND.—

''(1) GENERAL RULE.—If—

''(A) the decedent was (at the time of his death) a citizen or resident of the United States, and

''(B) the executor elects the application of this section and files the agreement referred to in subsection (d)(2),

then, for purposes of this chapter, the value of qualified forestland shall be its value for use as a timber operation, under subsection (b), as qualified forestland.

''(2) LIMITATION ON AGGREGATE REDUCTION IN FAIR MARKET VALUE.—The aggregate decrease in the value of qualified forestland

taken into account for purposes of this chapter which results from the application of paragraph (1) with respect to any decedent shall not exceed $1,000,000.

''(b) QUALIFIED FORESTLAND.—

''(1) IN GENERAL.—For purposes of this section, the term 'qualified forestland' means real property located in the United States which was acquired from or passed from the decedent to a qualified devisee or qualified heir and which, on the date of the decedent's death, was being used for a qualified forest use by the decedent or a member of the decedent's family, but only if—

''(A) 25 percent or more of the adjusted value of the gross estate consists of the adjusted value of real property which meets the requirements of this paragraph,

''(B) during the 8-year period ending on the date of the decedent's death there have been periods aggregating 5 years or more during which the real property was used for a qualified forest use, and

''(C) such real property is designated in the agreement referred to in subsection (d)(2).

''(2) QUALIFIED FOREST USE.—For purposes of this section, the term 'qualified forest use' means the devotion of the property to use in timber operations.

''(c) TAX TREATMENT OF DISPOSITIONS AND FAILURES TO USE AS QUALIFIED FOREST USE.—

''(1) IMPOSITION OF ADDITIONAL ESTATE TAX (RECAPTURE).—

''(A) IN GENERAL.—If, within 25 years after the decedent's death and before the death of the qualified devisee or qualified heir—

''(i) the qualified devisee or qualified heir disposes of any interest in qualified forestland,

''(ii) the qualified devisee or qualified heir ceases to use for the qualified forest use the qualified forestland which was acquired (or passed) from the decedent for an aggregated period of 3 years out of any 8-year period, or

''(iii) any depreciable improvements are made to the property, other than those relating to a qualified forest use,

then there is hereby imposed an additional estate tax.

''(B) EXCEPTIONS.—Subparagraph (A) shall not apply to—

''(i) a testamentary disposition that itself qualifies for special valuation under this section,

''(ii) a disposition by a qualified heir to any other person who agrees to continue devoting the heir's interest to a qualified forest use and signs the agreement in subsection (d)(2) (such person shall thereafter be treated as a qualified devisee with respect to such interest),

''(iii) a disposition by a qualified devisee to a qualified heir of such devisee who agrees to continue devoting the devisee's interest to a qualified forest use and signs the agreement in subsection (d)(2) (such heir shall thereafter be treated as a qualified devisee with respect to such interest),

''(iv) a disposition of timber used in a timber operation; and

''(v) a disposition (other than by sale) of a qualified conservation contribution (as defined in section 170(h)).

''(2) AMOUNT OF ADDITIONAL TAX.—The amount of the additional tax imposed by paragraph (1)(A) with respect to any interest shall be the amount equal to the lesser of—

''(A) the adjusted tax difference with respect to the estate (within the meaning of section 2032A(c)(2)(C), or

''(B) the amount realized from the disposition of the interest.

''(3) ONLY ONE ADDITIONAL TAX IMPOSED WITH RESPECT TO ANY ONE PORTION.—In the case of an interest acquired from (or passing from) any decedent, if a particular clause of paragraph (1)(A) applies to any portion of an interest, no other clause of such paragraph shall apply with respect to the same portion of such interest.

''(d) ELECTION; AGREEMENT.—

''(1) ELECTION.—The election under this section shall be made on the return of the tax imposed by section 2001. Such election shall be made in such manner as the Secretary shall by regulations prescribe. Such an election, once made, shall be irrevocable.

''(2) AGREEMENT.—The agreement referred to in this paragraph is a written agreement signed by each person in being who has an interest (whether or not in possession) in any property designated in such agreement consenting to the application of subsection (c) with respect to such property.

''(e) DEFINITIONS; SPECIAL RULES.—For purposes of this section—

''(1) QUALIFIED DEVISEE.—The term 'qualified devisee' means, with respect to any property, a person who acquired such property (or to whom such property passed) from the decedent and who is not a qualified heir of the decedent.

''(2) PERSON.—The term 'person' means an individual, partnership, corporation, or governmental entity.

''(3) CERTAIN REAL PROPERTY INCLUDED.—In the case of real property which meets the requirements of subparagraph (B) of subsection (b)(1), any depreciable improvements, including roads, which are related to the qualified forest use shall be treated as real property devoted to that use.

''(4) QUALIFIED FORESTLAND.—The term 'qualified forestland' means any real property which—

''(A) qualifies for a differential use value assessment program for forestland in the State in which the property is located; or

''(B) if a State has no differential use value assessment program—

''(i) is forestland,

''(ii) is a minimum of 10 acres, exclusive of a dwelling unit or other non-forest related structure and its curtilage; and

''(iii) is subject to a forest management plan.

''(5) TIMBER OPERATIONS.—The term 'timber operations' means the planting, cultivating, caring for, or harvesting of trees in the process of using and conserving renewable forest resources.

''(6) METHOD OF VALUING FORESTLAND.—The value of forestland shall be determined according to whichever of the following methods results in the least value:

''(A) Assessed land values in a State which provides a differential or use value assessment for forestland.

''(B) Comparable sales of other forestland in the same geographical area far enough removed from a metropolitan or resort area so that nonforest use is not a significant factor in the sales price.

''(C) The capitalization of income which the property can be expected to yield for timber operations over a reasonable period of time under prudent management; using traditional forest management for the area, and taking into account soil capacity, terrain configuration, and similar factors.

''(D) Any other factor which fairly values the timber value of the property.

''(7) APPLICABLE DEFINITIONS AND RULES OF SECTION 2032A.—

''(A) DEFINITIONS.—Except as otherwise provided in this section, any term used in this section which is also used in section 2032A shall have the meaning given such term by section 2032A.

''(B) RULES.—The rules in the following provisions of section 2032A shall apply to this section, by substituting 'qualified forestland' for 'qualified real property' and 'qualified forest use' for 'qualified use', and shall apply to qualified devisees as well as qualified heirs:

''(i) Paragraphs (2)(D) (by substituting 'paragraph (2)(B)' for 'subparagraph (A)(ii)' in clause (i) thereof), (4), (5), and (7)(A) (by substituting '25 years' for '10 years') of subsection (c).

''(ii) Subsection (d)(3).

''(iii) Paragraphs (9), (10), (11), and (14) (by substituting 'active management' for 'material participation') of subsection (e).

''(iv) Subsections (f) and (g).

''(f) SPECIAL RULES FOR INVOLUNTARY CONVERSIONS OF QUALIFIED FORESTLAND.—

''(1) TREATMENT OF CONVERTED PROPERTY.—

''(A) IN GENERAL.—If there is an involuntary conversion of an interest in qualified forestland—

''(i) no tax shall be imposed by subsection (c) on such conversion if the cost of the qualified replacement property equals or exceeds the amount realized on such conversion; or

''(ii) if clause (i) does not apply, the amount of the tax imposed by subsection (c) on such conversion shall be the amount determined under subparagraph (B).

''(B) AMOUNT OF TAX WHERE THERE IS NOT COMPLETE REINVESTMENT.—The amount determined under this subparagraph with respect to any involuntary conversion is the amount of tax which (but for this subsection) would have been imposed on such conversion reduced by an amount which—

''(i) bears the same ratio to such tax, as

''(ii) the cost of the qualified replacement property bears to the amount realized on the conversion.

''(2) TREATMENT OF REPLACEMENT PROPERTY.—For purposes of subsection (c)—

''(A) any qualified replacement property shall be treated in the same manner as if it were a portion of the interest in qualified forestland which was involuntarily converted; except that with respect to such qualified replacement property the 25-year period under paragraph (1) of subsection (c) shall be extended by any period, beyond the 2-year period referred to in section 1033(a)(2)(B)(i), during which the qualified devisee or qualified heir was allowed to replace the qualified forestland;

''(B) any tax imposed by subsection (c) on the involuntary conversion shall be treated as a tax imposed on a partial disposition, and

''(C) subparagraph (A)(ii) of subsection (c)(1) shall be applied by not taking into account periods after the involuntary conversion and before the acquisition of the qualified replacement property.

''(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) INVOLUNTARY CONVERSION.—The term 'involuntary conversion' means a compulsory or involuntary conversion within the meaning of section 1033.

''(B) QUALIFIED REPLACEMENT PROPERTY.—The term 'qualified replacement property' means—

''(i) in the case of an involuntary conversion described in section 1033(a)(1), any real property into which the qualified forestland is converted, or

''(ii) in the case of an involuntary conversion described in section 1033(a)(2), any real property purchased by the qualified devisee or qualified heir during the period specified in section 1033(a)(2)(B) for purposes of replacing the qualified forestland.

Such term only includes property which is to be used for the qualified forest use set forth in subsection (b)(2) under which the qualified forestland qualified under subsection (a).

''(4) CERTAIN RULES MADE APPLICABLE.—The rules of the last sentence of section 1033(a)(2)(A) shall apply for purposes of paragraph (3)(B)(ii).

''(g) EXCHANGES OF QUALIFIED FORESTLAND.—

''(1) TREATMENT OF PROPERTY EXCHANGED.—

''(A) EXCHANGES SOLELY FOR QUALIFIED EXCHANGE PROPERTY.—If an interest in qualified forestland is exchanged solely for an interest in qualified exchange property in a transaction which qualifies under section 1031, no tax shall be imposed by subsection (c) by reason of such exchange.

''(B) EXCHANGES WHERE OTHER PROPERTY RECEIVED.—If an interest in qualified forestland is exchanged for an interest in qualified exchange property and other property in a transaction which qualifies under section 1031, the amount of the tax imposed by subsection (c) by reason of such exchange shall be the amount of tax which (but for this subparagraph) would have been imposed on such exchange under subsection (c)(1), reduced by an amount which—

''(i) bears the same ratio to such tax, as

''(ii) the value of the qualified exchange property bears to the value of the qualified forestland exchanged.

For purposes of clause (ii) of the preceding sentence, value shall be determined according to subsection (e)(6).

''(2) TREATMENT OF QUALIFIED EXCHANGE PROPERTY.—For purposes of subsection (c)—

''(A) any interest in qualified exchange property shall be treated in the same manner as if it were a portion of the interest in qualified forestland which was exchanged; and

''(B) any tax imposed by subsection (c) by reason of the exchange shall be treated as a tax imposed on a partial disposition.

''(3) QUALIFIED EXCHANGE PROPERTY.—For purposes of this subsection, the term 'qualified exchange property' means real property which is to be used for a qualified forest use set forth in subsection (b)(2) under which the real property exchanged therefor originally qualified under subsection (a).''

(b) CONFORMING AMENDMENTS.—

(1) Section 1014(a)(3), as amended by section 101(b), is amended by inserting ''or 2032B'' after ''2032A''.

(2) Section 1016(c) is amended—

(A) by inserting ''or 2032B(c)(1)'' after ''2032A(c)(1)'' in paragraphs (1), (3), (4), and (5)(B),

(B) by inserting ''or qualified devisee'' after ''qualified heir'' in paragraph (1),

(C) by inserting ''or 2032B(f)(3)(B)'' after ''2032A(h)(3)(B)'' in paragraph (4), and

(D) by inserting ''or 2032B(g)(3)'' after ''2032A(i)(3)'' in paragraph (4).

(3) Section 1040 is amended—

(A) by inserting ''or qualified devisee (within the meaning of section 2032B(e)(1))'' before ''any property'' in subsection (a), and

(B) by inserting ''or 2032B'' after ''2032A'' in subsections (a) and (b).

(4) Section 1223(12)(C) is amended by inserting ''or qualified devisee (within the meaning of section 2032B(e)(1))'' before ''with respect''.

(5) Section 2013 is amended—

(A) by inserting ''or 2032B'' after ''2032A'' each place it appears in subsection (f) and the heading thereof, and

(B) by inserting ''or 2032B(c)'' after ''2032A(c)'' both places it appears in subsection (f).

(6) Section 2035(d)(3)(B) is amended by inserting ''or section 2032B (relating to special valuation of certain forestland)'' after ''real property)''.

(7) Section 2056A(b)(10)(A) is amended by inserting ''2032B,'' after ''2032A,''.

(8) Section 2624(b) is amended by striking ''sections 2032 and 2032A'' and inserting ''sections 2032, 2032A, and 2032B''.

(9) Section 2663(1) is amended by striking ''section 2032A(c)'' and inserting ''sections 2032A(c) and 2032B(c)''.

(10) Section 6324B is amended—

(A) by striking subsection (a) and inserting the following new subsection:

''(a) GENERAL RULES.—

''(1) SECTION 2032A.—In the case of any interest in qualified real property (within the meaning of section 2032A(b)), an amount equal to the adjusted tax difference attributable to such interest (within the meaning of section 2032A(c)(2)(B)) shall be a lien in favor of the United States on property in which such interest exists.

''(2) SECTION 2032B.—In the case of any interest in qualified forestland (within the meaning of section 2032B(b)), an amount equal to the adjusted tax difference with respect to the estate (within the meaning of section 2032A(c)(2)(C)) shall be a lien in favor of the United States on property in which such interest exists.'',

(B) by inserting ''or 2032B'' after ''2032A'' both places it appears in subsection (b),

(C) by inserting ''or 2032B(c)'' after ''2032A(c)'' in subsection (b)(2), and

(D) by adding at the end of subsection (c) the following new paragraph:

''(3) QUALIFIED FORESTLAND.—For purposes of this section, the term 'qualified forestland' includes qualified replacement property (within the meaning of section 2032B(f)(3)(B)) and qualified exchange property (within the meaning of section 2032B(g)(3)).''

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by adding at the end the following new item:

''Sec. 2032B. Valuation of certain forestland.''

(d) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after December 31, 1997.

TITLE II—INCOME TAX TREATMENT

SEC. 201. PARTIAL INFLATION ADJUSTMENT FOR TIMBER.

(a) IN GENERAL.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by adding at the end the following new section:

''SEC. 1203. PARTIAL INFLATION ADJUSTMENT FOR TIMBER.

''(a) IN GENERAL.—At the election of any taxpayer who has qualified timber gain for any taxable year, there shall be allowed as a deduction from gross income an amount equal to the qualified percentage of such gain.

''(b) QUALIFIED TIMBER GAIN.—For purposes of this section, the term 'qualified timber gain' means the lesser of—

''(1) the net capital gain for the taxable year, or

''(2) the net capital gain for the taxable year determined by taking into account only gains and losses from timber.

''(c) QUALIFIED PERCENTAGE.—For purposes of this section, the term 'qualified percentage' means the percentage (not exceeding 50 percent) determined by multiplying—

''(1) 3 percent, by

''(2) the number of years in the holding period of the taxpayer with respect to the timber.

''(d) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction under subsection (a) shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.''

(b) COORDINATION WITH EXISTING LIMITATIONS.—

(1) Subsection (h) of section 1 (relating to maximum capital gains rate) is amended by inserting after ''net capital gain'' each place it appears the following: ''(other than qualified timber gain with respect to which an election is made under section 1203)''.

(2) Subsection (a) of section 1201 (relating to alternative tax for corporations) is amended by inserting after ''net capital gain'' each place it appears the following: ''(other than qualified timber gain with respect to which an election is made under section 1203)''.

(c) ALLOWANCE OF DEDUCTION IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62 (relating to definition of adjusted gross income) is amended by adding after paragraph (16) the following new paragraph:

''(17) PARTIAL INFLATION ADJUSTMENT FOR TIMBER.—The deduction allowed by section 1203.''

(d) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by adding at the end the following new item:

''Sec. 1203. Partial inflation adjustment for timber.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges after December 31, 1997.

SEC. 202. EXCLUSION OF GAIN FROM SALE OF INTERESTS IN FOREST LANDS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 138 as section 139 and by inserting after section 137 the following new section:

''SEC. 138. SALES OF INTERESTS IN CERTAIN FOREST LANDS.

''(a) EXCLUSION.—

''(1) IN GENERAL.—Gross income shall not include the applicable percentage of any qualified timber gain.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means—

''(A) 35 percent, or

''(B) in the case of qualified timber gain from the sale of a qualified real property interest described in section 170(h)(2)(C), 100 percent.

''(b) LIMITATION.—The total amount of gain which may be excluded from gross income under subsection (a) for any taxable year shall not exceed the sum of—

''(1) the amount of qualified timber gain described in subsection (a)(2)(B), plus

''(2) $800,000.

''(c) QUALIFIED TIMBER GAIN.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified timber gain' means gain from the sale or exchange of a qualified real property interest in real property which is used in timber operations to a governmental unit described in section 170(c)(1) for conservation purposes.

''(2) QUALIFIED REAL PROPERTY INTEREST.—The term 'qualified real property interest' has the meaning given such term by section 170(h)(2).

''(3) TIMBER OPERATIONS.—The term 'timber operations' has the meaning given such term by section 2032B(e)(5).

''(4) CONSERVATION PURPOSES.—The term 'conservation purposes' has the meaning given such term by section 170(h)(4)(A) (without regard to clause (iv) thereof).

''(d) SPECIAL RULE FOR SALES TO NONGOVERNMENTAL ENTITIES.—

''(1) IN GENERAL.—Subsection (a) shall apply to the sale or exchange to a qualified organization described in section 170(h)(3) if such interest is transferred during the 2-year period beginning on the date of the sale or exchange to a governmental unit described in section 170(c)(1).

''(2) TIME FOR EXCLUSION.—If the transfer to which paragraph (1) applies occurs in a

taxable year after the taxable year in which the sale or exchange occurred—

''(A) no exclusion shall be allowed under subsection (a) for the taxable year of the sale or exchange, but

''(B) the taxpayer's tax for the taxable year of the transfer shall be reduced by the amount of the reduction in the taxpayer's tax for the taxable year of the sale or exchange which would have occurred if subparagraph (A) had not applied.''

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 138 and by inserting the following new items after the item relating to section 137:

''Sec. 138. Sales of interests in certain forest lands.

''Sec. 139. Cross references to other Acts.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 203. APPLICATION OF PASSIVE LOSS LIMITATIONS TO TIMBER ACTIVITIES.

(a) IN GENERAL.—Treasury regulations sections 1.469–5T(b)(2) (ii) and (iii) shall not apply to any closely held timber activity if the nature of such activity is such that the aggregate hours devoted to management of the activity for any year is generally less than 100 hours.

(b) DEFINITIONS.—For purposes of subsection (a)—

(1) CLOSELY HELD ACTIVITY.—An activity shall be treated as closely held if at least 80 percent of the ownership interests in the activity is held—

(A) by 5 or fewer individuals, or

(B) by individuals who are members of the same family (within the meaning of section 2032A(e)(2) of the Internal Revenue Code of 1986).

An interest in a limited partnership shall in no event be treated as a closely held activity for purposes of this section.

(2) TIMBER ACTIVITY.—The term ''timber activity'' means the planting, cultivating, caring, cutting, or preparation (other than milling) for market, of trees.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

By Mr. KERRY:

S. 553. A bill to regulate ammunition, and for other purposes; to the Committee on the Judiciary.

THE AMMUNITION SAFETY ACT OF 1997

Mr. KERRY. Mr. President, no gun works without a bullet. Yet for no good reason, Congress in the early 1980's—which were marked by terribly troubling increases in gun-caused fatalities and injuries—repealed laws that regulate ammunition. And while a background check is required to stop felons from purchasing guns, no such background check is required to stop them from buying ammunition for guns they already may have. In the meantime, bullets are getting meaner and more deadly. Law enforcement officers know all too well the danger they face each and every time a gun is pointed at them.

Advances in technology only promise to make matters worse. When a large percentage of gun-related deaths involve handguns, and a larger percentage of gun-related deaths is accidental, it is not sensible to allow unrestricted manufacture, sale, and use of new, more destructive bullets. In 1994, 157 police officers and State troopers were killed in this country. Five lost their lives in my home State of Massachusetts. Additionally, more than 200 people die from the accidental use of handguns every year. In 1992 alone, 233 accidental deaths occurred because of handguns. This included 6 babies, 36 children under the age of 14, and 8 senior citizens, 2 of whom were over the age of 80.

In light of these sad and disturbing facts, there is no good reason to permit ever more dangerous bullets to come on the market. And there is every good reason to keep off our streets and out of our homes bullets that supply handguns with the approximate destructive power of assault weapons.

That is why I am today reintroducing the Ammunition Safety Act that I introduced previously in the 104th Congress. The Ammunition Safety Act of 1997 does two things: it reestablishes reasonable regulations for the sale of handgun ammunition, and it outlaws all exceedingly destructive handgun ammunition by expanding and updating the ban on armor-piercing handgun ammunition. This bill would provide a weapon for law enforcement to crack down on crime and would make ordinary people safer from handgun violence and accidental shootings. The bill accomplishes these goals in three steps.

First, the bill reinstates and strengthens ammunition control language that Congress repealed during the Reagan era. The bill would require dealers of handgun ammunition to be licensed by the Federal Government and would restrict interstate sale and transportation of handgun ammunition to licenced dealers. The bill also would double the maximum penalties for sale of handgun ammunition to and possession of such ammunition by felons and persons under age 21.

Second, the bill would apply Brady Bill provisions to handgun ammunition. To prevent the sale of handgun ammunition to felons, every purchaser of ammunition would have to pass a background check before ammunition could be sold to him or her. These regulations would be a vital tool for law enforcement to use in investigating crime, and would provide equity to a system that currently monitors and restricts the flow of guns, but, inexplicably, not of ammunition.

Third, the bill expands the definition of illegal armor-piercing handgun ammunition to include any new conceivable kind of armor-piercing bullet. The bill establishes a new method to accomplish this goal. To date, no law has been able to effectively ban all armor-piercing bullets. It is impossible to ban what cannot be defined because vague laws are constitutionally void—and definitions to date have failed to cover all armor-piercing bullets. All that existing law does is ban bullets based on the materials of which they are made. Consequently, bullets made of hard metal are illegal in the hope that this definition will cover most armor-piercing bullets. But the existing composition-based definitions fail to prevent the sale of certain bullets that pierce armor like large lead bullets that are not intended for handguns but can be used in them.

This bill calls on the Treasury Department to define major armor-piercing bullets. Fulfilling this new responsibility would entail four steps:

First, within 1 year, the Treasury Department is charged to determine a standard test to ascertain the destructive capacity of any and all bullets. This will probably result in something along the lines of a system that has been employed for some testing purposes that calculates the width times the depth of the hole a projectile bores in a block of gelatin when it is shot with no extra powder from a standard handgun at a distance of 10 feet.

Second, utilizing this destructive capabilities rating test, the Treasury Department would then test and determine the destructive rating of every bullet available on the market.

Third, all manufacturers of bullets for sale in the United States would be required to cover the costs incurred by the Treasury Department in this testing.

Fourth, the bill would make it illegal to manufacture, sell, import, use, or possess any bullet—existing or newly invented—that has a destructive rating equal to or higher than the armor-piercing threshold. This would be in addition to the existing composition-based definition.

This bill contains reasonable exemptions. Those bullets exclusively manufactured for law enforcement would be exempt; so would be those bullets designed for sporting purpose that Congress specifically exempts by law; and so would be those bullets that are proven by their manufacturer at its expense to have a destructive rating below the armor-piercing threshold.

By setting the legal standard at the armor-piercing threshold, all armor-piercing bullets would be illegal. And there is an additional advantage to setting a legal threshold in this fashion: The threshold would ban more than armor-piercing bullets. It would ban any bullet invented in the future that explodes on impact, that turns to shrapnel, that does things today's technology cannot yet fathom, or that by any other means is exceptionally destructive.

Setting a legal standard this way draws a hard and fast line between those bullets currently on the market and future bullets that do more damage that we can image today. This bill says that America is satisfied that the bullets of today are dangerous enough, and America will tolerate no greater likelihood of accidental death as a result of new bullets.

This bill recognizes the fact that regulating only guns is naive. Those who

want to kill or injure others will always be able to find guns, but they must purchase ammunition. When they do this, this bill will be there to stop them.

Mr. President, I recognize that there is a limit to what the Government can do to stop gun violence and accidental death. But today, our Government is shirking its responsibility. This bill is a vital step toward ensuring that our Government does what is necessary to save lives.

The law enforcement community and the public will never again have to react to advertisements like the one for the famous Rhino bullet. This ad states: ''The Rhino inflicts a wound of 8 inches in diameter. Each of these fragments becomes lethal shrapnel and is hurled into vital organs, lungs, circulatory system components, the heart and other tissues. The wound channel is catastrophic. Death is nearly instantaneous.''

If this bill is enacted, opportunistic manufacturers like the one who created the Rhino bullet will have nothing to gain from advertising the dramatic innovations of their bullets. If an advertisement claims that a new bullet is unusually destructive, the public will know that the advertisement is either an outright lie or that the product is illegal. Either way, the public will know in advance that no such bullet will ever hit the street, and the public will have no cause for alarm.

When this bill becomes law, no new bullets that are more dangerous than those of today will make it to market. When this bill becomes law, bullets now available for purchase end up in the wrong hands.

This bill is a solid step toward returning sanity and safety to our Nation's streets and households. The Government has no greater responsibility than to work toward this goal. I welcome the support of colleagues who share my concerns, as many do. I urge them to join me in sponsoring this legislation.

Mr. President, I ask unanimous consent that the full text of the legislation appear in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 553

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Ammunition Safety Act of 1997''.

SEC. 2. DEALERS OF AMMUNITION.

(a) DEFINITION.—Section 921(a)(11)(A) of title 18, United States Code, is amended by inserting ''or ammunition'' after ''firearms''.

(b) LICENSING.—Section 923(a) of title 18, United States Code, is amended—

(1) in the matter preceding paragraph (1) by striking ''or importing or manufacturing ammunition'' and inserting ''or importing, manufacturing, or dealing in ammunition''; and

(2) in paragraph (3)—

(A) in subparagraph (A), by striking ''or'' the last place it appears;

(B) in subparagraph (B), by striking the period at the end and inserting ''; or''; and

(C) by inserting the following new subparagraph:

''(C) in ammunition other than ammunition for destructive devices, $10 per year.''.

(c) UNLAWFUL ACTS.—Section 922(a)(1)(A) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by inserting ''or ammunition'' after ''firearms''; and

(ii) by inserting ''or ammunition'' after ''firearm''; and

(B) in subparagraph (B), by striking ''or licensed manufacturer'' and inserting ''licensed manufacturer, or licensed dealer'';

(2) in paragraph (2), in the matter preceding subparagraph (A), by inserting ''or ammunition'' after ''firearm'';

(3) in paragraph (3), by inserting ''or ammunition'' after ''firearm'' the first place it appears;

(4) in paragraph (5), by inserting ''or ammunition'' after ''firearm'' the first place it appears; and

(5) in paragraph (9), by inserting ''or ammunition'' after ''firearms''.

(d) PENALTIES.—Section 924 of title 18, United States Code, is amended—

(1) in paragraph (5)—

(A) in subparagraph (A)(i), by striking ''1 year'' and inserting ''2 years''; and

(B) in subparagraph (B)—

(i) in clause (i), by striking ''1 year'' and inserting ''2 years''; and

(ii) in clause (ii), by striking ''10 years'' and inserting ''20 years''; and

(2) by adding at the end the following new subsection:

''(o) Except to the extent a greater minimum sentence is otherwise provided, any person at least 18 years of age who violates section 922(g) shall be subject to—

''(1) twice the maximum punishment authorized by this subsection; and

''(2) at least twice any term of supervised release.''.

(e) APPLICATION OF BRADY HANDGUN VIOLENCE PREVENTION ACT TO TRANSFER OF AMMUNITION.—Section 922(t) of title 18, United States Code, is amended by inserting ''or ammunition'' after ''firearm'' each place it appears.

SEC. 3. REGULATION OF ARMOR PIERCING AND NEW TYPES OF DESTRUCTIVE AMMUNITION.

(a) TESTING OF AMMUNITION.—Section 921(a)(17) of title 18, United States Code, is amended—

(1) by redesignating subparagraph (D), as added by section 2(e)(2), as subparagraph (E); and

(2) by inserting after subparagraph (C) the following new subparagraph:

''(D)(i) Notwithstanding subchapter II of chapter 5 of title 5, United States Code, not later than 1 year after the date of enactment of this subparagraph, the Secretary shall—

''(I) establish uniform standards for testing and rating the destructive capacity of projectiles capable of being used in handguns;

''(II) utilizing the standards established pursuant to subclause (I), establish performance-based standards to define the rating of 'armor piercing ammunition' based on the rating at which the projectiles pierce armor; and

''(III) at the expense of the ammunition manufacturer seeking to sell a particular type of ammunition, test and rate the destructive capacity of the ammunition utilizing the testing, rating, and performance-based standards established under subclauses (I) and (II).

''(ii) The term 'armor piercing ammunition' shall include any projectile determined to have a destructive capacity rating higher than the rating threshold established under subclause (II), in addition to the composition-based determination of subparagraph (B).

''(iii) The Congress may exempt specific ammunition designed for sporting purposes from the definition of 'armor piercing ammunition'.''.

(b) PROHIBITION.—Section 922(a) of title 18, United States Code, is amended—

(1) in paragraph (7)—

(A) by striking ''or import'' and inserting '', import, possess, or use'';

(B) in subparagraph (B), by striking ''and'';

(C) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following new subparagraph:

''(D) the manufacture, importation, or use of any projectile that has been proven, by testing performed at the expense of the manufacturer of the projectile, to have a lower rating threshold than armor piercing ammunition.''; and

(2) in paragraph (8)—

(A) in subparagraph (B), by striking ''and'';

(B) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new subparagraph:

''(D) the manufacture, importation, or use of any projectile that has been proven, by testing performed at the expense of the manufacturer of the projectile, to have a lower rating threshold than armor piercing ammunition.''.

By Mr. HARKIN:

S. 554. A bill to inform and empower consumers in the United States through a voluntary labeling system for wearing apparel or sporting goods made without abusive and exploitative child labor, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE CHILD LABOR FREE CONSUMER INFORMATION ACT OF 1997

Mr. HARKIN. Mr. President, I rise to introduce legislation that will inform and empower consumers in the United States through a voluntary labeling system for wearing apparel and sporting goods made without the use of abusive and exploitative child labor. Congressman GEORGE MILLER is introducing companion legislation in the other body.

This is the second time I have come to the floor of the Senate to introduce this bill, and I will continue to introduce it until it becomes law.

I'd like to ask my colleagues to take a moment to look around. Maybe it's the shirt you have on right now. Or the silk tie or blouse. Or the soccer ball you kick around with your kids in the backyard. Or the tennis shoes you wear on weekends.

Chances are that you have purchased something—perhaps many things—made with abusive and exploitative child labor. And chances are you were completely unaware that was the case. You will find a label that tells you what size it is, how to take care for it and what it costs. But it doesn't tell you about the person who made it.

Mr. President, recently, the International Labor Organization [ILO] released a very grim report about the number of children who toil away in

abhorrent conditions. The ILO estimates that over 250 million children worldwide under the age of 15 are working instead of receiving a basic education. Many of these children begin working in factories at the age of 6 or 7, some even younger. They are poor, malnourished, and often forced to work 60-hour weeks for little or no pay.

Now when I speak about child labor, I am not talking about 17-year-olds helping out on the family farm or running errands after school. I am speaking about children, often under 12 years old, who are forced to work long hours in hazardous and dangerous conditions, many as slaves, instead of going to school.

On September 23, 1993, the Senate appropriately put itself on record as expressing its principled opposition to the abhorrent practice of exploiting children for commercial gain and asserting that it should be the policy of the United States to prohibit the importation of products made through the use of abusive and exploitative child labor by passing a sense of the Senate Resolution I introduced. In my view, this was the first step toward ending child labor.

Mr. President, never has the issue of child labor in the garment industry been more prominent than today. Last year, talk show host Kathie Lee Gifford learned that some of the garments with her name on them were being produced by children. She did not bury her head in the sand. Instead, she reacted quickly and decisively to heighten awareness about the issue of abusive and exploitative child labor.

Americans in Des Moines or Dallas or Detroit may say, ''What does this have to do with us?'' It is quite simple. By protecting the rights of workers everywhere, we will be protecting jobs and opportunities here at home. A U.S. worker cannot compete with a 12-year-old working 12 hours a day for 12 cents.

Last year, the United States imported almost 50 percent of the wearing apparel sold in this country and the garment industry netted $34 billion. According to the Department of Commerce, last year, the United States imported 494.1 million pairs of athletic footwear and produced only 65.3 million here at home. That means that we imported enough shoes to encircle the earth five and a half times.

As I have traveled around the country and spoken with people about the issue of abusive and exploitative child labor, I have found that consumers—ordinary Americans—want to get involved. They want information. They want to know if the products they are buying are made by children.

According to a survey sponsored by Marymount University, more than three out of four Americans said they would avoid shopping at stores if they were aware that the goods sold there were made by exploitative and abusive child labor. They also said that they would be willing to pay an extra $1 on a $20 garment if it were guaranteed to be made under legitimate circumstances. I ask unanimous consent to enter this study into the RECORD.

Mr. President, it is obvious that consumers don't want to reward companies with their hard-earned dollars by buying products made with abusive and exploitative child labor.

This issue demands our attention. My legislation, the Child Labor Free Consumer Information Act 1997, will inform and empower consumers in the United States through a voluntary labeling system for wearing apparel and sporting goods made without abusive and exploitative child labor. In my view, a system of voluntary labeling holds the best promise of giving consumers the information they want—and giving the companies that manufacture these products the recognition they deserve.

The crux of this legislation is to provide the framework for members of the wearing apparel and sporting goods industry, labor organizations, consumer advocacy and human rights groups along with the Secretaries of Commerce, Treasury, and Labor to establish the labeling standard and develop a system to assure compliance that items were not made with abusive and exploitative child labor. Thus, ensuring consumers that the garment or pair of tennis shoes they purchase was made without abusive and exploitative child labor.

In my view, Congress can't do it alone through legislation. The Department of Labor can't do it alone through enforcement. It takes all of us from the private sector to labor and human rights groups to take responsibility, to come together to end abusive and exploitative child labor. And I am pleased to say there has recently been promising action to that end.

Yesterday, an article in the New York Times appeared announcing a tentative agreement between human rights and labor leaders and some members of the apparel industry to adopt a code of conduct and a promise to form an association to provide consumers with information on the items they purchase. This is a praise worthy initiative and I am glad that my discussions with President Clinton on the issue of child labor have helped lead to this development. Now, we must take the logical next step to inform and assure consumers that the goods they purchase are not made with abusive and exploitative child labor. My bill has provisions for a labeling system that will inform consumers that the wearing apparel and sporting goods they purchase are not made by the sweat and toil of children, as well as enforcement provisions to assure consumers that the label has integrity. Until an effective and reliable labeling and monitoring system is in place, consumers can never truly be sure that the goods they purchase were not made by an exploited child. I look forward to continuing my work with my colleagues and the White House on strengthening this initiative to inform and empower consumers. That is what the American consumer demands and deserves.

Mr. President, when the private sector decides to take speak up—it certainly can make a difference. Recently, in Bangladesh, the Bangladesh Garment Manufacturers and Exporters Association has agreed to work with the International Labor Organization to take children out of the garment factories and put them into school—where they belong. As of July 1996, more than 110 schools for former child workers have opened, serving nearly 2,000 children. So, if we can do it in Bangladesh, then we can do it elsewhere.

Mr. President, let me be clear, companies can choose to use the label or not to. This bill is not about the big government telling the private sector what to do. This bill is centered around this fundamental principle: Let the Buyer Be Aware. This ''Truth in Labeling'' initiative is based on the principle that a fully informed American consumer will make the right, and moral, choice and vote against abusive and exploitative child labor with their pocketbook.

We have seen such an approach work effectively with the Rugmark label for hand-knotted carpets from India. It is operating in some European countries. Consumers who want to buy child labor-free carpets can just look for the Rugmark label. I visited the Rugmark headquarters in New Delhi, India last week. Mr. President, this initiative is working. It has succeeded in taking children out of the factories and putting them into schools while providing consumers with the information they need.

By the end of April, half a million carpets will have received the Rugmark label and been shipped to stores in Germany. Rugmark licenses already provide 30 percent of German carpet imports from India. And I am pleased to say that there are two wholesalers in New York that offer carpets with the Rugmark label. I am hopeful that by the end of the year there will be at least 20 importers in the United States.

Mr. President, the progress that has been made on eradicating abusive and exploitative child labor is irreversible. Therefore we must continue to move forward. And I believe my bill allows us to do just that. It allows the consumer to know more about the products they buy and give companies that use the label the recognition they deserve.

Our nation began this century by working to end abusive and exploitative child labor in America, let us close this century by ending child labor around the world. I urge my colleagues to support my bill.

I hope that we will be able to vote on this piece of legislation in the near future so that we can give consumers the information they deserve to make informed decisions.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 554

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Child Labor Free Consumer Information Act of 1997''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Secretary of Labor has conducted 3 detailed studies that document the fact that abusive and exploitative child labor exists worldwide;

(2) the Secretary of Labor has also determined, through the studies referred to in paragraph (1), that child laborers are often forced to work beyond their physical capacities, under conditions that threaten their health, safety, and development, and are denied basic educational opportunities;

(3) in most instances, countries that have abusive and exploitative child labor also experience a high adult unemployment rate;

(4) the International Labor Organization (commonly known as the ''ILO'') estimates that—

(A) approximately 250,000,000 children between the ages of 5 and 14 are working in developing countries; and

(B) many of those children manufacture wearing apparel or sporting goods that are offered for sale in the United States;

(5) consumers in the United States spend billions of dollars each year on wearing apparel and sporting goods;

(6) consumers in the United States have the right to information on whether the articles of wearing apparel (including any section of that wearing apparel) or sporting goods that they purchase are made without abusive and exploitative child labor;

(7) the rugmark labeling and monitoring system is a successful model for eliminating abusive and exploitative child labor in the rug industry;

(8) the labeling of wearing apparel or sporting goods would provide the information referred to in paragraph (6) to consumers; and

(9) it is important to recognize United States businesses that have effective programs to ensure that products sold in the United States are not made with abusive and exploitative child labor.

TITLE I—CHILD LABOR FREE LABELING STANDARDS

SEC. 101. CHILD LABOR FREE LABELING STANDARDS.

(a) ESTABLISHMENT OF LABELING STANDARDS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Labor, in consultation with the Child Labor Free Commission established under section 201, shall issue regulations to ensure that a label using the terms ''Not Made With Child Labor'', ''Child Labor Free'', or any other term or symbol referring to child labor does not make a false statement or suggestion that the article or section of wearing apparel or sporting good was not made with child labor. The regulations developed under this section shall encourage the use of an easily identifiable symbol or term indicating that the article or section of wearing apparel or sporting good was not made with child labor.

(2) NOTIFICATION ON USE.—

(A) IN GENERAL.—A producer, importer, exporter, distributor, or other person intending to use any label referred to in paragraph (1) shall submit a notification to the Commission for review under subparagraph (C).

(B) NOTIFICATION.—The notification referred to in subparagraph (A) shall include information concerning the source of the article or section of wearing apparel or sporting good to which the label will be affixed, including—

(i) the country in which the article or section of wearing apparel or sporting good is manufactured;

(ii) the name and location of the manufacturer; and

(iii) information concerning any outsourcing by the manufacturer in the manufacture of the article or section of wearing apparel or sporting good.

(C) REVIEW OF NOTIFICATION.—Upon receipt of the notification, the Commission shall review the notification and inform the Secretary of Labor concerning the findings of the review. The permission of the Secretary of Labor shall be required for the use of the label. The Secretary of Labor, in consultation with the Commission, shall establish procedures for granting permission to use a label under this subparagraph.

(3) FEE.—The Secretary of Labor is authorized to charge a fee to cover the expenses of the Commission in reviewing a notification under paragraph (2). The level of fees charged under this subparagraph shall not exceed the administrative costs incurred in reviewing a notification. Fees collected under this paragraph shall be available to the Secretary of Labor for expenses incurred in the review and response of the Commission under this subsection.

(4) APPLICABILITY.—The regulations issued under paragraph (1) shall apply to any label contained in—

(A) an article or section of wearing apparel or sporting good that is exported from or offered for sale in the United States;

(B) any packaging thereof; or

(C) any advertising for an article or section of wearing apparel or sporting good referred to in subparagraph (A).

(5) EFFECTIVE DATE.—The regulations issued under paragraph (1) shall take effect on the date that is 180 days after the date of publication as final regulations.

(b) VIOLATION OF SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT.—It is a violation of section 5 of the Federal Trade Commission Act (15 U.S.C. 45) for any producer, importer, exporter, distributor, or seller of any article or section of wearing apparel or sporting good that is exported from or offered for sale in the United States—

(1) to falsely indicate on the label of that article or section of wearing apparel or sporting good, the packaging of the article or section of wearing apparel or sporting good, or any advertising for the article or section of wearing apparel or sporting good that the article or section of wearing apparel or sporting good was not made with child labor; or

(2) to otherwise falsely claim or suggest that the article (or section of that article of wearing apparel) or sporting good was not made with child labor.

(c) AMENDMENT TO THE FEDERAL TRADE COMMISSION ACT.—Section 5(m)(1) of the Federal Trade Commission Act (15 U.S.C. 45(m)(1)) is amended—

(1) in subparagraph (A), by striking ''The Commission'' and inserting ''Except as provided in subparagraph (D), the Commission'';

(2) in subparagraph (B), by striking ''If the Commission'' and inserting ''Except as provided in subparagraph (D), if the Commission''; and

(3) by adding at the end the following new subparagraph:

''(D)(i)(I) In lieu of the applicable civil penalty under subparagraph (A) or (B), in any case in which the Commission commences a civil action for a violation of section 101 of the Child Labor Free Consumer Information Act of 1997 under subparagraph (A), under subparagraph (B) for an unfair or deceptive practice that is considered to be a violation of this section by reason of section 101(b) of such Act, or under subparagraph (C) for a continuing failure that is considered to be a violation of this section by reason of section 101(b) of such Act, if that violation—

''(aa) is a knowing or willful violation, the amount of a civil penalty for the violation shall be determined under clause (ii); or

''(bb) is not a knowing or willful violation, no penalty shall be assessed against the person, partnership, or corporation that committed the violation.

''(II) For purposes of this subparagraph, if in an action referred to in subclause (I), if the Commission asserts that a violation is a knowing and willful violation, the defendant shall bear the burden of proving otherwise.

''(ii) The amount of a civil penalty for a violation under clause (i)(I)(aa) that is committed shall be—

''(I) for an initial violation, an amount equal to the greater of—

''(aa) 2 times the retail value of the articles of wearing apparel or sporting goods mislabeled; or

''(bb) $200,000; and

''(II) for any subsequent violation, an amount equal to the greater of—

''(aa) 4 times the retail value of the articles of wearing apparel or sporting goods mislabeled; or

''(bb) $400,000.''.

(d) SPECIAL FUND TO ASSIST CHILDREN.—

(1) CREATION OF FUND.—There is established in the United States Treasury a special fund to be known as the ''Free the Children Fund''.

(2) DEPOSITS INTO FUND.—An amount equal to the amount of penalties collected under this section shall be deposited into the special fund. The Secretary of the Treasury shall, upon request of the Secretary of Labor, make the amounts deposited into the special fund available to the Secretary of Labor for use by the Secretary of Labor for educational and other programs described in paragraph (3).

(3) AUTHORIZATION.—Amounts deposited into the special fund are authorized to be appropriated annually for educational and other programs with the goal of eliminating child labor.

(e) OTHER INDUSTRIES.—The Commission may, as appropriate, develop labeling standards similar to the labeling standards developed under this section for any industry that is not otherwise covered under this Act and recommend to the Secretary of Labor that those standards be promulgated. If the standards are promulgated by the Secretary of Labor—

(1) the provisions of this Act and the amendments made by this Act shall apply to the labeling covered by those standards in the same manner as they apply to any other standards promulgated by the Secretary of Labor under this section; and

(2) it shall be a violation of section 5 of the Federal Trade Commission Act (15 U.S.C. 45) for any producer, importer, exporter, distributor, or seller of any good that is covered under the labeling standards and that is exported from or offered for sale in the United States—

(A) to falsely indicate on the label of that good, the packaging thereof, or any related advertising that the good was not made with child labor; or

(B) to otherwise falsely claim or suggest that the good was not made with child labor.

SEC. 102. REVIEW OF PETITIONS BY THE CHILD LABOR FREE COMMISSION.

(a) IN GENERAL.—In addition to the procedures established under section 5 of the Federal Trade Commission Act (15 U.S.C. 45), the Child Labor Free Commission established under section 201 shall assist the Federal Trade Commission by reviewing petitions under this section.

(b) CONTENTS OF PETITIONS.—A petition under this section shall—

(1) be submitted in such form and in such manner as the Federal Trade Commission, in consultation with the Secretary of Labor and the Child Labor Free Commission, shall prescribe;

(2) contain the name of the—

(A) petitioner; and

(B) person or entity involved in the alleged violation of the labeling standards under section 101; and

(3) provide a detailed explanation of the alleged violation, including all available evidence.

(c) REVIEW BY COMMISSION.—

(1) IN GENERAL.—The Commission shall, to the maximum extent practicable, not later than 90 days after receiving a petition, review the petition to determine whether there appears to have been a violation of the labeling standards.

(2) ACTION BY THE FEDERAL TRADE COMMISSION.—

(A) IN GENERAL.—Upon completion of a review conducted under paragraph (1), the Commission shall forward the petition to the Secretary of Labor, together with a report by the Commission containing a determination by the Commission concerning the merits of the petition, including whether a violation of the labeling standards occurred and whether there appears to have been a knowing and willful (within the meaning of section 5(m)(1)(D)(i) of the Federal Trade Commission Act, as added by section 101(c) of this Act) or repeated violation of those standards.

(B) DUTIES OF THE SECRETARY OF LABOR.—Upon receipt of the petition and report, the Secretary of Labor shall—

(i) forward a copy of the petition and report to the Federal Trade Commission for review by the Federal Trade Commission; and

(ii) review the petition and report.

(3) TEMPORARY WITHDRAWAL OF PERMISSION; ORDER TO CEASE AND DESIST.—

(A) TEMPORARY WITHDRAWAL OF PERMISSION.—If the Secretary of Labor determines, on the basis of the report referred to in paragraph (2), that there is a substantial likelihood that a violation of the labeling standards promulgated under section 101 has occurred, the Secretary of Labor may temporarily withdraw the permission granted under section 101(a)(2)(C) and inform the Federal Trade Commission of the action and the reason for the action.

(B) ORDER TO CEASE AND DESIST.—If the Federal Trade Commission concurs with a determination of the Child Labor Free Commission in the report referred to in subparagraph (A) that a violation of the labeling standards has occurred, the Federal Trade Commission shall take such action as may be necessary under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) to cause the person or entity in violation of the labeling standards under section 101 to cease and desist from violating those standards immediately upon that concurrence.

TITLE II—CHILD LABOR FREE COMMISSION

SEC. 201. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the ''Child Labor Free Commission''.

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 17 members, of whom—

(A) 1 shall be the Secretary of Commerce or a designee of the Secretary of Commerce;

(B) 1 shall be the Secretary of the Treasury or a designee of the Secretary of the Treasury;

(C) 1 shall be the United States Trade Representative or a designee of the United States Trade Representative;

(D) 1 shall be the Secretary of Labor or a designee of the Secretary of Labor, who shall serve as the Chairperson of the Commission;

(E) 3 shall be representatives of nongovernmental organizations that work toward the eradication of abusive and exploitative child labor and in the promotion of human rights, appointed by the Secretary of Labor;

(F) 3 shall be representatives of labor organizations, appointed by the Secretary of Labor;

(G) 3 shall be representatives of the wearing apparel industry, appointed by the Secretary of Labor;

(H) 3 shall be representatives of the sporting goods industry, appointed by the Secretary of Labor; and

(I) 1 additional member shall be appointed by the Secretary of Labor.

(2) DATE.—The appointments of the members of the Commission shall be made not later than 60 days after the date of enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES.—

(1) PERIOD OF APPOINTMENT.—Each member of the Commission shall serve for a term of 4 years, except that in appointing the initial members of the Commission, the Secretary of Labor shall stagger the terms of the non-Federal members.

(2) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairperson or at the request of a majority of the members.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings or other meetings.

SEC. 202. DUTIES OF THE COMMISSION.

The Commission shall—

(1) assist the Secretary of Labor in developing labeling standards under section 101; and

(2) assist the Secretary of Labor in developing and implementing a system to ensure compliance with the labeling standards established under section 101, including—

(A) receiving, reviewing, and making recommendations for the resolution of petitions received under section 102 that allege noncompliance with the labeling standards under section 101;

(B) making recommendations to the Secretary of Labor for the removal of labels subject to the standards under section 101 that are found to be in violation of those standards;

(C) assisting the Secretary of Labor in developing and implementing a system to promote the increased use of the labeling standards under section 101;

(D) publishing, not less frequently than annually, a list of persons and entities that have notified the Commission of their intent to use a label under section 101(a)(2); and

(E) publishing, not less frequently than annually, a list of persons and entities found to be in violation of any provision of this Act; and

(3) not later than 1 year after the date of the establishment of the Commission, commence a study into the feasibility of developing an easily identifiable labeling standard that the Secretary of Labor may issue to encourage the use of voluntary labels that ensure consumers that an article of wearing apparel or sporting good was made without the use of sweatshop or exploited adult labor.

SEC. 203. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the duties of the Commission under this title.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the duties of the Commission under this title. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 204. COMMISSION PERSONNEL MATTERS.

(a) NON-FEDERAL MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall serve without compensation.

(b) FEDERAL MEMBERS.—Each member of the Commission who is an officer or employee of the United States shall serve without compensation in addition to that received for that member's services as an officer or employee of the United States.

SEC. 205. ADMINISTRATIVE AND SUPPORT SERVICES.

The Secretary of Labor shall, to the extent permitted by law, provide the Commission with such administrative services, funds, facilities, staff, and other support services as may be necessary for the performance of its functions.

TITLE III—RECOGNITION OF EXEMPLARY CORPORATE EFFORTS

SEC. 301. ANNUAL REPORT.

Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary of Labor shall issue a report concerning companies that are making exemplary progress in ensuring that products made, sold, or distributed by those companies are not made with abusive and exploitative child labor.

SEC. 302. ADDITIONAL METHODS.

In addition to the reports made under section 301, the Secretary of Labor in consultation with the Commission shall develop and implement other methods of providing recognition for exemplary programs carried out by companies to ensure that products made, sold, or distributed by those companies are not made with abusive and exploitative child labor.

TITLE IV—DEFINITIONS

SEC. 401. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) CHILD.—The term ''child'' means—

(A) an individual who has not attained the age of 15 years, as measured by the Julian calendar; or

(B) an individual who has not attained the age of 14 years, as measured by the Julian calendar, in the case of an individual who resides in a country that, by law, defines a child as such an individual.

(2) COMMISSION.—The term ''Commission'' means the Child Labor Free Commission established under section 201.

(3) LABEL.—The term ''label'' means a display of written, printed, or graphic matter on or affixed to an article of wearing apparel or a sporting good or on the packaging of the article or a sporting good that meets the standards described in section 101(a).

(4) MADE WITH CHILD LABOR.—

(A) IN GENERAL.—A manufactured article or section of wearing apparel or a sporting good shall be considered to have been made with child labor if the article or section—

(i) was fabricated, assembled, or processed in whole or in part; or

(ii) contains any part that was fabricated assembled, or processed in whole or in part, by any child described in subparagraph (B).

(B) COVERED CHILDREN.—A child is described in this subparagraph if that child engaged in the fabrication, assembly, or processing of the article or section—

(i) under circumstances that the Secretary of Labor considers to be abusive or exploitative;

(ii) under circumstances tantamount to involuntary servitude; or

(iii) under—

(I) exposure to toxic substances or working conditions that otherwise pose serious health hazards; or

(II) working conditions that result in the child's being deprived of basic educational opportunities.

(5) PRODUCER.—The term ''producer'' includes a contractor or subcontractor of a manufacturer of all or part of a good.

(6) SPORTING GOOD.—The term ''sporting good'' shall have the meaning provided that term by the Secretary of Labor.

(7) WEARING APPAREL.—The term ''wearing apparel'' shall have the meaning provided that term by the Secretary of Labor.

[From Marymount University Center for Ethical Concerns, November, 1995]

NEW STUDY FINDS AMERICANS INTOLERANT OF SWEATSHOPS IN GARMENT INDUSTRY

ARLINGTON, VA.—Retailers selling clothing made in sweatshops operating in the United States could feel the ire of American consumers, suggests a new survey sponsored by Marymount University in Arlington, Virginia. The new study shows that consumers would avoid stores that sell goods made in sweatshops and be more inclined to shop at stores working actively to prevent garment worker abuses.

According to the survey, more than three-fourths of Americans would avoid shopping at stores if they were aware that the stores sold goods made in sweatshops. Consumers also are willing to pay a price for assurances that the goods they buy are not made in sweatshops. An overwhelming majority (84 percent) say they would be willing to pay up to an extra $1 on a $20 garment if it were guaranteed to be made in a legitimate shop.

The study, sponsored by Marymount's Center for Ethical Concerns and the Department of Fashion Design and Merchandising, was prompted by the recent discovery of sweatshops operating in the United States in which illegal aliens smuggled into the country were forced to produce garments under almost slave labor conditions. In one factory, raided earlier this year by U.S. officials, workers had been confined in a barbed wire-enclosed compound and forced to work between 16 and 22 hours a day. Workers were paid less than $1 an hour and essentially held captive until they had repaid the cost of their passage to the United States, a process that took years in some cases.

Since these revelations, the U.S. Department of Labor has been working with retailers to encourage greater diligence in policing the industry voluntarily and plans in the near future to release a list of companies that have agreed to cooperate in these efforts. The new study shows that a substantial majority of Americans (66 percent) would be more likely to patronize stores that they know are cooperating with law enforcement officials to prevent sweatshops. If such a list were published, more than two-thirds (69 percent) of consumers say they would take this information into account when deciding where to do their shopping this holiday season.

''It is gratifying to know that Americans condemn these sweatshop conditions and are willing to demonstrate that commitment when they shop, even if it costs them a few pennies. The industry, including retailers, has a responsibility to make sure it is not selling garments made in sweatshops, and the public is willing to hold them accountable,'' said Sr. Eymard Gallagher, RSHM, president of Marymount University. ''Despite the competitiveness in the industry, we can't close our eyes to these kinds of conditions that we thought had disappeared years ago,'' she said.

The telephone survey of 1,008 randomly selected adults, was conducted by ICR Survey Research Group of Media, PA, at the request of Marymount. The survey has a margin of error of plus or minus 3 percentage points.

Marymount University's fashion design and fashion merchandising programs are among the leaders in this field in the United States. Marymount is an independent, Catholic university, emphasizing excellence in teaching, attention to the individual, and values and ethics across the curriculum. Located in Arlington, Virginia, Marymount enrolls 4,200 men and women in its 34 undergraduate and 24 master's degree programs.

STUDY BACKGROUND AND OBJECTIVES

United States officials recently discovered that workers who had been smuggled into this country were making garments in sweatshops where they were forced to work long hours under extremely poor working conditions for less than the minimum wage. As a result, this research was conducted to determine: Whether respondents would avoid shopping at retailers if aware they sold garments made in sweatshops; Whether respondents would be more inclined to shop in retail stores cooperating with law enforcement officials to prevent sweatshops; Whether respondents would be willing to pay $1 more for a $20 garment if it were guaranteed to be made in a legitimate shop, and; Whether respondents would be more likely this holiday season to shop in retail stores on a forthcoming list of retailers assisting authorities in their effort to end abuse of United States garment workers. Whether the manufacturers or the retailers should have the responsibility of preventing sweatshops.

RESEARCH METHODOLOGY

The research entailed a telephone interview insert in ICR Survey Research Group's EXCEL Omnibus. EXCEL includes a national random sample of approximately 1,000 adults (18+), half male and half female.

Interviewing was conducted from Friday, October 27 through Tuesday, October 31. A total of 1008 interviews were completed. Data has been weighted to reflect the U.S. population 18 years of age and older (188,700,000).

IN A NUTSHELL . . . HERE ARE THE FINDINGS

Retailers—beware of sweatshop garments

Americans overwhelmingly support the idea of officials publishing a list of retailers who assist law enforcement agencies in their effort to end abuse of United States garment workers. Seven-in-ten respondents indicate they would be more likely to shop at the stores this holiday season that cooperate to end garment worker abuse. Consumers are willing to pay a price for assurances that goods they buy are not made in sweatshops. 84% of consumers would pay an additional $1 on a $20 item if they knew the garment was guaranteed to be made in a legitimate shop.

Most Americans (76%) blame the existence of sweatshops on the manufacturers who employ the contractors or workers. However, if consumers knew a retailer sold garments that were made in sweatshops, nearly eight-in-ten would avoid shopping there. As the holiday season starts to kick-off, retailers would be wise to ensure their garments were in fact made in legitimate shops. Given the potential for enticing customers with legitimately made garments, and the potential for losing customers if caught selling sweatshop-made garments, promoting legitimately made garments provides a strategic business opportunity for retailers.

By Mr. ALLARD:

S. 555. A bill to amend the Solid Waste Disposal Act to require that at least 85 percent of funds appropriated to the Environmental Protection Agency from the Leaking Underground Storage Tank Trust Fund be distributed to States to carry out cooperative agreements for undertaking corrective action and for enforcement of subtitle I of that Act; to the Committee on Environment and Public Works.

THE LEAKING UNDERGROUND STORAGE TANK TRUST FUND AMENDMENTS ACT OF 1997

Mr. ALLARD. Mr. President, today I am introducing, The Leaking Underground Storage Tank Trust Fund Amendments Act of 1997. This legislation, if enacted, would change who controls the bulk of the money from the trust fund, and the purposes for which the money can be spent. The legislation is simple, it mandates that 85 percent of the money in the trust fund must be allocated to the States. It's my view that since the States are responsible for the bulk of underground storage tank enforcement and cleanup, they should have greater control over the dollars.

This legislation also broadens the purposes for which trust fund dollars can be spent. Under this legislation States would have the authority to use the funds to meet the greater demand for cleanup.

There has been some concern expressed about how trust fund money has been targeted up to this point. For example, since inception of the program only 1 percent of the money has been used for actual cleanup of orphan tanks. The other 99 percent has gone to administration and enforcement. I think there should be some discussion on whether this money can be spent with greater environmental benefit. Instead of targeting 99 percent to administration and enforcement, perhaps it would be a better idea to help owners and operators who need financial assistance to handle their problem. Since the money for assistance would come from a dedicated tax, and not the general fund, why not get as big an environmental bang for the buck as possible. By taking this action we may also be able to have more appropriated out of the trust fund every year. As some may be aware, only a small portion of the $1.5 billion in the trust fund

is appropriated every year. If we can show that the money being appropriated is directly cleaning up tanks, we can certainly make a better claim for those dollars.

Finally, I understand that EPA and some Members have concerns with this legislation. I think that working with Chairman SMITH and Chairman CHAFEE, and their staffs, we can craft legislation that will be signed into law.

By Mr. INHOFE (for himself, Mr. HUTCHINSON, Mr. HELMS, Mr. COCHRAN, Mr. NICKLES, and Mr. SESSIONS):

S. 556. A bill to provide for the allocation of funds from the Mass Transit Account of the Highway Trust Fund, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

MASS TRANSIT LEGISLATION

Mr. INHOFE. Mr. President, I rise today to introduce legislation that attempts to level the playing field for transit donor States across the country. In addition to myself, Senators TIM HUTCHINSON, HELMS, COCHRAN, NICKLES, and SESSIONS are all original cosponsors.

Federal Transit dollars are distributed according to the Federal Transit Act as amended by the Intermodal Surface Transportation Efficiency Act [ISTEA]. Similar to highway dollars, transit dollars are collected at the gas pump and are distributed by both formula and discretionary grants.

States such as Oklahoma that do not receive back all of the revenues that they send to the Federal mass transit account are considered donor States. Unfortunately, these States are not getting nearly as much back in Federal funding as they contribute. In 1995, Oklahoma contributed about $30 million and only received back about $8 million from the mass transit account of the highway trust fund. This inequity allows for States with more urban centers to receive more dollars back than they actually contribute to the Federal account. Basically, donor States are subsidizing large metropolitan areas with the portion of the funds that we never get back. This puts smaller and rural areas at a disadvantage in trying to maintain transit systems whether it be buses or light rail. Rural areas are, too, interested in conserving fuel and contributing to better air quality.

My proposal is designed to address this critical transit problem as we move deeper into the ISTEA reauthorization debate. Under my bill, each State that contributes $50 million or less into the Federal Mass Transit Account will be guaranteed to receive back no less than 80 percent of its apportionment.

States should reasonably be able to expect that local dollars will be used for local transit needs. A large portion of Oklahoma-generated revenues should be remitted back to our State to provide for improved public transportation in Oklahoma—not urban mass transit systems in other States. My bill will put equity into the mass transit apportionment system by returning locally generated dollars home.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 556

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ALLOCATION OF MASS TRANSIT ACCOUNT FUNDS.

(a) MINIMUM ALLOCATION.—The Secretary of Transportation shall take such actions as may be necessary to ensure that, in each fiscal year, each State's percentage of the total apportionments to all States from the Mass Transit Account of the Highway Trust Fund established by section 9503 of the Internal Revenue Code of 1986 is not less than 80 percent of the State's estimated tax payment attributable to highway users in the State paid into that Account in the most recent year for which data are available.

(b) APPLICABILITY.—Subsection (a) does not apply to any State whose contribution to the Mass Transit Account of the Highway Trust Fund established by section 9503 of the Internal Revenue Code of 1986 in the applicable fiscal year is greater than or equal to $50,000,000.

By Mr. MCCONNELL (for himself and Mr. INHOFE):

S. 557. A bill to amend the Clean Air Act to exclude beverage alcohol compounds emitted from aging warehouses from the definition of volatile organic compounds; to the Committee on Environment and Public Works.

THE CLEAN AIR ACT AMENDMENTS DISTILLED SPIRITS CLARIFICATION ACT OF 1997

Mr. MCCONNELL. Mr. President, today I rise to introduce legislation which will correct an oversight in the Clean Air Act Amendments of 1990. This legislation will clarify the treatment under the act of beverage alcohol compounds emitted from aging warehouses.

Under the current statute, EPA classifies beverage alcohol emissions (ethanol) as a volatile organic compound [VOC]. VOC's react in the atmosphere to form ozone. Ethanol, however, has been proven to play an insignificant role in ozone formation because of its low reactivity.

Despite scientific evidence proving the minimal value of these controls (at exorbitant cost) the EPA has wrongly refused repeated requests regarding removal of restrictions on beverage distillation. If control technology is implemented, this would mean process changes in the historical aging process that makes each beverage unique.

Aging is arguably one of the most important components of the production process. For example, Bourbon whisky, which is a distinctive product of the United States, and Kentucky, must be aged at least 2 years in wooden barrels according to Federal regulation. This process involves natural oxidation which requires the passage of air and ethanol vapors into and out of the barrels. Any effort to alter this natural aging process through controls on temperature, ventilation patterns, and humidity, could change the actual physical properties of Bourbon whisky, thus altering the distinguishing taste associated with certain brands.

Mr. President, I agree that we must protect the environment that we all share. However, when extremist, inflexible regulation threatens an entire industry at minimal, if any, environmental return, we must reevaluate our priorities. I urge my colleagues to join me in restoring a little sanity to our regulatory process.

I ask unanimous consent for the bill to be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 557

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITION OF VOLATILE ORGANIC COMPOUNDS.

Section 302(s) of the Clean Air Act (42 U.S.C. 7602(s)) is amended by adding the following at the end thereof: ''Such term shall not include beverage alcohol compounds (ethanol) emitted from aging warehouses.''.

By Mr. BIDEN (for himself and Mr. GRASSLEY):

S. 558. A bill to provide for a study and report regarding the potential recruitment, hiring, or retention of qualified former officers of the Royal Hong Kong Police by Federal law enforcement agencies; to the Committee on the Judiciary.

THE ROYAL HONG KONG POLICE ANTICRIME STRATEGY ACT OF 1997

Mr. BIDEN. Mr. President, the forthcoming reversion of Hong Kong to Chinese control is, as a matter of diplomacy, the mere implementation of a diplomatic agreement between the United Kingdom and the government of the People's Republic of China.

But it is, of course, far more complicated, and its implications far more profound. The challenges ahead are many. Will Beijing abide by the rule of law and uphold its commitment to the United Kingdom and the people of Hong Kong to ''one country, two systems?'' Will America and the major powers have the political will to challenge China should they renege on their commitments?

Nowhere are the challenges of reversion greater than for United States law enforcement—for Hong Kong has long been a center of the international criminal organizations which control the trade in Asian heroin, money laundering is on the rise, and there are a host of other law enforcement problems.

Here in the United States, we see the related problems of Asian organized crime, or Tongs, heroin trafficking from Asia through Hong Kong, alien smuggling, arms trafficking, and the

use of Hong Kong as a money laundering center for criminals. Unfortunately, the capacity of U.S. law enforcement to respond to this threat is limited by the fact that we simply do not have enough agents with the language skills, intelligence background and contacts to infiltrate Asian organized crime.

This is why I am introducing today the Royal Hong Kong Police Anticrime Strategy Act of 1997. I am pleased to be joined in doing so by Senator GRASSLEY, my colleague on the Senate International Caucus on Narcotics Control.

This legislation seeks to take advantage of a potential opportunity—even in the face of all the challenges which will come with the reversion of Hong Kong. To describe in simplest terms the opportunity—as officers of the Royal Hong Kong Police leave their force, U.S. law enforcement agencies may be able to bolster our anti-drug, money laundering, alien smuggling and Asian organized crime capabilities with the unique knowledge of the former officers of the Royal Hong Kong Police.

For example, it could be of significant value to federal law enforcement to simply retain on a one-time or continuing basis former Royal Hong Kong Police personnel to use them to help build a major Asian-Crime investigative database. Such a database could form the backbone of U.S. investigations in the years to come. I offer this simply as a means to illustrate to my Senate colleagues the potential law enforcement benefits of this legislation. Of course, the best uses must be decided by the law enforcement professionals within the Justice and Treasury Departments.

I also point out that I have long worked on this issue—beginning with a hearing with the FBI on the issue of Asian organized crime way back in August, 1990. My January 1992 drug strategy also called on the Bush Administration to determine if these police officers could be of assistance. In fact, a DEA operation began in 1992 which used some retired Royal Hong Kong Police in a very limited capacity to provide translation services to support investigations of Asian heroin trafficking.

I was also pleased to include a provision offered by Senator ROTH in the 1994 Biden Crime Bill to study this issue—unfortunately, this provision was dropped from the final agreement due to opposition in the House.

But, today, with the continuing rise of the heroin trade, I am reiterating my call for us to address this issue. The legislation I offer today calls on the Attorney General and the Treasury Secretary to report to Congress on the need and potential benefits—as well as any potential security or administrative problems—of adding former officers of the Royal Hong Kong Police to our federal law enforcement agencies.

And, if the benefits exist, this legislation authorizes the addition of up to 200 former officers to assist in the investigation of international drug trafficking, alien smuggling, money laundering and organized crime undertaken by the Justice and Treasury Departments.

Mr. President, preparing for the reversion of Hong Kong primarily means preparing for the challenges ahead—but it also requires us to recognize the opportunities ahead. Taking advantage of this opportunity is what the ''Royal Hong Kong Police Anticrime Act of 1997'' is all about.

I ask unanimous consent that the full text of the legislation appear in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 558

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Royal Hong Kong Police Anticrime Strategy Act of 1997''.

SEC. 2. ROYAL HONG KONG POLICE ANTICRIME STRATEGY.

(a) DEFINITIONS.—In this section—

(1) the term ''Attorney General'' means the Attorney General of the United States;

(2) the term ''controlled substance'' has the same meaning as in section 102 of the Controlled Substances Act (21 U.S.C. 802);

(3) the term ''Federal law enforcement agency'' includes—

(A) the Drug Enforcement Administration of the Department of Justice;

(B) the Federal Bureau of Investigation of the Department of Justice;

(C) the Immigration and Naturalization Service of the Department of Justice;

(D) the Bureau of Alcohol, Tobacco, and Firearms of the Department of the Treasury; and

(E) the United States Customs Service of the Department of the Treasury;

(F) the United States Secret Service of the Department of the Treasury; and

(G) any other department or agency of the Federal Government that is authorized to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of Federal law;

(4) the term ''qualified former officer of the Royal Hong Kong Police'' means any individual employed by the Royal Hong Kong Police on or before June 30, 1997, who—

(A) during that period of employment, was authorized to engage in or supervise the prevention, detection, investigation, or prosecution of criminal law;

(B) in the determination of the Attorney General and the Secretary of the Treasury, does not constitute a law enforcement, national security, or other threat to the interest of the United States; and

(C) meets such other requirements as the Attorney General and the Secretary of the Treasury may establish.

(b) STUDY AND REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Attorney General and the Secretary of the Treasury shall—

(A) conduct a study regarding the potential recruitment, hiring, or retention of qualified former officers of the Royal Hong Kong Police by Federal law enforcement agencies to assist those agencies in the prevention, detection, investigation, or prosecution of Federal criminal offenses; and

(B) submit to the Committees on the Judiciary of the Senate and the House of Representatives a report describing the results of the study under subparagraph (A).

(2) CONSULTATION.—The Attorney General and the Secretary of the Treasury—

(A) shall consult with the Director of the Office of National Drug Control Policy of the Executive office of the President in conducting the study under paragraph (1)(A); and

(B) shall include any recommendations of the Director in the report submitted under paragraph (1)(B).

(3) CONTENTS OF REPORT.—To the maximum extent practicable, in addition to such information as may be included at the discretion of the Attorney General and the Secretary of the Treasury, the report under paragraph (1)(B) shall include an analysis of—

(A) the potential benefits of recruiting, hiring, or retaining qualified former officers of the Royal Hong Kong Police by Federal law enforcement agencies to assist or otherwise support those agencies the prevention, detection, investigation, or prosecution of Federal criminal offenses, including—

(i) illegal international and domestic trafficking of controlled substances, including any violation of section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A));

(ii) illegal immigration, including the smuggling of illegal immigrants;

(iii) illegal international arms trafficking; and

(iv) any violation of section 1956 of title 18, United States Code;

(B) any special knowledge or capabilities that qualified former officers of the Royal Hong Kong Police would potentially provide to Federal law enforcement agencies, such as translation or linguistic support, including an assessment of the extent to which such knowledge and capabilities are available domestically;

(C) any legal or administrative barriers that may prevent the recruitment, hiring, or retention of qualified former officers of the Royal Hong Kong Police by Federal law enforcement agencies and, if necessary, recommendations for legislation to address those barriers; and

(D) any potential security issues that would be raised by the hiring of qualified former officers of the Royal Hong Kong Police by Federal law enforcement agencies and, if necessary, the potential for minimizing any security risks through deployment in support or other capacities.

(c) CERTIFICATION.—Not later than 30 days after the date on which the report is submitted under subsection (b)(1)(B)—

(1) if the Attorney General determines, based on the results included in that report, that the recruitment, hiring, or retention of qualified former officers of the Royal Hong Kong Police would be of significant assistance to Federal law enforcement, the Attorney General shall so certify to Congress; and

(2) if the Secretary of the Treasury determines, based on the results included in that report, that the recruitment, hiring, or retention of qualified former officers of the Royal Hong Kong Police would be of significant assistance to Federal law enforcement, the Secretary of the Treasury shall so certify to Congress.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) FISCAL YEAR 1998.—There are authorized to be appropriated for fiscal year 1998 such sums as may be necessary to carry out subsection (b)(1).

(2) SUCCEEDING FISCAL YEARS.—If—

(A) the Attorney General makes a certification under subsection (c)(1), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years

1998, 1999, 2000, and 2001 for the purposes of recruiting, hiring, or retaining not more than 100 qualified former officers of the Royal Hong Kong Police to support the activities of the Department of Justice; and

(B) the Secretary of the Treasury makes a certification under subsection (c)(2), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1998, 1999, 2000, and 2001 for the purposes of recruiting, hiring, or retaining not more than 100 qualified former officers of the Royal Hong Kong Police to support the activities of the Department of the Treasury.

Mr. GRASSLEY. Mr. President, I am pleased to join Senator BIDEN in offering the Royal Hong Kong Police Anticrime Strategy Act of 1997. As the recent State Department report on international narcotics control makes clear, the criminal activities of major Asian organized crime groups directly affects the United States. Whether we are talking about alien smuggling, heroin trafficking, or spreading corruption, major Asian-based gangs, many operating from Hong Kong, daily affect the quality of life of many of our citizens. Their activities to launder their illegal incomes threatens the integrity of our banking and financial systems.

With the transfer of Hong Kong to China, much of the current expertise on these criminal organizations now based in the Royal Hong Kong Police will be lost. What this legislation will do, and it is only a first step, is to give us the opportunity to examine ways of retaining that expertise, of putting it to use in our efforts to stop a despicable trade in human beings and to improve our capability to stop the flow of dangerous drugs that do so much to make our neighborhoods and streets unsafe. The proposal is innovative and timely. While only authorizing a study, the present proposal will give us the opportunity to explore ways to ensure the effectiveness of our international narcotics control efforts.

By Mr. DASCHLE (for himself and Mr. KENNEDY) (by request):

S. 559. A bill to amend the Internal Revenue Code of 1986 to provide tax relief to middle-income families who are struggling to pay for college, 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; to the Committee on Finance.

S. 560. 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; to the Committee on Labor and Human Resources.

THE HOPE AND OPPORTUNITY FOR POSTSECONDARY EDUCATION ACT OF 1997

Mr. DASCHLE. Mr. President, on behalf of the administration, I am introducing, with Senator KENNEDY, the Hope and Opportunity for Postsecondary Education [HOPE] Act of 1997. This legislation includes the President's higher education tax and spending proposals to help make a college education more affordable for American families.

During the last decade, college costs have soared. Federal student aid programs have been instrumental in helping many people get a good education. But aid to students has not kept pace with the cost. In the 1970's, Pell grants made up 77 percent of the cost of going to college; today they make up only about 30 percent of the cost. Many of these students, and those who don't qualify for assistance, are taking on larger and larger amounts of debt. This has many consequences both for the student and for the Nation. Concerns about high levels of indebtedness affects students' choices about where to go to school or what to study and, for some, makes it impossible to get a degree at all. This means we are not developing the talents of our people to the fullest, and that has significant costs for our Nation.

Access to higher education is clearly the key to our future. Not only do we know that those who attend college earn higher incomes, but having a well-educated work force is also important for our Nation's overall economic growth and ability to compete in the global marketplace.

I applaud the President for his initiatives in this area—his plan is a good and thoughtful one. He deserves a lot of credit for taking on this important issue and insisting that it be part of the national agenda. His bill helps people from a wide range of backgrounds who need help, from middle-class families who are struggling to make ends meet to people from low-income families who are trying to escape poverty and make decent lives for themselves. He does this by increasing the maximum Pell grant to $3,000 and he reduces student loan interest costs.

I do want to say that I have some concerns about aspects of this bill. I believe we have an important opportunity to help lower income people further by making the tax credit be refundable. We did that in S. 12, legislation introduced earlier this year by Senate Democrats. I also believe that we should allow the credit to be combined with other aid, again as we did in S. 12.

Despite these concerns, I am pleased to introduce this legislation for the administration, because I believe it helps us move forward to find ways to improve the affordability of education in this country.

This is not a partisan issue: all families worry about the cost of college. We ought to find common ground to make a college education more affordable. It's time to hold hearings so that we can examine these issues and advance the public dialog. Higher education is too important to the future of this Nation to divide us. I am committed to this goal and look forward to working with my colleagues on the other side of the aisle to find solutions to this problem.

Senator KENNEDY and I are also introducing, by request, a separate piece of legislation that includes the non-tax-related provisions of the HOPE legislation. We are doing this because, historically, these programs have been in the Labor Committee's jurisdiction, and we want to make sure the Labor Committee considers them fully.

Mr. President, I ask unanimous consent that the administration's letter of transmittal, and a section-by-section analysis of the HOPE legislation be printed in the RECORD.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 559

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the ''Hope and Opportunity for Postsecondary Education Act of 1997''.

TITLE I—TAX PROVISIONS

SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS

SEC. 101. (a) SHORT TITLE.—This title may be cited as the ''Higher Education Tax Incentive Act of 1997''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

TITLE I—TAX PROVISIONS

CREDIT FOR HIGHER EDUCATION EXPENSES

SEC. 102. (a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 24 the following new section:

''SEC. 24A. HIGHER EDUCATION TUITION AND FEES.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year the amount of qualified higher education expenses paid by the taxpayer during such taxable year for education furnished during any academic period beginning in such year.

''(b) LIMITATIONS.—

''(1) DOLLAR LIMITATION.—

''(A) IN GENERAL.—The amount allowed as a credit under subsection (a) for any taxable

year with respect to the qualified higher education expenses of any 1 individual shall not exceed $1,500.

''(B) REDUCTION FOR OTHER NONTAXABLE FEDERAL ASSISTANCE.—

''(i) IN GENERAL.—If any nontaxable Federal assistance is allocable to any academic period, the dollar amount applicable under subparagraph (A) for the taxable year in which such period begins shall be reduced by the amount of such assistance.

''(ii) NONTAXABLE FEDERAL ASSISTANCE.—For purposes of clause (i), the term 'nontaxable Federal assistance' means any scholarship or grant provided by the Federal Government which is exempt from tax under this chapter by reason of section 117 or any other Federal law. Such term shall not include any benefit described in section 480(c)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(c)(2)), as in effect on the date of enactment of this section.

''(2) CREDIT ALLOWED FOR ONLY 2 TAXABLE YEARS.—No credit shall be allowed under subsection (a) for a taxable year with respect to the qualified higher education expenses of an individual unless the taxpayer elects to have this section apply with respect to such individual for such year. An election under this paragraph shall not take effect with respect to an individual for any taxable year if an election under this paragraph (by the taxpayer or any other individual) is in effect with respect to such individual for any 2 prior taxable years.

''(3) CREDIT ALLOWED FOR YEAR ONLY IF INDIVIDUAL IS AT LEAST ½ TIME STUDENT FOR PORTION OF YEAR.—No credit shall be allowed under subsection (a) for a taxable year with respect to the qualified higher education expenses of an individual unless such individual is an eligible student for at least one academic period which begins during such year.

''(4) CREDIT ALLOWED ONLY FOR FIRST TWO YEARS OF POSTSECONDARY EDUCATION.—No credit shall be allowed under subsection (a) for a taxable year with respect to the qualified higher education expenses of an individual if the individual has completed (before the beginning of such taxable year) the first 2 years of postsecondary education at an institution of higher education.

''(c) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

''(1) IN GENERAL.—The amount which would (but for this subsection) be taken into account under subsection (a) for the taxable year shall be reduced (but not below zero) by the amount determined under paragraph (2).

''(2) AMOUNT OF REDUCTION.—The amount determined under this paragraph is the amount which bears the same ratio to the amount which would be so taken into account as—

''(A) the excess of—

''(i) the taxpayer's modified adjusted gross income for such taxable year, over

''(ii) $50,000 ($80,000 in the case of a joint return), bears to

''(B) $20,000.

''(3) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year—

''(A) determined without regard to section 221, and

''(B) increased by any amount excluded from gross income under section 911, 931, or 933.

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED HIGHER EDUCATION EXPENSES.—

''(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition and fees required for the enrollment or attendance of—

''(i) the taxpayer,

''(ii) the taxpayer's spouse, or

''(iii) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151,

at an institution of higher education.

''(B) EXCEPTION FOR EDUCATION INVOLVING SPORTS, ETC.—Such term does not include expenses with respect to any course or other education involving sports, games, or hobbies, unless such course or other education is part of the individual's degree program.

''(C) EXCEPTION FOR NONACADEMIC FEES.—Such term does not include student activity fees, athletic fees, insurance expenses, or other expenses unrelated to an individual's academic course of instruction.

''(2) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education' means an institution—

''(A) which is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this section, and

''(B) which is eligible to participate in a program under title IV of such Act.

''(3) ELIGIBLE STUDENT.—The term 'eligible student' means, with respect to any academic period, a student who—

''(A) meets the requirements of section 484(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(a)(1), as in effect on the date of the enactment of this section, and

''(B) is carrying at least ½ the normal full-time work load for the course of study the student is pursuing.

''(4) OTHER TERMS RELATING TO THE HIGHER EDUCATION ACT.—The following terms shall have the meanings prescribed in regulations under section 481(g) of the Higher Education Act of 1965 (20 U.S.C. 1088(g)), as added by the Student Financial Aid Improvements Act of 1997:

''(A) Academic period.

''(B) Normal full-time workload.

''(C) First two-years of postsecondary education.

''(D) Qualifying grade point average.

''(E) Job skills and new job skills.

''(e) TREATMENT OF EXPENSES PAID BY DEPENDENT.—If a deduction under section 151 with respect to an individual is allowed to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins—

''(1) no credit shall be allowed under subsection (a) to such individual for such individual's taxable year, and

''(2) qualified higher education expenses paid by such individual during such individual's taxable year shall be treated for purposes of this section as paid by such other taxpayer.

''(f) TREATMENT OF CERTAIN PREPAYMENTS.—If qualified higher education expenses are paid by the taxpayer during a taxable year for an academic period which begins during the first 3 months following such taxable year, such academic period shall be treated for purposes of this section as beginning during such taxable year.

''(g) SPECIAL RULES.—

''(1) DENIAL OF CREDIT IF INDIVIDUAL CONVICTED OF DRUG OFFENSE.—No credit shall be allowed under subsection (a) with respect to the qualified higher education expenses of an individual for any taxable year if the individual has been convicted before the end of such year of a Federal or State felony offense consisting of the possession or distribution of a controlled substance.

''(2) DENIAL OF CREDIT IF INDIVIDUAL FAILS TO SATISFY GRADE POINT AVERAGE REQUIREMENT.—If an election was in effect under this section with respect to the qualified higher education expenses of an individual for any taxable year, no credit shall be allowed under subsection (a) with respect to qualified higher education expenses of such individual for a succeeding taxable year if the individual does not have a qualifying grade point average for all courses at an institution of higher education for academic periods ending before the beginning of such succeeding taxable year. Such average shall be determined without regard to—

''(A) courses taken while attending high school, and

''(B) courses referred to in subsection (d)(1)(B).

''(3) NO DOUBLE BENEFIT.—No credit shall be allowed under subsection (a) for any taxable year for any expense—

''(A) with respect to an individual if a deduction is allowed under section 221 for the taxable year for any expense with respect to such individual, or

''(B) for which a deduction is allowed under any other provision of this chapter.

''(4) IDENTIFICATION REQUIREMENT.—No credit shall be allowed under subsection (a) to a taxpayer with respect to the qualified higher education expenses of an individual unless the taxpayer includes the name and taxpayer identification number of such individual on the return of tax for the taxable year.

''(5) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS.—The amount of qualified higher education expenses otherwise taken into account under subsection (a) with respect to an individual for an academic period shall be reduced (before the application of subsections (b) and (c)) by the sum of—

''(A) any amounts paid for the benefit of such individual which are allocable to such period as—

''(i) a qualified scholarship which is excludable from gross income under section 117,

''(ii) an educational assistance allowance under chapter 30, 31, 32, 34, or 35 of title 38, United States Code, or under chapter 1606 of title 10, United States Code,

''(iii) a payment which is excludable from gross income under section 127, or

''(iv) a payment (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)) for such individual's educational expenses, or attributable to such individual's enrollment at an institution of higher education, which is excludable from gross income under any law of the United States, and

''(B) the amount excludable from gross income under section 135 which is allocable to such expenses with respect to such individual for such period.

''(6) NO CREDIT FOR MARRIED INDIVIDUALS FILINGS SEPARATE RETURNS.—If the taxpayer is a married individual (within the meaning of section 7703), this section shall apply only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

''(7) NONRESIDENT ALIENS.—If the taxpayer is a nonresident alien individual for any portion of the taxable year, this section shall apply only if such individual is treated as a resident alien of the United States for purposes of this chapter by reason of an election under subsection (g) or (h) of section 6013.

''(h) INFLATION ADJUSTMENTS.—

''(1) DOLLAR LIMITATION ON AMOUNT OF CREDIT.—

''(A) IN GENERAL.—In the case of a taxable year beginning after 1997, the $1,500 amount in subsection (b)(1)(A) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1996' for 'calendar year 1992'' in subparagraph (B) thereof.

''(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of

$50, such amount shall be rounded to the next lowest multiple of $50.

''(2) INCOME LIMITS.—

''(A) IN GENERAL.—In the case of a taxable year beginning after 2,000, the $50,000 and $80,000 amounts in subsection (c)(2) and section 221(b)(2)(B)(i)(II) shall each be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1999' for 'calendar year 1992' in subparagraph (B) thereof.

''(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $5,000, such amount shall be rounded to the next lowest multiple of $5,000.

''(i) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations providing for a recapture of credit allowed under this section in cases where there is a refund in a subsequent taxable year of any amount which was taken into account in determining the amount of such credit.''

(b) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Paragraph (2) of section 6213(g) (relating to the definition of mathematical or clerical errors) is amended by striking ''and'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', and'', and by inserting after subparagraph (H) the following new subparagraph:

''(I) an omission of a correct TIN required under section 24A(g)(4) or under section 221(d)(2)(A) (relating to higher education tuition and fees) to be included on a return.''

(c) RETURNS RELATING TO HIGHER EDUCATION EXPENSES.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by inserting after section 6050R the following new section:

''SEC. 6050S. RETURNS RELATING TO HIGHER EDUCATION EXPENSES.

''(a) IN GENERAL.—Any person—

''(1) which is an institution of higher education which receives payments for qualified higher education expenses with respect to any individual for any calendar year, or

''(2) which is engaged in a trade or business which, in the course of such trade or business makes payments during any calendar year to any individual which constitute reimbursements or refunds (or similar amounts) of qualified higher education expenses of such individual,

shall make the return described in subsection (b) with respect to the individual at such time as the Secretary may be regulations prescribe.

''(b) FORM AND MANNER OF RETURNS. A return is described in this subsection if such return—

''(1) is in such form as the Secretary may prescribe,

''(2) contains—

''(A) the name, address, and TIN of the individual with respect to whom payments described in subsection (a) were received from (or were paid to),

''(B) the name, address, and TIN of any individual certified by the individual described in subparagraph (A) as the taxpayer who will claim the individual as a dependent for purposes of the deduction allowable under section 151 for any taxable year ending with or within the calendar year,

''(C) the—

''(i) aggregate amount of payments for qualified higher education expenses received with respect to the individual described in subparagraph (A) during the calendar year, and

''(ii) aggregate amount of reimbursements or refunds (or similar amounts) paid to such individual during the calendar year,

''(D) the aggregate amount of nontaxable Federal assistance received respect to the individual described in subparagraph (A) during the calendar year, and

''(E) such other information as the Secretary may prescribe.

''(c) APPLICATION TO GOVERNMENT UNITS.—For purposes of this section—

''(1) a governmental unit or any agency or instrumentality thereof shall be treated as a person, and

''(2) any return required under subsection (a) by such governmental entity shall be made by the officer or employee appropriately designated for the purpose of making such return.

''(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return under subparagraph (A) or (B) of subsection (b)(2) a written statement showing—

''(1) the name, address, and phone number of the information contact of the person required to make such return, and

''(2) the aggregate amounts described in subparagraphs (C) and (D) of subsection (b)(2).

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

''(e) DEFINITIONS.—For purposes of this section, the terms 'institution of higher education', 'qualified higher education expenses', and nontaxable Federal assistance' have the meanings given such terms by section 24A.

''(f) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of any amount received by any person on behalf of another person, only the person first receiving such amount shall be required to make the return under subsection (a).

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section. No penalties shall be imposed under section 6724 with respect to any return or statement required under this section until such time as such regulations are issued.''

(2) ASSESSABLE PENALTIES.—Section 6724(d) (relating to definitions) is amended—

(A) by redesignating clauses (x) through (xv) as clauses (xi) through (xvi), respectively, in paragraph (1)(B) and by inserting after clause (ix) of such paragraph the following new clause:

''(x) section 6050S (relating to returns relating to payments for qualified higher education expenses),'', and

(B) by striking ''or'' at the end of the next to last subparagraph, by striking the period at the end of the last subparagraph and inserting '', or'', and by adding at the end the following new subparagraph:

''(Z) section 6050S(d) (relating to returns relating to qualified higher education expenses).''

(3) CLERICAL AMENDMENT.—The table of sections for Subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050R the following new item:

''Sec. 6050S. Returns relating to higher education expenses.''

(d) CLERICAL AMENDMENT.—The table of sections for Subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 24 the following new item:

''Sec 24A Higher education tuition and fees.''

(e) EFFECTIVE DATE; SUNSET.—(1) PURPOSE.—The President's budget produces balance in fiscal year 2002 under Office of Management and Budget assumptions, including the permanent changes in law providing tax reduction set forth in the preceding portions of this section. The President's budget also includes a mechanism to guarantee balance under Congressional Budget Office assumptions. As a part of that mechanism, the following provision sunsetting the tax reduction is included, as well as specific expedited procedures for reinstatement of the reduction to the extent that Office of Management and Budget assumptions prove correct.

(2) The amendments made by this section shall apply to expenses paid after December 31, 1996 (in taxable years ending after such date), for education furnished in academic periods beginning after June 30, 1997, except that no credit shall be allowed under section 24A of the Internal Revenue Code of 1986 for taxable years beginning after December 31, 2000.

DEDUCTION FOR HIGHER EDUCATION EXPENSES

SEC. 103. (a) DEDUCTION ALLOWED.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as section 222 and by inserting after section 220 the following new section:

''SEC. 221. HIGHER EDUCATION TUITION AND FEES.

''(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction the amount of qualified higher education expenses paid by the taxpayer during the taxable year for education furnished to the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151, as an eligible student at an institution of higher education during any academic period beginning in such year.

''(b) LIMITATIONS.—

''(1) DOLLAR LIMITATION.—

''(A) (IN GENERAL.—The amount allowed as a deduction under subsection (a) for any taxable year shall not exceed $10,000.

''(B) PHASE-IN.—In the case of taxable years beginning in 1997 or 1998, subparagraph (A) shall be applied by substituting '$5,000' for '$10,000'.

''(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

''(A) IN GENERAL.—The amount which would (but for this paragraph) be allowed as a deduction under subsection (a) shall be reduced (but not below zero) by the amount determined under subparagraph (B).

''(B) AMOUNT OF REDUCTION.—The amount determined under this subparagraph equals the amount which bears the same ratio to the deduction (determined without regard to this paragraph) as—

''(i) the excess of—

''(I) the taxpayer's modified adjusted gross income for the taxable year, over

''(II) $50,000 ($80,000 in the case of a joint return), bears to

''(ii) $20,000.

''(C) MODIFIED ADJUSTED GROSS INCOME.—For purposes of subparagraph (B), the term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year determined—

''(i) without regard to this section and sections 911, 931, and 933, and

''(ii) after the application of sections 86, 135, 219, and 469.

For purposes of sections 86, 135, 219, and 469, adjusted gross income shall be determined without regard to the deduction allowed under this section.

''(D) CROSS REFERENCE.—For inflation adjustment of $50,000 and $80,000 amounts, see section 24A(h).

''(c) DEFINITIONS.—For purposes of this section—

''(1) IN GENERAL.—Except as provided in paragraph (2), terms used in this section which are also used in section 24A have the respective meanings given such terms in section 24A.

''(2) DEDUCTION AVAILABLE FOR EDUCATION TO ACQUIRE OF IMPROVE JOB SKILLS.—For purposes of applying this section, the requirement of section 24A(d)(3) shall be treated as met if—

''(A) the individual is enrolled in a course which enables the individual to improve the individual's job skills or to acquire new job skills, and

''(B) the individual is not enrolled in an elementary or secondary school.

''(d) SPECIAL RULES.—

''(1) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under subsection (a) for any expense for which a deduction is allowed to the taxpayer under any other provision of this chapter.

''(2) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (e) and (f) of section 24A, and the following rules of section 24A(g), shall apply for purposes of this section:

''(A) Paragraph (4) (relating to identification requirement).

''(B) Paragraph (5) (relating to adjustment for certain scholarships).

''(C) Paragraph (6) (relating to no benefit for married individuals filing separate returns).

''(D) Paragraph (7) (relating to nonresident aliens).

''(3) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section.''

(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Section 62(a) is amended by inserting after paragraph (16) the following new paragraph:

''(17) HIGHER EDUCATION TUITION AND FEES.—The deduction allowed by section 221.''

(c) CONFORMING AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the item relating to section 221 and inserting:

''Sec. 221. Higher education tuition and fees.
''Sec. 222. Cross reference.''

(d) EFFECTIVE DATE; SUNSET.—(1) PURPOSE.—The President's budget produces balance in fiscal year 2002 under Office of Management and Budget assumptions, including the permanent changes in law providing tax reduction set forth in the preceding portions of this section. The President's budget also includes a mechanism to guarantee balance under Congressional Budget Office assumptions. As a part of that mechanism, the following provision sunsetting the tax reduction is included, as well as specific expedited procedures for reinstatement of the reduction to the extent that Office of Management and Budget assumptions prove correct.

(2) The amendments made by this section shall apply to expenses paid after December 31, 1996 (in taxable years ending after such date), for education furnished in academic periods beginning after June 30, 1997, except that no deduction shall be allowed under section 221 of the Internal Revenue Code of 1986 for taxable years beginning after December 31, 2000.

TREATMENT OF CANCELLATION OF CERTAIN STUDENT LOANS

SEC. 104. (a) CERTAIN DIRECT STUDENT LOANS THE REPAYMENT OF WHICH IS INCOME CONTINGENT.—Paragraph (1) of section 108(f) is amended by striking ''any student loan if'' and all that follows and inserting ''any student loan if—

''(A) such discharge was pursuant to a provision of such loan under which all or part of the indebtedness of the individual would be discharged if the individual worked for a certain period of time in certain professions for any of a broad class of employers, or

''(B) in the case of a loan made under part D of title IV of the Higher Education Act of 1965 which has a repayment schedule established under section 455(e)(4) of such Act (relating to income contingent repayments), such discharge is after the maximum repayment period under such loan (as prescribed under such part).''

(b) CERTAIN LOANS BY EXEMPT ORGANIZATIONS.—

(1) IN GENERAL.—Paragraph (2) of section 108(f) (defining student loan) is amended by striking ''or'' at the end of subparagraphs (B) and (C) and by striking subparagraph (D) and inserting the following:

''(D) any organization described in section 501(c)(3) and exempt from tax under section 501(a), or

''(E) any educational organization described in section 170(b)(1)(A)(ii) pursuant to an agreement with any entity described in subparagraph (A), (B), (C), or (D) under which the funds from which the loan was made were provided to such educational organization.

''The term 'student loan' includes any loan made by an organization described in subparagraph (D) to refinance a loan meeting the requirements of the preceding sentence.''

(2) EXCEPTION FOR DISCHARGES ON ACCOUNT OF SERVICES PERFORMED FOR CERTAIN LENDERS.—Subsection (f) of section 108 is amended by adding at the end the following new paragraph:

''(3) EXCEPTION FOR DISCHARGES ON ACCOUNT OF SERVICES PERFORMED FOR CERTAIN LENDERS.—Paragraph (1) shall not apply to the discharge of a loan made by an organization described in paragraph (2)(D) (or by an organization described in paragraph (2)(E) from funds provided by an organization described in paragraph (2)(D)) if the discharge is on account of services performed for either such organization.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges of indebtedness after the date of the enactment of this Act.

EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE PROGRAMS

SEC. 105. (a) EXTENSION.—Subsection (d) of section 127 (relating to exclusion for educational assistance programs) is amended to read as follows:

''(d) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 2000.''

(b) REPEAL OF LIMITATION ON GRADUATE EDUCATION.—The last sentence of section 127(c)(1) is amended by striking '', and such term also does not include any payment for, or the provision of any benefits with respect to, any graduate level course of a kind normally taken by an individual pursuing a program leading to a law, business, medical, or other advanced academic or professional degree''.

(c) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1996.

(2) GRADUATE EDUCATION.—The amendments made by subsection (b) shall apply with respect to expenses relating to courses beginning after June 30, 1996.

(3) EXPEDITED PROCEDURES.—The Secretary of the Treasury shall establish expedited procedures for the refund of any overpayment of taxes imposed by the Internal Revenue Code of 1986 which is attributable to amounts excluded from gross income during 1996 or 1997 under section 127 of such Code, including procedures waiving the requirement that an employer obtain an employee's signature where the employer demonstrates to the satisfaction of the Secretary that any refund collected by the employer on behalf of the employee will be paid to the employee.

SMALL BUSINESS EDUCATIONAL ASSISTANCE CREDIT

SEC. 106. (a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

''SEC. 45D. SMALL BUSINESS EDUCATIONAL ASSISTANCE CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the small business educational assistance credit for any taxable year is an amount equal to 10 percent of the qualified educational assistance expenses of the taxpayer for the taxable year.

''(b) QUALIFIED EDUCATIONAL ASSISTANCE EXPENSES .—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified educational assistance expenses' means any amount paid or incurred by an eligible small employer for educational assistance furnished to an employee of the employer by a person other than such employer (or an employee of such employer) under an educational assistance program described in section 127(b).

''(2) EDUCATIONAL ASSISTANCE.—The term 'educational assistance' has the meaning given such term by section 127(c)(1) (determined without regard to subparagraph (B) thereof).

''(3) LIMITATIONS.—

''(A) DOLLAR LIMITATION PER EMPLOYEE.—The aggregate amount which may be taken into account under paragraph (1) with respect to any employee for any taxable year shall not exceed $5,250.

''(B) PAYMENTS TO RELATED PERSONS.—

''(i) IN GENERAL.—No amount shall be taken into account under paragraph (1) if such amount is to be paid to a related person with respect to the employer.

''(ii) RELATED PERSON.—For purposes of this subparagraph, a person shall be related to the employer if—

''(I) such person is a 5-percent owner (within the meaning of section 416(i)(1)(B)(i)) of the employer, or

''(II) such person bears a relationship to the employer or such a 5-percent owner which is described in section 267(b) or 707(b)(1).

''(C) TRADE OR BUSINESS.—No amount shall be taken into account under paragraph (1) unless it is incurred in the active conduct of a trade or business by the taxpayer.

''(c) ELIGIBLE SMALL EMPLOYER.—For purposes of this section—

''(1) IN GENERAL.—A taxpayer shall be treated as an eligible small employer for any taxable year if the average annual gross receipts of the taxpayer for the 3-taxable year period ending with the preceding taxable year are $10,000,000 or less.

''(2) SPECIAL RULES.—Section 448(c)(3) shall apply for purposes of this subsection.

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) DEFINITIONS.—The terms 'employee' and 'employer' have the meanings given such terms by paragraphs (2) and (3) of section 127(c), respectively.

''(2) AGGREGATION.—

''(A) IN GENERAL.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as a single employer.

''(B) ALLOCATION OF CREDIT.—The credit (if any) determined under this section with respect to each person described in subparagraph (A) shall be its proportionate share of the qualified educational assistance expenses giving rise to such credit.

''(3) SHORT TAXABLE YEARS.—For any taxable year having less than 12 months, the credit determined under this section shall be multiplied by a fraction, the numerator of which is the number of days in the taxable year and the denominator of which is 365.

''(4) DISALLOWANCE OF DEDUCTION.—''For disallowance of deduction for expenses for which credit allowable, see section 280C(d).

''(e) TERMINATION.—This section shall not apply to qualified educational assistance expenses incurred in taxable years beginning after December 31, 2000.''

(b) DISALLOWANCE OF DEDUCTIONS.—Section 280C (relating to certain expenses for which credits are allowable) is amended by adding at the end of the following new subsection:

''(d) CREDIT FOR SMALL BUSINESS EDUCATIONAL ASSISTANCE EXPENSES.—

''(1) IN GENERAL.—No deduction shall be allowed for that portion of the qualified educational assistance expenses (as defined in section 45D(b)) otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45D.

''(2) ELECTION OF REDUCED CREDIT.—

''(A) IN GENERAL.—In the case of any taxable year for which an election is made under this paragraph—

''(i) paragraph (1) shall not apply, and

''(ii) the amount of the credit under section 45D(a) shall be the amount determined under subparagraph (B).

''(B) AMOUNT OF REDUCED CREDIT.—The amount of the credit determined under this subparagraph for any taxable year shall be the amount equal to the excess of—

''(i) the amount of credit determined under section 45D(a) without regard to this paragraph, over

''(ii) the product of—

''(I) the amount described in clause (i), and

''(II) the maximum rate of tax under section 11(b)(1).

''(C) ELECTION.—An election under this paragraph for any taxable year shall be made not later than the time for filing the return of tax for such year (including extensions), shall be made on such return, and shall be made in such manner as the Secretary may prescribe. Such an election, once made, shall be irrevocable.

''(3) CONTROLLED GROUPS.—Paragraph (3) of subsection (b) shall apply for purposes of this subsection.''

(c) GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to general business credit) is amended by striking ''plus'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting, ''plus'', and by adding at the end the following new paragraph:

''(13) the small business educational assistance credit determined under section 45D(a).''

(d) CONFORMING AMENDMENTS.—

(1) NO CARRYBACK.—Subsection (d) of section 39 (relating to carryback and carryforward of unused credits) is amended by adding at the end the following new paragraph:

''(8) NO CARRYBACK OF SECTION 45D CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45D may be carried back to a taxable year ending before the date of the enactment of section 45D.''

(2) The table of sections for Subpart D of such part IV is amended by adding at the end the following new item:

''SEC. 45D. SMALL BUSINESS EDUCATIONAL ASSISTANCE CREDIT.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to education and training furnished in taxable years beginning after December 31, 1997.

TITLE II—STUDENT FINANCIAL AID PROVISIONS

SHORT TITLE; REFERENCES

SEC. 201. (a) SHORT TITLE.—This title may be cited as the ''Student Financial Aid improvements Act of 1997''.

(b) REFERENCES.—References in this title to ''the Act'' shall refer to the Higher Education Act of 1965 (20 U.S.C. 1001 *et seq.*).

PART A—PELL GRANTS

PELL GRANT MAXIMUM AWARD

SEC. 211. Section 401(b)(2)(A) of the Act is amended by adding at the end thereof the following: ''Except as otherwise provided in this section, in no case shall the maximum basic grant be less than $3,000.''.

PART B—STUDENT LOAN PROVISIONS

MANAGEMENT AND RECOVERY OF RESERVES

SEC. 221. (a) Section 422 of the Act is amended—

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

''(1) AUTHORITY TO RECOVERY FUNDS.—(A) Notwithstanding any other provision of law, the reserve funds of the guaranty agencies, and any assets purchased or developed with such reserve funds, regardless of who holds or controls the reserves or assets, shall remain the property of the United States.

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

''(i) to pay the program expenses and contingent liabilities of the guaranty agency;

''(ii) to satisfy the guaranty agency's requirements under subsection (h); or

''(iii) for the orderly termination of the guaranty agency's operations and the liquidations of its assets.

''(C) The Secretary may direct a guaranty agency, or such agency's officers or directors, to cease any activity involving expenditure, use, or transfer of the guaranty agency's reserve funds or assets that the Secretary determines is a misapplication, misuse, or improper expenditure of such funds or assets.''; and

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

''(h) RECALL OF RESERVES IN FISCAL YEARS 1997 THROUGH 2002; LIMITATIONS ON USE OF RESERVE FUNDS AND ASSETS.—(1)(A) Notwithstanding any other provision of law, the Secretary shall, except as otherwise provided in this subsection, recall from the reserve funds held by guaranty agencies (which for purposes of this subsection shall include any reserve funds held by, or under the control of, any other entity) not less than—

''(i) $731,000,000 in fiscal year 1998;

''(ii) $127,000,000 in fiscal year 1999;

''(iii) $186,000,000 in each of the fiscal years 2000 and 2001; and

''(iv) $1,271,000,000 in fiscal year 2002.

''(B) Funds returned to the Secretary under this subsection shall be deposited in the Treasury.

''(C) The Secretary shall require each guaranty agency to return reserve funds under subparagraph (A) based on its proportionate share, as determined by the Secretary, of all reserve funds held by guaranty agencies as of September 30, 1996.

''(2)(A) Within 45 days of enactment of this subsection, all reserve funds held by a guaranty agency that have not yet been recalled by the Secretary under paragraph (1) shall be transferred by the guaranty agency to a restricted account (of a type specified by the Secretary) established by the guaranty agency, and be invested in United States Government securities specified by the Secretary. The manner and timeframe in which reserve funds so invested are recalled shall be specified by the Secretary, consistent with the requirements of this subsection. Except as described in subparagraph (B), the guaranty agency shall not use the reserve funds in such account, which shall include the earnings thereon, for any purpose without the express permission of the Secretary.

''(B)(i) In order to assist guaranty agencies in meeting program expenses, the Secretary shall permit the use of not more than an aggregate of $350,000,000 of the reserve funds held in the restricted accounts described in subparagraph (A) by guaranty agencies with agreements under section 428(c), as working capital to be used for such purposes as the Secretary may specify. The Secretary shall specify the amount of reserve funds in each guaranty agency's restricted account that may be used as working capital, based on the guaranty agency's proportionate share of all borrower accounts outstanding on September 30, 1996. The guaranty agency shall repay such amount to its restricted account (or returned to the Treasury, if so directed by the Secretary) by no later than September 30, 2002, or the date on which such agency's agreement under section 428(c) ends (through resignation, expiration, or termination), whichever is earlier.

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

''(C) Non-liquid reserve fund assets, such as buildings and equipment purchased or developed by the guaranty agency with reserve funds, and any liquid assets remaining in a guaranty agency's restricted account after the recalls in paragraph (1)(A), shall—

''(i) remain the property of the United States;

''(ii) be used only for such purposes as the Secretary determines are appropriate; and

''(iii) be subject to recall by the Secretary no later than the date on which such agency's agreement under section 428(c) ends (through resignation, expiration, or termination, as the case may be).''.

REPAYMENT TERMS

SEC. 222.(a) Section 427 of the Act is amended—

(1) in subsection (a)(2)—

(A) in subparagraph (B), in the matter preceding clause (i), by striking ''over a period'' through ''not more than 10 years'' and inserting ''in accordance with the repayment plan selected under subsection (d),'';

(B) in subparagraph (C), at the end of the subparagraph, by striking out ''the 10-year period described in subparagraph (B);'' and inserting the following: ''the length of the repayment period under a repayment plan described in subsection (d);'';

(C) by striking subparagraph (F);

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

(E) in subparagraph (G) (as redesignated by subparagraph (D)), by striking ''the option'' through the end of the subparagraph and inserting ''the repayment options described in subsection (d); and'';

(2) in subsection (c), by striking ''in subsection (a)(2)(H),'' and inserting the following: ''by a repayment plan selected by the borrower under subparagraph (C) or (D) of subsection (d)(1),''; and

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

''(d) REPAYMENT PLANS.—(1) DESIGN AND SELECTION.—In accordance with regulations

of the Secretary, the lender shall offer a borrower of a loan made under this part the plans described in this subsection for repayment of such loan, including principal and interest thereon. No plan may require a borrower to repay a loan in less than five years. The borrower may choose from—

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

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

''(C) a graduated repayment plan, with annual repayment amounts established at 2 or more graduated levels and paid over an extended period of time, not to exceed 30 years, except that the borrower's scheduled payments shall not be less than 50 percent, nor more than 150 percent, of what the amortized payment on the amount owed would be if the loan were repaid under the standard repayment plan; and

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

''(2) LENDER SELECTION OF OPTION IF BORROWER DOES NOT SELECT.—If a borrower of a loan made under this part does not select a repayment plan described in paragraph (1), the lender shall provide the borrower with a repayment plan described in paragraph (1)(A).

''(3) CHANGES IN SELECTIONS.—The borrower of a loan made under this part may change the borrower's selection of a repayment plan under paragraph (1), or the lender's selection of a plan for the borrower under paragraph (2), as the case may be, under such conditions as may be prescribed by the Secretary in regulation.

''(4) ACCELERATION PERMITTED.—Under any of the plans described in this subsection, the borrower shall be entitled to accelerate, without penalty, repayment on the borrower's loans under this part.''.

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

(1) in paragraph (1)—

(A) in subparagraph (D), by striking clauses (i) and (ii) and the clause designation ''(iii)'';

(B) in subparagraph (E)—

(i) in clause (i)—

(I) by striking ''or section 428A,'' and inserting ''or section 428H,''; and

(II) by striking ''the option'' through the end of the clause and inserting ''the repayment options described in paragraph (9); and''; and

(ii) in clause (ii)—

(I) by striking ''over a period'' through ''nor more than 10 years'' and inserting ''in accordance with the repayment plan selected under paragraph (9), and''; and

(II) by striking ''of this subsection;'' at the end of clause (ii) and inserting a semicolon; and

(C) in subparagraph (L)(i), by inserting after the clause designation the following: ''except as otherwise provided by a repayment plan selected by the borrower under paragraph (9)(A)(iii) or (iv),''; and

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

''(9) REPAYMENT PLANS.—(A) DESIGN AND SELECTION.—In accordance with regulations of the Secretary, the lender shall offer a borrower of a loan made under this part the plans described in this subparagraph for repayment of such loan, including principal and interest thereon. No plan may require a borrower to repay a loan in less than five years. The borrower may choose from—

''(i) a standard repayment plan, with a fixed annual repayment amount paid over a fixed period of time, not to exceed ten years;

''(ii) an extended repayment plan, with a fixed annual repayment amount paid over an extended period of time, not to exceed 30 years, except that the borrower shall repay annually a minimum amount determined in accordance with paragraph (2)(L);

''(iii) a graduated repayment plan, with annual repayment amounts established at 2 or more graduated levels and paid over an extended period of time, not to exceed 30 years, except that the borrower's scheduled payments shall not be less than 50 percent, or more than 150 percent, of what the amortized payment on the amount owed would be if the loan were repaid under the standard repayment plan; and

''(iv) an income-sensitive repayment plan, with income-sensitive repayment amounts paid over a fixed period of time, not to exceed ten years.

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

''(C) CHANGES IN SELECTIONS.—The borrower of a loan made under this part may change the borrower's selection of a repayment plan under subparagraph (A), or the lender's selection of a plan for the borrower under subparagraph (B), as the case may be, under such conditions as may be prescribed by the Secretary in regulation.

''(D) ACCELERATION PERMITTED.—Under any of the plans described in this paragraph, the borrower shall be entitled to accelerate, without penalty, repayment on the borrower's loans under this part.

''(E) COMPARABLE FFEL AND DIRECT LOAN REPAYMENT PLANS.—The Secretary shall ensure that the repayment plans offered to borrowers under this part are comparable, to the extent practicable and not otherwise provided in statute, to the repayment plans offered under part D.''.

(c) Section 428C of the Act is amended—

(1) in subsection (b)(3)(F), by striking ''alternative''; and

(2) in subsection (c)—

(A) by amending paragraph (2) to read as follows:

''(2) REPAYMENT PLANS.—(A) DESIGN AND SELECTION.—In accordance with regulations of the Secretary, the lender shall offer a borrower of a loan made under this section the plans described in this paragraph for repayment of such loan, including principal and interest thereon. No plan may require a borrower to repay a loan in less than five years. The borrower may choose from—

''(i) a standard repayment plan, with a fixed annual repayment amount paid over a fixed period of time, not to exceed ten years;

''(ii) an extended repayment plan, with a fixed annual repayment amount paid over an extended period of time, not to exceed 30 years, except that the borrower shall repay annually a minimum amount determined in accordance with paragraph (3);

''(iii) a graduated repayment plan, with annual repayment amounts established at 2 or more graduated levels and paid over an extended period of time, not to exceed 30 years, except that the borrower's scheduled payments shall not be less than 50 percent, nor more than 150 percent, of what the amortized payment on the amount owed would be if the loan were repaid under the standard repayment plan; and

''(iv) an income-sensitive repayment plan, with income-sensitive repayment amounts paid over a fixed period of time, not to exceed ten years.

''(B) LENDER SELECTION OF OPTION IF BORROWER DOES NOT SELECT.—If a borrower of a loan made under this section does not select a repayment plan described in subparagraph (A), the lender shall provide the borrower with a repayment plan described in subparagraph (A)(i).

''(C) CHANGES IN SELECTIONS.—The borrower of a loan made under this section may change the borrower's selection of a repayment plan under subparagraph (A), or the lender's selection of a plan for the borrower under subparagraph (B), as the case may be, under such conditions as may be prescribed by the Secretary in regulation.''.

(d) Section 455(d) of the Act is amended—

(1) in paragraph (1)—

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

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

(2) in paragraph (2), by striking ''subparagraph (A), (B), or (C) of paragraph (1).'' and inserting ''paragraph (1)(A).''.

INTEREST RATES

SEC. 223. (a) Section 427A of the Act is amended—

(1) in subsection (g)(2)—

(A) by inserting after the paragraph heading the subparagraph designation ''(A)'';

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

(C) by striking ''paragraph (1),'' and inserting ''paragraph (1), and except as provided in subparagraph (B),''; and

(D) by adding after subparagraph (A) (as redesignated by subparagraph (A)) the following new subparagraph:

''(B) In the case of loans made or insured under section 428 or 428H for which the first disbursement is made on or after October 1, 1997, for purposes of paragraph (1), the rate determined under this paragraph shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to the bond equivalent rate of the securities with a comparable maturity, as established by the Secretary, except that such rate shall not exceed 8.25 percent.'';

(2) in subsection (h)—

(A) in the heading thereof, by striking ''JULY 1, 1998.—'' and inserting ''OCTOBER 1, 1997.—'';

(B) in paragraph (1)—

(i) by striking ''(f), and (g)'' and inserting ''and (f),''; and

(ii) by striking ''July 1, 1998,'' and inserting ''October 1, 1997,''; and

(C) in paragraph (2)—

(i) in the heading, by striking ''JULY 1, 1998.—'' and inserting ''OCTOBER 1, 1997.—''; and

(ii) by striking ''July 1, 1998,'' and inserting ''October 1, 1997,''; and

(3) in subsection (i)(7)(B), by adding at the end the following: ''Notwithstanding any other provision of law, the interest rate determined under this subparagraph shall be used solely to determine the rebate of excess interest required by this paragraph and shall not be used to calculate or pay special allowances under section 438.''.

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

(1) in paragraph (2)(B)—

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

(B) by inserting after the subparagraph heading the clause designation ''(i)'';

(C) by striking ''subparagraph (A),'' and inserting ''subparagraph (A) and except as provided in clause (ii),''; and

(D) by adding after clause (i) (as redesignated by subparagraph (B)) the following new clause:

''(ii) In the case of Federal Direct Stafford/Ford Loans or Federal Direct Unsubsidized

Stafford/Ford Loans for which the first disbursement is made on or after October 1, 1997, for purposes of subparagraph (A), the rate determined under this subparagraph shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to the bond equivalent rate of the securities with a comparable maturity, as established by the Secretary, except that such rate shall not exceed 8.25 percent.'';

(2) in paragraph (3)—

(A) by striking ''and (2),'' and inserting '', and except as provided in paragraph (2),''; and

(B) by striking ''made on or after July 1, 1998,'' and inserting ''for which the first disbursement is made on or after October 1, 1997,''; and

(3) in paragraph (4)(B), by striking ''July 1, 1998,'' and inserting ''October 1, 1997,''.

LENDER AND HOLDER RISK SHARING

SEC. 224. Section 428(b)(1)(G) of the Act is amended by striking ''not less than 98 percent'' and inserting ''95 percent''.

FEES AND INSURANCE PREMIUMS

SEC. 225. (a) Section 428(b)(1)(H) of the Act is amended—

(1) by inserting the clause designation ''(i)'' following the subparagraph designation;

(2) by striking ''the loan,'' and inserting ''any loan made under section 428 or 428B before July 1, 1998,''; and

(3) after clause (i) (as redesignated by paragraph (1)), by adding ''and'' and the following new clause:

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

(b) Section 428H(h) of the Act is amended—

(1) by inserting the paragraph designation ''(1)'' following the subsection heading;

(2) by striking ''under this section'' and inserting ''of a loan made under this section made before July 1, 1998''; and

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

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

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

(1) in paragraph (2), by striking ''paragraph (6)'' and inserting ''paragraphs (6) and (8)''; and

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

''(8) ORIGINATION FEE ON SUBSIDIZED LOANS ON OR AFTER JULY 1, 1998.—In the case of any loan made or insured under section 428 on or after July 1, 1998, paragraph (2) shall be applied by substituting '2.0 percent' for '3.0 percent'.''.

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

(1) by striking ''The Secretary'' and inserting ''(1) For loans made under this part before July 1, 1998, the Secretary'';

(2) by striking ''of a loan made under this part''; and

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

''(2) For loans made under this part on or after July 1, 1998, the Secretary shall charge the borrower an origination fee of—

''(A) 2.0 percent of the principal amount of the loan, in the case of Federal Direct Stafford/Ford Loans; or

''(B) 3.0 percent of the principal amount of the loan, in the case of Federal Direct Unsubsidized Stafford/Ford Loans or Federal Direct PLUS Loans.''.

FUNCTIONS OF GUARANTY AGENCIES

SEC. 226. (a) Section 428 of the Act is further amended—

(1) in subsection (a)—

(A) in paragraph (1)(B)—

(i) in the matter preceding clause (i), by striking ''which is insured'' and inserting ''which, before October 1, 1997, is''; and

(ii) in clause (ii), by inserting ''as in effect the day before the day of enactment of this section,'' after ''subsection (b),''; and

(B) in paragraph (3)—

(i) by striking subparagraph (B); and

(ii) in subparagraph (A)—

(I) in clause (ii), by striking ''under any'' through the end of the clause and inserting a period;

(II) by striking the subparagraph designation ''(A)'';

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

(IV) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively;

(2) in subsection (b)—

(A) by amending the heading to read as follows: ''REQUIREMENTS TO QUALIFY LOANS FOR INSURANCE AND INTEREST SUBSIDIES.—'';

(B) in paragraph (1)—

(i) by amending the heading to read as follows: ''REQUIREMENTS.—'';

(ii) by amending the matter preceding subparagraph (A) to read as follows: ''A loan by an eligible lender shall be insurable by the Secretary, and students who receive such loans shall be entitled to have made on their behalf the payments provided for in subsection (a), under a program of student loan insurance that—'';

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

''(K) provides that the holder of any such loan will be required to submit to the Secretary, at such time or times and in such manner as the Secretary may prescribe, statements containing such information as may be required by regulation for the purpose of enabling the Secretary to determine the amount of the payment which must be made with respect to that loan;'';

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

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

''(i) the transferor and the transferee shall be required, not later than 45 days from the date the transferee acquires a legally enforceable right to receive payment from the borrower on such loan, either jointly or separately to provide a notice to the borrower of—

''(I) the sale, assignment, or other transfer;

''(II) the identity of the transferee;

''(III) the name and address of the party to whom subsequent payments or communications must be sent; and

''(IV) the telephone numbers of both the transferor and the transferee; and

''(ii) the transferee shall be required to notify the Secretary, and, upon the request of an institution of higher education, the Secretary shall notify the last such institution the student attended prior to the beginning of the repayment period of any loan made under this part, of—

''(I) any sale, assignment, or other transfer of the loan; and

''(II) the address and telephone number by which contact may be made with the new holder concerning repayment of the loan;

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

(v) in subparagraph (Q), by striking ''guarantee'' and ''428A'' and inserting ''insurance'' and ''428H'', respectively;

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

''(R) provides for the making of such reports, in such form and containing such information, including financial information, as the Secretary may reasonably require to carry out the Secretary's functions under this part and protect the financial interest of the United States, and for keeping such records and for affording such access thereto as the Secretary may find necessary to ensure the correctness and verification of such reports;'';

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

''(S) provides that a lender shall pay a default prevention fee in accordance with subsection (g);

(viii) in subparagraph (T)—

(I) in clause (i), by inserting '', by the guaranty agency, in accordance with regulations prescribed by the Secretary,'' after ''limitation''; and

(II) in clause (ii)—

(aa) in the matter preceding subclause (I), by inserting '', in accordance with regulations prescribed by the Secretary,'' after ''institution'';

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

(cc) redesignating subclauses (III), (IV), and (V) as subclauses (I), (II), and (III), respectively;

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

''(U) provides—

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

''(ii) an assurance that the guaranty agency will report to the Secretary concerning changes in criteria under clause (i), including any procedures in effect under such program to take emergency action, limit, suspend, or terminate lenders; and''; and

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

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

''(2) SKIP-TRACING REQUIREMENT.—In the case of a default claim based on an inability to locate the borrower, a lender shall certify to the Secretary, at the time of submission of the default claim, that diligent attempts have been made to locate the borrower through the use of reasonable skip-tracing techniques in accordance with regulations prescribed by the Secretary.'';

(D) in paragraph (3)(B), by striking the parenthetical through the end of the subparagraph and inserting a period; and

(E) by striking out paragraph (5) and inserting in lieu thereof the following new paragraph:

''(5) COMPLIANCE AUDITS.—(A) Except as provided in subparagraph (B) or by the Single Audit Act Amendments of 1996, an eligible lender that originates or holds more than $5,000,000 in loans made under this title during an annual audit period shall submit to the Secretary a compliance audit for that audit period which is conducted by a qualified, independent organization or person in accordance with the Government Auditing Standards issued by the Comptroller General, and the regulations of the Secretary.

''(B) The Secretary may permit a lender to submit the results of an audit conducted for other purposes if the Secretary determines that such other audit results provide the same information as required under subparagraph (A).'';

(3) in subsection (c)—

(A) by amending the heading to read as follows: ''AGREEMENTS WITH GUARANTY AGENCIES.—'';

(B) in paragraph (3)—

(i) in the matter preceding subparagraph (A), by striking ''A guaranty agreement''

and inserting ''An agreement between the Secretary and a guaranty agency'';

(ii) in the flush left language at the end of the paragraph, by striking ''Guaranty agencies'' and inserting ''The Secretary''; and

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

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

(D) by inserting after the subsection heading the following new paragraphs:

''(1) AUTHORITY TO ENTER INTO AGREEMENTS.—(A)(i) The Secretary may enter into an agreement with a guaranty agency, under which the Secretary shall insure loans made under this section through the guaranty agency as the agent of the Secretary.

''(ii) Any guaranty agency that had an agreement with the Secretary under section 428(b) as of the day before the date of enactment of the Student Financial Aid Improvements Act of 1997 may enter into an initial agreement with the Secretary under this subsection.

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

''(iii) The Secretary may terminate the agreement prior to its expiration in accordance with paragraph (9).

''(2) EFFECT ON PRIOR GUARANTY AGREEMENTS AND LOAN INSURANCE BY GUARANTY AGENCIES.—(A) All guaranty agreements made under this subsection as it was in effect on the day before the date of enactment of the Student Financial Aid Improvements Act of 1997 shall terminate not later than 180 days after the date of enactment of that Act.

''(B) Notwithstanding any other provision of law—

''(i) to the extent that a guaranty agency had insured loans under this part, loan insurance by such guaranty agency that is outstanding as of the date of the termination under subparagraph (A) shall be replaced on such date by loan insurance issued by the Secretary, and the guaranty agency shall be relieved of any further liability thereon;

''(ii) the Secretary's liability for any outstanding liabilities of a guaranty agency (other than outstanding loan insurance under this part), shall not exceed the fair market value of the unrestricted funds of the guaranty agency, which shall consist of—

''(I) all accumulated earnings not otherwise placed in a restricted account in accordance with section 422(h)(2)(A); and

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

''(iii) for the first year after the date of enactment of the Student Financial Aid Improvements Act of 1997, the Secretary may specify such interim administrative measures as the Secretary determines to be necessary for the efficient transfer of the loan insurance function, and to carry out the purposes of this part.

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

''(A) provisions regarding the responsibilities of the guaranty agency for—

''(i) administering the issuance of insurance on loans made under this section on behalf of the Secretary;

''(ii) monitoring insurance commitments made under this section;

''(iii) default prevention activities;

''(iv) review of default claims made by lenders;

''(v) payment of default claims;

''(vi) collection of defaulted loans;

''(vii) adoption of internal systems of accounting and auditing that are acceptable to the Secretary, and reporting the result thereof to the Secretary on a timely, accurate, and auditable basis;

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

''(ix) monitoring of institutions and lenders participating in the program under this part; and

''(x) such other program functions as the Secretary may require of the guaranty agency;

''(B) provisions regarding the fees the Secretary shall pay to the guaranty agency under the agreement, and other revenues that the guaranty agency may receive thereunder, as described in paragraphs (4) and (6);

''(C) provisions requiring the guaranty agency to carry out its responsibilities under the agreement in accordance with paragraph (5);

''(D) provisions regarding the use, in accordance with paragraph (10), of net revenues in excess of the guaranty agency's need for working capital, as determined after compliance with section 422(h), for such other activities in support of postsecondary education as may be agreed to by the Secretary and the guaranty agency;

''(E) provisions regarding such other businesses, previously purchased or developed with reserve funds, that relate to the program under this part and in which the Secretary permits the guaranty agency to engage (as determined on a case-by-case basis);

''(F) provisions setting forth such administrative and fiscal procedures as may be necessary to protect the United States from the risk of unreasonable loss thereunder, and to ensure proper and efficient administration of the loan insurance program;

''(G) provisions regarding the submission of the results of audits of the guaranty agency that are conducted—

''(i) at least annually;

''(ii) by a qualified, independent organization or person in accordance with the standards established by the Comptroller General for the audit of governmental organizations, programs, and functions; and

''(iii) in accordance with the regulations of the Secretary;

''(H) provisions requiring the making of such reports, in such form and containing such information, including financial information, as the Secretary may reasonably require to carry out the Secretary's functions under this part and to protect the Federal fiscal interest, and for keeping such records and for affording such access thereto as the Secretary may find necessary or appropriate to ensure the correctness and verification of such reports;

''(I) adequate assurances that the guaranty agency will not engage in any pattern or practice which may result in a denial of a borrower's access to loans under this part because of the borrower's race, sex, color, religion, national origin, age, handicapped status, income, attendance at a particular eligible institution, length of the borrower's educational program, or the borrower's academic year in school;

''(J) assurances that—

''(i) upon the request of an eligible institution, the guaranty agency shall, subject to clauses (ii) and (iii), furnish to the institution information with respect to students (including the names and addresses of such students) who received loans made or insured under this part for attendance at the eligible institution and for whom preclaims assistance activities have been requested under subsection (l);

''(ii) the guaranty agency shall require the payment by the institution of a reasonable fee (as determined in accordance with regulations prescribed by the Secretary) for such information; and

''(iii) the institution may use such information only to remind students of their obligation to repay student loans and may not disseminate the information for any other purpose; and

''(K) such other provisions as the Secretary may determine to be necessary to protect the United States from the risk of unreasonable loss and to promote the purposes of this part.

''(4) FEES AND OTHER REVENUES.—(A)(i) The Secretary shall pay to a guaranty agency with an agreement under this subsection the following uniform fees:

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

''(II) an annual maintenance fee for each active borrower account.

''(ii) The fees described in clause (i) shall be paid on a quarterly basis, from the funds available under section 458(a), in such amount as the Secretary determines, for all guaranty agencies with agreements under this subsection.

''(B) A guaranty agency with an agreement under this subsection also may receive revenues derived from—

''(i) a default prevention fee paid by lenders in accordance with subsection (g);

''(ii) the collection retention allowance under paragraph (6);

''(iii) the interest earned on working capital provided under section 422(h);

''(iv) such other businesses, previously purchased or developed with reserve funds, that relate to the program under this part and in which the Secretary permits the guaranty agency to engage (as determined on a case-by-case basis); and

''(v) such other fees as may be authorized under this part.

''(5) PERFORMANCE REQUIREMENT.—(A) A guaranty agency with an agreement under this subsection shall carry out its responsibilities thereunder in accordance with such measurable performance-based standards as the Secretary may specify; and shall submit timely and accurate data to the Secretary in support of its performance.

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

''(C) The Secretary shall assess the performance of each guaranty agency on the basis of the audits required under paragraph (3)(G), and shall compare such guaranty agency's performance against the performance of other such guaranty agencies and publicly disseminate such comparison.

''(D) The Secretary may impose a fine, in accordance with the terms of the agreement, on a guaranty agency that fails to achieve a specified level of performance on one or more performance standards. If the guaranty agency's failure to achieve such performance level results in a financial loss to the United States, the guaranty agency shall indemnify the Secretary for such loss.'';

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

''(6) COLLECTION RETENTION ALLOWANCE.—(A) If, after the Secretary has paid a claim on a loan made under this title, any payments are made in discharge of the obligation incurred by the borrower with respect to such loan (including any payments of interest accruing on such loan after the payment of the default claim by the Secretary), there shall be paid over to the Secretary that portion of the payments remaining after the guaranty agency with which the Secretary has an agreement under this subsection has deducted from such payments an amount for costs related to the student loan insurance program that—

''(i) shall be specified by the Secretary on the basis of the Secretary's review of payments for similar services in a competitive environment; and

''(ii) in no case shall exceed 18.5 percent of such payments (subject to subparagraph (B)).

''(B) If, after the Secretary has paid a claim on a loan made under this title, and the liability on such loan is discharged by payment of the proceeds of a consolidation loan under this part or under part D, the guaranty agency may not deduct the amount specified in subparagraph (A), but may charge the borrower an amount specified by the Secretary and not to exceed 18.5% of the principal amount of the defaulted loan at the time of consolidation, to defray the guaranty agency's collection costs on the defaulted loan to be consolidated.'';

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

''(7) SECRETARY AUTHORIZED TO RENEW OR MAKE ALTERNATE AGREEMENTS.—Notwithstanding any other provision of law, once the initial agreement with a guaranty agency entered into after the date of enactment of the Student Financial Aid Improvements Act of 1997 has ended (through its expiration, the termination of the guaranty agency agreement by the Secretary in accordance with paragraph (9), or the resignation of the guaranty agency, as the case may be), the Secretary, in his discretion, may enter into—

''(A) another agreement with the guaranty agency;

''(B) an alternate agreement under which the functions previously performed by the guaranty agency shall be performed by another State or private nonprofit agency with which the Secretary has an agreement under this subsection; or

''(C) a contract under section 428E.'';

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

''(9) TERMINATION OF GUARANTY AGENCY AGREEMENTS.—(A) A guaranty agency's agreement under this subsection may be ended in advance of its expiration date in accordance with subparagraph (B), or (C). If its agreement is so ended, the guaranty agency shall immediately—

''(i) cease to be an agent of the Secretary for purposes of the program under this part; and

''(ii) surrender all remaining liquid and non-liquid reserve funds, and assets purchased or developed with reserve funds, still held by the guaranty agency (including reserves held by, or under the control of, any other entity) to the Secretary or the Secretary's designated agent.

(B) A guaranty agency's agreement under this subsection shall be void, and the Secretary shall immediately so notify such guaranty agency, if—

''(i) the guaranty agency fails to comply in a timely manner with the recall of reserve requirements of section 422(h);

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

''(iii) any other agreement that the guaranty agency has with the Secretary is terminated;

''(iv) the guaranty agency becomes insolvent or declares bankruptcy; or

''(v) there is any legal impediment to the guaranty agency substantially performing its responsibilities under the agreement.

''(C) The Secretary shall, after notice and opportunity for a hearing, terminate a guaranty agency that has substantially failed to achieve an acceptable level of performance under its agreement with the Secretary. A substantial performance failure under this subparagraph may include the existence of material internal control weaknesses relating to data quality in the guaranty agency's audits for each of two years (that may or may not be consecutive) in the five year period of the agreement under this subsection.

''(D) Notwithstanding any other provision of Federal or State law, if the Secretary has terminated or is seeking to terminate a guaranty agency's agreement in advance of its expiration date—

''(i) no State court may issue any order affecting the Secretary's actions with respect to such guaranty agency;

''(ii) any contract with respect to the administration of reserve funds held by a guaranty agency, or the administration of any assets purchased or developed with the reserve funds of the guaranty agency, that is entered into or extended by the guaranty agency, or any other party on behalf of or with the concurrence of the guaranty agency, after the date of enactment of the Student Financial Aid Improvements Act of 1997 shall provide that the contract is terminable by the Secretary upon 30 days notice to the contracting parties if the Secretary determines that such contract includes an impermissible transfer of the reserve funds or assets, or is otherwise inconsistent with the terms or purposes of this section; and

''(iii) no provision of State law shall apply to the actions of the Secretary in terminating the operations of a guaranty agency.'';

and

(H) by adding after paragraph (9) the following new paragraph:

''(10) USE OF SURPLUS FUNDS.—(A) A guaranty agency with an agreement under this subsection may retain the amount determined in accordance with subparagraph (B) for activities in support of postsecondary education that are approved by the Secretary.

''(B)(i) A guaranty agency may retain 50 percent of its net revenues for fiscal year 1998 in excess of the guaranty agency's need for working capital for such year, as determined after compliance with section 422(h), for approved activities.

''(ii) A guaranty agency may retain for approved activities for fiscal year 1999 and succeeding fiscal years the lesser of—

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

''(II) the amount of its net revenues for such year in excess of its need for working capital, as determined after compliance with section 422(h), that is equal to a uniform percentage, established annually by the Secretary, of federal revenues received by the guaranty agency for the preceding year. In determining such percentage, the Secretary shall take into account all guaranty agencies' revenues and costs for the preceding year to determine an adequate level of economic incentive for guaranty agencies to maximize their efficiency.'';

(4) by amending subsection (g) to read as follows:

''(g) DEFAULT PREVENTION FEE PAID BY LENDERS.—(1) An eligible lender shall pay a guaranty agency, to which such lender referred a delinquent loan, a default prevention fee of not to exceed $100 per borrower account if the guaranty agency succeeds in bringing such loan into current repayment status.

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

(5) in subsection (1)—

(A) in paragraph (1), by striking the paragraph designation and the paragraph heading; and

(B) by striking paragraph (2).

(b) Section 435(j) of the Act is amended by striking ''section 428(b).'' and inserting ''section 428(c).''

REPEAL OF STATE SHARE OF DEFAULT COSTS

SEC. 227. Section 428 of the Act is further amended by striking subsection (n).

CONSOLIDATION LOANS

SEC. 228. (a) Section 428C of the Act is further amended—

(1) in subsection (a)(3)—

(A) in subparagraph (A), by inserting ''in an in-school period,'' after ''for consolidation loan is''; and

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

''(i) Eligible student loans received by the eligible borrower may be added to a consolidation loan during the 180-day period following the making of such consolidation loan.'';

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

''(ii) provides that interest shall accrue and be paid—

''(I) by the Secretary, in the case of a consolidation loan made before October 1, 1997 that consolidated only Federal Stafford Loans for which the student borrower received an interest subsidy under section 428;

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

''(III) by the borrower, or capitalized, in the case of a consolidation loan, or portion thereof, other than one described in subclause (I) or (II);''; and

(3) in subsection (c)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking ''subparagraph (B) or (C).'' and inserting ''subparagraph (B), (C), (D), or (E), and subject to subparagraph (F).'';

(ii) in subparagraph (C), by striking ''after July 1, 1994,'' and inserting ''after July 1, 1994 and before October 1, 1997,''; and

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

''(D) A consolidation loan made on or after October 1, 1997, that repays loans made under section 428 or 428H, or a combination thereof, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to—

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

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

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

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

''(i) a borrower of a consolidation loan that repays a combination of loans eligible to be consolidated under this section, shall continue to receive, after consolidation, any interest subsidy benefits associated with a loan, without extending such benefits to any other loans consolidated that do not have interest subsidy benefits;

''(ii) in the case of a consolidation loan that repays a combination of loans described in subparagraphs (D) and (E), the interest rate on such consolidation loan shall be calculated in a manner that reflects the interest rate applicable to loans made under each such subparagraph; and

''(iii) in the case of a consolidation loan that repays a loan eligible to be consolidated under this section other than those described in subparagraphs (D) and (E), the interest rate applicable to such other loan shall be the interest rate described in subparagraph (D) if such other loan is considered by the Secretary to be subsidized, and the interest rate described in subparagraph (E) if such other loan is considered by the Secretary to be unsubsidized.''; and

(B) in paragraph (4)—

(i) by striking ''Repayment'' and inserting ''(A) Except as provided in subparagraph (B), repayment''; and

(ii) by adding after subparagraph (A) (as redesignated by clause (i)) the following new subparagraph:

''(B) In the case of a consolidation loan that repays a loan made under this part for which the borrower is in an in-school period at the time the consolidation application is received, the repayment period for such consolidation loan shall commence after the completion of a grace period, as described in section 428(b)(7)(i).''.

CONTRACTS WITH OTHER ENTITIES

SEC. 229. Part B of title IV of the Act is amended by inserting after section 428D the following new section:

''CONTRACT AUTHORITY

''SEC. 428E. The Secretary may enter into one or more contracts to carry out any of the functions that otherwise would be carried out by a guaranty agency with an agreement under section 428(c).''.

ELIGIBLE LENDER

SEC. 230. Section 435(d) of the Act is amended—

(1) in paragraph (1), by striking ''(6),'' and inserting ''(7),''; and

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

''(7) UNIFORM TERMS AND CONDITIONS. Subject to such exceptions as the Secretary may prescribe in regulations, the term 'eligible lender' shall not include any lender that offers different terms and conditions to different borrowers of the same type of loan made or insured under this part.''.

SPECIAL ALLOWANCE

SEC. 231. Section 438 of the Act is amended—

(1) in subsection (a)(3), by striking ''quarterly rate'' each place it appears and inserting ''rate''; and

(2) in subsection (b)—

(A) in paragraph (2)—

(i) by striking ''subparagraphs (B), (C), (D), (E), and (F)'' and inserting ''subparagraphs (B), (C), (D), (E), (F), and (G)''; and

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

''(G)(i) Notwithstanding any other provision of this section, in the case of loans made or insured under this part for which the first disbursement is made on or after October 1, 1997, the special allowance paid pursuant to this subsection shall be computed for any 12-month period beginning on July 1 and ending on June 30 by—

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

''(II) subtracting the applicable interest rate on such loans from such amount.

''(ii) The amount of special allowance computed under clause (i) shall be paid in quarterly increments for the 3-month periods described in paragraph (1).''; and

(B) in paragraph (3), in the second sentence, by striking ''determined for any such 3-month period shall be paid promptly after the close of such period,'' and inserting ''calculated under this subsection shall be paid promptly after the close of the 3-month period for which such special allowance payment is due,''.

STUDENT LOAN MARKETING ASSOCIATION OFFSET FEE

SEC. 232. Section 439(h)(7) of the Act is amended by adding after subparagraph (C) the following new subparagraph:

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

''(i) owned, in whole or in part, by the Association, any subsidiary of the Association, or any company, trust or other entity owned by, or controlled by, the Association; or

''(ii) held by a trust (including by a trustee on behalf of a trust), or by any other entity in which the Association, or any subsidiary, holds more than a minimal beneficial interest (as determined by the Secretary).''.

DIRECT LOAN TRANSITION FEE

SEC. 233. Section 452(b) of the Act is amended to read as follows:

''(b) TRANSITION FEES.—The Secretary shall pay fees to institutions of higher education (or a consortium of those institutions) with agreements under section 454(b), in the first year of their participation in the program authorized by this part, in order to compensate for costs associated with their transition to the program. The fees shall not exceed an average of $10 per borrower at all institutions receiving the fees.''.

FUNDS FOR ADMINISTRATIVE EXPENSES

SEC. 234. Section 458(a) of the Act is amended, in the first sentence, by striking $260,000,000'' through the end of the sentence and inserting the following: ''$532,000,000 in fiscal year 1998, $610,000,000 in fiscal year 1999, $705,000,000 in fiscal year 2000, $806,000,000 in fiscal year 2001, and $904,000,000 in fiscal year 2002.''.

PART C—NEED ANALYSIS AND GENERAL PROVISIONS

HOPE SCHOLARSHIP NEED ANALYSIS AMENDMENTS

SEC. 241. (a) CALCULATION OF AVAILABLE INCOME.—(1) Section 475 of the Act is amended—

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

''(A) the sum of—

''(i) Federal income taxes;

''(iii) the amount of any tax credit taken under section 24A of the Internal Revenue Code of 1986; and

''(iii) the amount by which tax liability determined without regard to the deduction provided under section 221 of the Internal Revenue Code exceeds the amount of tax liability determined after taking such deduction into account;''; and

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

''(A) the sum of—

''(i) Federal income taxes;

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

''(iii) the amount by which tax liability determined without regard to the deduction provided under section 221 of the Internal Revenue Code exceeds the amount of tax liability determined after taking such deduction into account;''.

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

''(A) the sum of—

''(i) Federal income taxes;

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

''(iii) the amount by which tax liability determined without regard to the deduction provided under section 221 of the Internal Revenue Code exceeds the amount of tax liability determined after taking such deduction into account;''.

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

''(A) the sum of—

''(i) Federal income taxes;

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

''(iii) the amount by which tax liability determined without regard to the deduction provided under section 221 of the Internal Revenue Code exceeds the amount of tax liability determined after taking such deduction into account;''.

(b) DEFINITIONS.—Section 480 of the Act is amended—

(1) in subsection (a)(2)—

(A) by striking ''and no portion'' and inserting ''no portion''; and

(B) by inserting after ''(42 U.S.C. 12571 *et seq.*),'' the following: ''and no portion of any tax credit taken under section 24A of the Internal Revenue Code of 1986,'';

(2) in subsection (b)—

(A) in paragraph (13), by striking ''and'' at the end of the paragraph;

(B) by redesignating paragraph (14) as paragraph (15); and

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

''(14) any tax deduction taken under section 221 of the Internal Revenue Code of 1986; and'';

(3) in subsection (e)—

(A) in paragraph (3), by striking ''and'' at the end of the paragraph;

(B) in paragraph (4), by striking the period at the end of the paragraph and inserting ''; and''; and

(C) by adding after paragraph (4) the following new paragraph:

''(5) any tax credit taken under section 24A of the Internal Revenue Code of 1986; and'';

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

''(4) Notwithstanding paragraph (1), a tax credit taken under section 24A of the Internal Revenue Code of 1986 shall not be treated as estimated financial assistance for purposes of section 471(3).''.

INCOME PROTECTION ALLOWANCE FOR INDEPENDENT STUDENTS WITHOUT DEPENDENTS

SEC. 242. (a) Section 476(b) of the Act is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

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

''(iv) an income protection allowance, determined in accordance with paragraph (4);''; and

(ii) in clause (v), by striking ''paragraph (4);'' and inserting ''paragraph (5);''; and

(B) in subparagraph (B), by striking ''paragraph (5).'' and inserting ''paragraph (6).'';

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

(3) by inserting after paragraph (3) the following new paragraph:

''(4) INCOME PROTECTION ALLOWANCE.—The income protection allowance is determined by the following table (or a successor table prescribed by the Secretary under section 478):

''INCOME PROTECTION ALLOWANCE

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

(b) Section 478(b) of the Act is amended by striking ''sections 475(c)(4) and 477(b)(4).'' and inserting ''sections 475(c)(4), 476(b)(4), and 477(b)(4).''.

HOPE SCHOLARSHIP DEFINITIONS

SEC. 243. Section 481 of the Act is amended by adding after subsection (f) the following new subsection:

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

''(A) academic period;

''(B) normal full-time workload;

''(C) first two years of postsecondary education;

''(D) qualifying grade point average;

''(E) job skills; and

''(F) new job skills.

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

EXTENSION OF STUDENT AID PROGRAMS

SEC. 244. Title IV of the Act is amended—

(1) in section 401(a)(1), by striking ''September 30, 1998,'' and inserting ''September 30, 1999,'';

(2) in section 424(a), by striking ''1998.'' and ''2002.'' and inserting ''2002.'' and ''2006.'', respectively;

(3) in section 428(a)(5), by striking ''1998,'' and ''2002.'' and inserting ''2002,'' and ''2006.'', respectively;

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

(5) in section 466—

(A) in subsection (a)—

(i) in the matter preceding paragraph (1), by striking ''September 30, 1996,'' and March 31, 1997,'' and inserting ''September 30, 1998,'' and March 31, 1999'', respectively; and

(ii) in paragraph (1), by striking ''September 30, 1996,'' and inserting ''September 30, 1998,'';

(B) in subsection (b), by striking ''September 30, 1996,'' and inserting ''September 30, 1998,''; and

(C) in subsection (c), by striking out ''October 1, 1997,'' and inserting ''October 1, 1998,''.

PART D—EFFECTIVE DATES

EFFECTIVE DATES

SEC. 251. (a) Except as otherwise provided in this section, the amendments made by this title shall take effect on the date of enactment of this Act.

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

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

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

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

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

(g) Section 232 is effective as if it were enacted on August 10, 1993, but does not apply to the privatized entity that may be created as a result of the Student Loan Marketing Association Reorganization Act of 1996 (Title VI of the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, 1997, as enacted by section 101(e) of Division A of Pub. L. No. 104–208).

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

S. 560

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—STUDENT FINANCIAL AID PROVISIONS

SHORT TITLE; REFERENCES

SEC. 101. (a) SHORT TITLE.—This title may be cited as the ''Student Financial Aid Improvements Act of 1997''.

(b) REFERENCES.—References in this title to ''the Act'' shall refer to the Higher Education Act of 1965 (20 U.S.C. 1001 *et seq.*).

PART A—PELL GRANTS

PELL GRANT MAXIMUM AWARD

SEC. 111. Section 401(b)(2)(A) of the Act is amended by adding at the end thereof the following: ''Except as otherwise provided in this section, in no case shall the maximum basic grant be less than $3,000.''.

PART B—STUDENT LOAN PROVISIONS

MANAGEMENT AND RECOVERY OF RESERVES

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

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

''(1) AUTHORITY TO RECOVER FUNDS.—(A) Notwithstanding any other provision of law, the reserve funds of the guaranty agencies, and any assets purchased or developed with such reserve funds, regardless of who holds or controls the reserves or assets, shall remain the property of the United States.

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

''(i) to pay the program expenses and contingent liabilities of the guaranty agency;

''(ii) to satisfy the guaranty agency's requirements under subsection (h); or

''(iii) for the orderly termination of the guaranty agency's operations and the liquidation of its assets.

''(C) The Secretary may direct a guaranty agency, or such agency's officers or directors, to cease any activity involving expenditure, use, or transfer of the guaranty agency's reserve funds or assets that the Secretary determines is a misapplication, misuse, or improper expenditure of such funds or assets.''; and

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

''(h) RECALL OF RESERVES IN FISCAL YEARS 1997 THROUGH 2002; LIMITATIONS ON USE OF RESERVE FUNDS AND ASSETS.—(1)(A) Notwithstanding any other provision of law, the Secretary shall, except as otherwise provided in this subsection, recall from the reserve funds held by guaranty agencies (which for purposes of this subsection shall include any reserve funds held by, or under the control of, any other entity) not less than—

''(i) $731,000,000 in fiscal year 1998;

''(ii) $127,000,000 in fiscal year 1999;

''(iii) $186,000,000 in each of the fiscal years 2000 and 2001; and

''(iv) $1,271,000,000 in fiscal year 2002.

''(B) Funds returned to the Secretary under this subsection shall be deposited in the Treasury.

''(C) The Secretary shall require each guaranty agency to return reserve funds under subparagraph (A) based on its proportionate share, as determined by the Secretary, of all reserve funds held by guaranty agencies as of September 30, 1996.

''(2)(A) Within 45 days of enactment of this subsection, all reserve funds held by a guaranty agency that have not yet been recalled by the Secretary under paragraph (1) shall be transferred by the guaranty agency to a restricted account (of a type specified by the Secretary) established by the guaranty agency, and be invested in United States Government securities specified by the Secretary. The manner and timeframe in which reserve funds so invested are recalled shall be specified by the Secretary, consistent with the requirements of this subsection. Except as described in subparagraph (B), the guaranty agency shall not use the reserve funds in such account, which shall include the earnings thereon, for any purpose without the express permission of the Secretary.

''(B)(i) In order to assist guaranty agencies in meeting program expenses, the Secretary shall permit the use of not more than an aggregate of $350,000,000 of the reserve funds held in the restricted accounts described in subparagraph (A) by guaranty agencies with agreements under section 428(c), as working capital to be used for such purposes as the Secretary may specify. The Secretary shall specify the amount of reserve funds in each guaranty agency's restricted account that may be used as working capital, based on the guaranty agency's proportionate share of all borrower accounts outstanding on September 30, 1996. The guaranty agency shall repay such amount to its restricted account (or returned to the Treasury, if so directed by the Secretary) by not later than September 30, 2002, or the date on which such agency's agreement under section 428(c) ends (through resignation, expiration, or termination), whichever is earlier.

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

''(C) Non-liquid reserve fund assets, such as buildings and equipment purchased or developed by the guaranty agency with reserve funds, and any liquid assets remaining in a guaranty agency's restricted account after the recalls in paragraph (1)(A), shall—

''(i) remain the property of the United States;

''(ii) be used only for such purposes as the Secretary determines are appropriate; and

''(iii) be subject to recall by the Secretary no later than the date on which such agency's agreement under section 428(c) ends (through resignation, expiration, or termination, as the case may be).''.

REPAYMENT TERMS

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

(1) in subsection (a)(2)—

(A) in subparagraph (B), in the matter preceding clause (i), by striking ''over a period'' through ''nor more than 10 years'' and inserting ''in accordance with the repayment plan selected under subsection (d),'';

(B) in subparagraph (C), at the end of the subparagraph, by striking out ''the 10-year period described in subparagraph (B);'' and inserting the following: ''the length of the repayment period under a repayment plan described in subsection (d);'';

(C) by striking subparagraph (F);

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

(E) in subparagraph (G) (as redesignated by subparagraph (D)), by striking ''the option'' through the end of the subparagraph and inserting ''the repayment options described in subsection (d); and'';

(2) in subsection (c), by striking ''in subsection (a)(2)(H),'' and inserting the following: ''by a repayment plan selected by the borrower under subparagraph (C) or (D) of subsection (d)(1),''; and

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

''(d) REPAYMENT PLANS.—(1) DESIGN AND SELECTION.—In accordance with regulations of the Secretary, the lender shall offer a borrower of a loan made under this part the plans described in this subsection for repayment of such loan, including principal and interest thereon. No plan may require a borrower to repay a loan in less than five years. The borrower may choose from—

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

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

''(C) a graduated repayment plan, with annual repayment amounts established at 2 or more graduated levels and paid over an extended period of time, not to exceed 30 years, except that the borrower's scheduled payments shall not be less than 50 percent, nor more than 150 percent, of what the amortized payment on the amount owed would be if the loan were repaid under the standard repayment plan; and

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

''(2) LENDER SELECTION OF OPTION IF BORROWER DOES NOT SELECT.—If a borrower of a loan made under this part does not select a repayment plan described in paragraph (1), the lender shall provide the borrower with a repayment plan described in paragraph (1)(A).

''(3) CHANGES IN SELECTIONS.—The borrower of a loan made under this part may change the borrower's selection of a repayment plan under paragraph (1), or the lender's selection of a plan for the borrower under paragraph (2), as the case may be, under such conditions as may be prescribed by the Secretary in regulation.

''(4) ACCELERATION PERMITTED.—Under any of the plans described in this subsection, the borrower shall be entitled to accelerate, without penalty, repayment on the borrower's loans under this part.''.

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

(1) in paragraph (1)—

(A) in subparagraph (D), by striking clauses (i) and (ii) and the clause designation ''(iii)'';

(B) in subparagraph (E)—

(i) in clause (i)—

(I) by striking ''or section 428A,'' and inserting ''or section 428H,''; and

(II) by striking ''the option'' through the end of the clause and inserting ''the repayment options described in paragraph (9); and''; and

(ii) in clause (ii)—

(I) by striking ''over a period'' through ''nor more than 10 years'' and inserting ''in accordance with the repayment plan selected under paragraph (9), and''; and

(II) by striking ''of this subsection;'' at the end of clause (ii) and inserting a semicolon; and

(C) in subparagraph (L)(i), by inserting after the clause designation the following: ''except as otherwise provided by a repayment plan selected by the borrower under paragraph (9)(A) (iii) or (iv),''; and

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

''(9) REPAYMENT PLANS.—(A) DESIGN AND SELECTION.—In accordance with regulations of the Secretary, the lender shall offer a borrower of a loan made under this part the plans described in this subparagraph for repayment of such loan, including principal and interest thereon. No plan may require a borrower to repay a loan in less than five years. The borrower may choose from—

''(i) a standard repayment plan, with a fixed annual repayment amount paid over a fixed period of time, not to exceed ten years;

''(ii) an extended repayment plan, with a fixed annual repayment amount paid over an extended period of time, not to exceed 30 years, except that the borrower shall repay annually a minimum amount determined in accordance with paragraph (2)(L);

''(iii) a graduated repayment plan, with annual repayment amounts established at 2 or more graduated levels and paid over an extended period of time, not to exceed 30 years, except that the borrower's scheduled payments shall not be less than 50 percent, nor more than 150 percent, of what the amortized payment on the amount owed would be if the loan were repaid under the standard repayment plan; and

''(iv) an income-sensitive repayment plan, with income-sensitive repayment amounts paid over a fixed period of time, not to exceed ten years.

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

''(C) CHANGES IN SELECTION.—The borrower of a loan made under this part may change the borrower's selection of a repayment plan under subparagraph (A), or the lender's selection of a plan for the borrower under subparagraph (B), as the case may be, under such conditions as may be prescribed by the Secretary in regulation.

''(D) ACCELERATION PERMITTED.—Under any of the plans described in this paragraph, the borrower shall be entitled to accelerate, without penalty, repayment on the borrower's loans under this part.

''(E) COMPARABLE FFEL AND DIRECT LOAN REPAYMENT PLANS.—The Secretary shall ensure that the repayment plans offered to borrowers under this part are comparable, to the extent practicable and not otherwise provided in statute, to the repayment plans offered under part D.''.

(c) Section 428C of the Act is amended—

(1) in subsection (b)(3)(F), by striking ''alternative''; and

(2) in subsection (c)—

(A) by amending paragraph (2) to read as follows:

''(2) REPAYMENT PLANS.—(A) DESIGN AND SELECTION.—In accordance with regulations of the Secretary, the lender shall offer a borrower of a loan made under this section the plans described in this paragraph for repayment of such loan, including principal and interest thereof. No plan may require a borrower to repay a loan in less than five years. The borrower may choose from—

''(i) a standard repayment plan, with a fixed annual repayment amount paid over a fixed period of time, not to exceed ten years.

''(ii) an extended repayment plan, with a fixed annual repayment amount paid over an extended period of time, not to exceed 30 years, except that the borrower shall repay annually a minimum amount determined in accordance with paragraph (3);

''(iii) a graduated repayment plan, with annual repayment amounts established at 2 or more graduated levels and paid over an extended period of time, not to exceed 30 years, except that the borrower's scheduled payments shall not be less than 50 percent, nor more than 150 percent, of what the amortized payment on the amount owed would be if the loan were repaid under the standard repayment plan; and

''(iv) an income-sensitive repayment plan, with income-sensitive repayment amounts paid over a fixed period of time, not to exceed ten years.

''(B) LENDER SELECTION OF OPTION IF BORROWER DOES NOT SELECT.—If a borrower of a loan made under this section does not select a repayment plan described in subparagraph (A), the lender shall provide the borrower with a repayment plan described in subparagraph (A)(i).

''(C) CHANGES IN SELECTIONS.—The borrower of a loan made under this section may change the borrower's selection of a repayment plan under subparagraph (A), or the lender's selection of a plan for the borrower under subparagraph (B), as the case may be, under such conditions as may be prescribed by the Secretary in regulation.''.

(d) Section 455(d) of the Act is amended—

(1) in paragraph (1)—

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

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

(2) in paragraph (2), by striking ''subparagraph (A), (B), or (C) of paragraph (1).'' and inserting ''paragraph 91)(A).''.

INTEREST RATES

SEC. 123. (a) Section 427A of the Act is amended—

(1) in subsection (g)(2)—

(A) by inserting after the paragraph heading the subparagraph designation ''(A)'';

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

(C) by striking ''paragraph (1),'' and inserting ''paragraph (1), and except as provided in subparagraph (B),''; and

(D) by adding after subparagraph (A) (as redesignated by subparagraph (A)) the following new subparagraph:

''(B) In the case of loans made or insured under section 428 or 428H for which the first disbursement is made on or after October 1, 1997, for purposes of paragraph (1), the rate determined under this paragraph shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to the bond equivalent rate of the securities with a comparable maturity, as established by the Secretary, except that such rate shall not exceed 8.25 percent.'';

(2) in subsection (h)—

(A) in the heading thereof, by striking ''July 1, 1998.—'' and inserting ''October 1, 1997.—'';

(B) in paragraph (1)—

(i) by striking ''(f), and (g)'' and inserting ''and (f),''; and

(ii) by striking ''July 1, 1998,'' and inserting ''October 1, 1997.''; and

(C) in paragraph (2)—

(i) in the heading, by striking ''*JULY 1, 1998.*—'' and inserting ''*OCTOBER 1, 1997.*—''; and

(ii) by striking ''July 1, 1998,'' and inserting ''October 1, 1997,''; and

(3) in subsection (i)(7)(B), by adding at the end the following: ''Notwithstanding any other provision of law, the interest rate determined under this subparagraph shall be used solely to determine the rebate of excess interest required by this paragraph and shall not be used to calculate or pay special allowances under section 438.''.

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

(1) in paragraph (2)(B)—

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

(B) by inserting after the subparagraph heading the clause designation ''(i)'';

(C) by striking ''subparagraph (A),'' and inserting ''subparagraph (A) and except as provided in clause (ii),''; and

(D) by adding after clause (i) (as redesignated by subparagraph (B)) the following new clause:

''(ii) In the case of Federal Direct Stafford/Ford Loans or Federal Direct Unsubsidized Stafford/Ford Loans for which the first disbursement is made on or after October 1, 1997, for purposes of subparagraph (A), the rate determined under this subparagraph shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to the bond equivalent rate of the securities with comparable maturity, as established by the Secretary, except that such rate shall not exceed 8.25 percent.'';

(2) in paragraph (3)—

(A) by striking ''and (2),'' and inserting '', and except as provided in paragraph (2),''; and

(B) by striking ''made on or after July 1, 1998,'' and inserting ''for which the first disbursement is made on or after October 1, 1997,''; and

(3) in paragraph (4)(B), by striking ''July 1, 1998,'' and inserting ''October 1, 1997,''.

LENDER AND HOLDER RISK SHARING

SEC. 124. Section 428(b)(1)(G) of the Act is amended by striking ''not less than 98 percent'' and inserting ''95 percent''.

FEES AND INSURANCE PREMIUMS

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

(1) by inserting the clause designation ''(i)'' following the subparagraph designation;

(2) by striking ''the loan,'' and inserting ''any loan made under section 428 or 428B before July 1, 1998,''; and

(3) after clause (i) (as redesignated by paragraph (1)), by adding ''and'' and the following new clause:

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

(b) Section 428H(h) of the Act is amended—

(1) by inserting the paragraph designation ''(1)'' following the subsection heading;

(2) by striking ''under this section'' and inserting ''of a loan made under this section made before July 1, 1998''; and

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

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

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

(1) in paragraph (2), by striking ''paragraph (6)'' and inserting ''paragraphs (6) and (8)''; and

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

''(8) ORIGINATION FEE ON SUBSIDIZED LOANS ON OR AFTER JULY 1, 1998.—In the case of any loan made or insured under section 428 on or after July 1, 1998, paragraph (2) shall be applied by substituting '2.0 percent' for '3.0 percent'.''.

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

(1) by striking ''The Secretary'' and inserting ''(1) For loans made under this part before July 1, 1998, the Secretary'';

(2) by striking ''of a loan made under this part''; and

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

''(2) For loans made under this part on or after July 1, 1998, the Secretary shall charge the borrower an origination fee of—

''(A) 2.0 percent of the principal amount of the loan, in the case of Federal Direct Stafford/Ford Loans; or

''(B) 3.0 percent of the principal amount of the loan, in the case of Federal Direct Unsubsidized Stafford/Ford Loans or Federal Direct PLUS Loans.''.

FUNCTIONS OF GUARANTY AGENCIES

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

(1) in subsection (a)—

(A) in paragraph (1)(B)—

(i) in the matter preceding clause (i), by striking ''which is insured'' and inserting ''which, before October 1, 1997, is''; and

(ii) in clause (ii), by inserting ''as in effect the day before the day of enactment of this section,'' after ''subsection (b),''; and

(B) in paragraph (3)—

(i) by striking subparagraph (B); and

(ii) in subparagraph (A)—

(I) in clause (ii), by striking ''under any'' through the end of the clause and inserting a period;

(II) by striking the subparagraph designation ''(A)'';

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

(IV) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively;

(2) in subsection (b)—

(A) by amending the heading to read as follows: ''REQUIREMENTS TO QUALIFY LOANS FOR INSURANCE AND INTEREST SUBSIDIES.—'',

(B) in paragraph (1)—

(i) by amending the heading to read as follows: REQUIREMENTS.—'';

(ii) by amending the matter preceding subparagraph (A) to read as follows: ''A loan by an eligible lender shall be insurable by the Secretary, and students who receive such loans shall be entitled to have made on their behalf the payments provided for in subsection (a), under a program of student loan insurance that—'';

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

''(K) provides that the holder of any such loan will be required to submit to the Secretary, at such time or times and in such manner as the Secretary may prescribe, statements containing such information as may be required by regulation for the purpose of enabling the Secretary to determine the amount of the payment which must be made with respect to that loan;'';

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

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

''(i) the transferor and the transferee shall be required, not later than 45 days from the date the transferee acquires a legally enforceable right to receive payment from the borrower on such loan, either jointly or separately to provide a notice to the borrower of—

''(I) the sale, assignment, or other transfer;

''(II) the identity of the transferee;

''(III) the name and address of the party to whom subsequent payments or communications must be sent; and

''(IV) the telephone numbers of both the transferor and the transferee; and

''(ii) the transferee shall be required to notify the Secretary, and, upon the request of an institution of higher education, the Secretary shall notify the last such institution the student attended prior to the beginning of the repayment period of any loan made under this part, of—

''(I) any sale, assignment, or other transfer of the loan; and

''(II) the address and telephone number by which contact may be made with the new holder concerning repayment of the loan;

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

(v) in subparagraph (Q), by striking ''guarantee'' and ''428A'' and inserting ''insurance'' and ''428H'', respectively;

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

''(R) provides for the making of such reports, in such form and containing such information, including financial information, as the Secretary may reasonably require to carry out the Secretary's functions under this part and protect the financial interest of the United States, and for keeping such records and for affording such access thereto as the Secretary may find necessary to ensure the correctness and verification of such reports;'';

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

''(S) provides that a lender shall pay a default prevention fee in accordance with subsection (g);

(viii) in subparagraph (T)—

(I) in clause (i), by inserting '', by the guaranty agency, in accordance with regulations prescribed by the Secretary,'' after ''limitation''; and

(II) in clause (ii)—

(aa) in the matter preceding subclause (I), by inserting '', in accordance with regulations prescribed by the Secretary,'' after ''institution'';

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

(cc) redesignating subclauses (III), (IV), and (V) as subclauses (I), (II), and (III), respectively;

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

''(U) provides—

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

''(ii) an assurance that the guaranty agency will report to the Secretary concerning changes in criteria under clause (i), including any procedures in effect under such program to take emergency action, limit, suspend, or terminate lenders; and''; and

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

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

''(2) SKIP-TRACING REQUIREMENT.—In the case of a default claim based on an inability to locate the borrower, a lender shall certify to the Secretary, at the time of submission of the default claim, that diligent attempts have been made to locate the borrower through the use of reasonable skip-tracing techniques in accordance with regulations prescribed by the Secretary.'';

(D) in paragraph (3)(B), by striking the parenthetical through the end of the subparagraph and inserting a period; and

(E) by striking out paragraph (5) and inserting in lieu thereof the following new paragraph:

''(5) COMPLIANCE AUDITS.—(A) Except as provided in subparagraph (B) or by the Single Audit Act Amendments of 1996, an eligible lender that originates or holds more than $5,000,000 in loans made under this title during an annual audit period shall submit to the Secretary a compliance audit for that audit period which is conducted by a qualified, independent organization or person in accordance with the Government Auditing Standards issued by the Comptroller General, and the regulations of the Secretary.

''(B) The Secretary may permit a lender to submit the results of an audit conducted for other purposes if the Secretary determines that such other audit results provide the same information as required under subparagraph (A).'';

(3) in subsection (c)—

(A) by amending the heading to read as follows: ''AGREEMENTS WITH GUARANTY AGENCIES.—'';

(B) in paragraph (3)—

(i) in the matter preceding subparagraph (A), by striking ''A guaranty agreement''

and inserting ''An agreement between the Secretary and a guaranty agency''

(ii) in the flush left language at the end of the paragraph, by striking ''Guaranty agencies'' and inserting ''The Secretary''; and

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

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

(D) by inserting after the subsection heading the following new paragraphs:

''(1) AUTHORITY TO ENTER INTO AGREEMENTS.—(A)(i) The Secretary may enter into an agreement with a guaranty agency, under which the Secretary shall insure loans made under this section through the guaranty agency as the agent of the Secretary.

''(ii) Any guaranty agency that had an agreement with the Secretary under section 428(b) as of the day before the date of enactment of the Student Financial Aid Improvements Act of 1997 may enter into an initial agreement with the Secretary under this subsection.

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

''(iii) The Secretary may terminate the agreement prior to its expiration in accordance with paragraph (9).

''(2) EFFECT ON PRIOR GUARANTY AGREEMENTS AND LOAN INSURANCE BY GUARANTY AGENCIES.—(A) All guaranty agreements made under this subsection as it was in effect on the day before the date of enactment of the Student Financial Aid Improvements Act of 1997 shall terminate not later than 180 days after the date of enactment of that Act.

''(B) Notwithstanding any other provision of law—outstanding as of the date of the termination under subparagraph (A) shall be replaced on such date by loan insurance issued by the Secretary, and the guaranty agency shall be relieved of any further liability thereon;

''(ii) the Secretary's liability for any outstanding liabilities of a guaranty agency (other than outstanding loan insurance under this part), shall not exceed the fair market value of the unrestricted funds of the guaranty agency, which shall consist of—

''(I) all accumulated earnings not otherwise placed in a restricted account in accordance with section 422(h)(2)(A); and

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

''(iii) for the first year after the date of enactment of the Student Financial Aid Improvements Act of 1997, the Secretary may specify such interim administrative measures as the Secretary determines to be necessary for the efficient transfer of the loan insurance function, and to carry out the purposes of this part.

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

''(A) provisions regarding the responsibilities of the guaranty agency for—

''(i) administering the issuance of insurance on loans made under this section on behalf of the Secretary;

''(ii) monitoring insurance commitments made under this section;

''(iii) default prevention activities;

''(iv) review of default claims made by lenders;

''(v) payment of default claims;

''(vi) collection of defaulted loans;

''(vii) adoption of internal systems of accounting and auditing that are acceptable to the Secretary, and reporting the result thereof to the Secretary on a timely, accurate, and auditable basis;

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

''(ix) monitoring of institutions and lenders participating in the program under this part; and

''(x) such other program functions as the Secretary may require of the guaranty agency;

''(B) provisions regarding the fees the Secretary shall pay to the guaranty agency under the agreement, and other revenues that the guaranty agency may receive thereunder, as described in paragraphs (4) and (6);

''(C) provisions requiring the guaranty agency to carry out its responsibilities under the agreement in accordance with paragraph (5);

''(D) provisions regarding the use, in accordance with paragraph (10), of net revenues in excess of the guaranty agency's need for working capital, as determined after compliance with section 422(h), for such other activities in support of postsecondary education as may be agreed to by the Secretary and the guaranty agency;

''(E) provisions regarding such other businesses, previously purchased or developed with reserve funds, that relate to the program under this part and in which the Secretary permits the guaranty agency to engage (as determined on a case-by-case basis);

''(F) provisions setting forth such administrative and fiscal procedures as may be necessary to protect the United States from the risk of unreasonable loss thereunder, and to ensure proper and efficient administration of the loan insurance program;

''(G) provisions regarding the submission of the results of audits of the guaranty agency that are conducted—

''(i) at least annually;

''(ii) by a qualified, independent organization or person in accordance with the standards established by the Comptroller General for the audit of governmental organizations, programs, and functions; and

''(iii) in accordance with the regulations of the Secretary;

''(H) provisions requiring the making of such reports, in such form and containing such information, including financial information, as the Secretary may reasonably require to carry out the Secretary's functions under this part and to protect the Federal fiscal interest, and for keeping such records and for affording such access thereto as the Secretary may find necessary or appropriate to ensure the correctness and verification of such reports;

''(I) adequate assurances that the guaranty agency will not engage in any pattern or practice which may result in a denial of a borrower's access to loans under this part because of the borrower's race, sex, color, religion, national origin, age, handicapped status, income, attendance at a particular eligible institution, length of the borrower's educational program, or the borrower's academic year in school;

''(J) assurances that—

''(i) upon the request of an eligible institution, the guaranty agency shall, subject to clauses (ii) and (iii), furnish to the institution information with respect to students (including the names and addresses of such students) who received loans made or insured under this part for attendance at the eligible institution and for whom preclaims assistance activities have been requested under subsection (l);

''(ii) the guaranty agency shall require the payment by the institution of a reasonable fee (as determined in accordance with regulations prescribed by the Secretary) for such information; and

''(iii) the institution may use such information only to remind students of their obligation to repay student loans and may not disseminate the information for any other purpose; and

''(K) such other provisions as the Secretary may determine to be necessary to protect the United States from the risk of unreasonable loss and to promote the purposes of this part.

''(4) FEES AND OTHER REVENUES.—(A)(i) The Secretary shall pay to a guaranty agency with an agreement under this subsection the following uniform fees:

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

''(II) an annual maintenance fee for each active borrower account.

''(ii) The fees described in clause (i) shall be paid on a quarterly basis, from the funds available under section 458(a), in such amount as the Secretary determines, for all guaranty agencies with agreement under this subsection.

''(B) A guaranty agency with an agreement under this subsection also may receive revenues derived from—

''(i) a default prevention fee paid by lenders in accordance with subsection (g);

''(ii) the collection retention allowance under paragraph (6);

''(iii) the interest earned on working capital provided under section 422(h);

''(iv) such other businesses, previously purchased or developed with reserve funds, that relate to the program under this part and in which the Secretary permits the guaranty agency to engage (as determined on a case-by-case basis); and

''(v) such other fees as may be authorized under this part.

''(5) PERFORMANCE REQUIREMENTS.—(A) A guaranty agency with an agreement under this subsection shall carry out its responsibilities thereunder in accordance with such measurable performance-based standards as the Secretary may specify, and shall submit timely and accurate data to the Secretary in support of its performance.

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

''(C) The Secretary shall assess the performance of each guaranty agency on the basis of the audits required under paragraph (3)(G), and shall compare such guaranty agency's performance against the performance of other such guaranty agencies and publicly disseminate such comparison.

''(D) The Secretary may impose a fine, in accordance with the terms of the agreement, on a guaranty agency that fails to achieve a specified level of performance on one or more performance standards. If the guaranty agency's failure to achieve such performance level results in a financial loss to the United States, the guaranty agency shall indemnify the Secretary for such loss.'';

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

''(6) COLLECTION RETENTION ALLOWANCE.—(A) If, after the Secretary has paid a claim on a loan made under this title, any payments are made in discharge of the obligation incurred by the borrower with respect to such loan (including any payments of interest accruing on such loan after the payment of the default claim by the Secretary), there shall be paid over to the Secretary that portion of the payments remaining after the guaranty agency with which the Secretary has an agreement under this subsection has deducted from such payments an amount for costs related to the student loan insurance program that—

''(i) shall be specified by the Secretary on the basis of the Secretary's review of payments for similar services in a competitive environment; and

''(ii) in no case shall exceed 18.5 percent of such payments (subject to subparagraph (B)).

''(B) If, after the Secretary has paid a claim on a loan made under this title, and the liability on such loan is discharged by payment of the proceeds of a consolidation loan under this part or under part D, the guaranty agency may not deduct the amount specified in subparagraph (A), but may charge the borrower an amount specified by the Secretary and not to exceed 18.5% of the principal amount of the defaulted loan at the time of consolidation, to defray the guaranty agency's collection costs on the defaulted loan to be consolidated.'';

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

''(7) SECRETARY AUTHORIZED TO RENEW OR MAKE ALTERNATE AGREEMENTS.—Notwithstanding any other provision of law, once the initial agreement with a guaranty agency entered into after the date of enactment of the Student Financial Aid Improvements Act of 1997 has ended (through its expiration, the termination of the guaranty agency agreement by the Secretary in accordance with paragraph (9), or the resignation of the guaranty agency, as the case may be), the Secretary, in his discretion, may enter into—

''(A) another agreement with the guaranty agency;

''(B) an alternate agreement under which the functions previously performed by the guaranty agency shall be performed by another State or private nonprofit agency with which the Secretary has an agreement under this subsection; or

''(C) a contract under section 428E.'';

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

''(9) TERMINATION OF GUARANTY AGENCY AGREEMENTS.—(A) A guaranty agency's agreement under this subsection may be ended in advance of its expiration date in accordance with subparagraph (B), or (C). If its agreement is so ended, the guaranty agency shall immediately—

''(i) cease to be an agent of the Secretary for purposes of the program under this part; and

''(ii) surrender all remaining liquid and non-liquid reserve funds, and assets purchased or developed with reserve funds, still held by the guaranty agency (including reserves held by, or under the control of, any other entity) to the Secretary or the Secretary's designated agent.

(B) A guaranty agency's agreement under this subsection shall be void, and the Secretary shall immediately so notify such guaranty agency, if—

''(i) the guaranty agency fails to comply in a timely manner with the recall of reserve requirements of section 422(h);

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

''(iii) any other agreement that the guaranty agency has with the Secretary is terminated;

''(iv) the guaranty agency becomes insolvent or declares bankruptcy; or

''(v) there is any legal impediment to the guaranty agency substantially preforming its responsibilities under the agreement.

''(C) The Secretary shall, after notice and opportunity for a hearing, terminate a guaranty agency that has substantially failed to achieve an acceptable level of performance under its agreement with the Secretary. A substantial performance failure under this subparagraph may include the existence of material internal control weaknesses relating to data quality in the guaranty agency's audits for each of two years (that may or may not be consecutive) in the five year period of the agreement under this subsection.

''(D) Notwithstanding any other provision of Federal or State law, if the Secretary has terminated or is seeking to terminate a guaranty agency's agreement in advance of its expiration date—

''(i) no State court may issue any order affecting the Secretary's actions with respect to such guaranty agency;

''(ii) any contract with respect to the administration of reserve funds held by a guaranty agency, or the administration of any assets purchased or developed with the reserve funds of the guaranty agency, that is entered into or extended by the guaranty agency, or any other party on behalf of or with the concurrence of the guaranty agency, after the date of enactment of the Student Financial Aid Improvements Act of 1997 shall provide that the contract is terminable by the Secretary upon 30 days notice to the contracting parties if the Secretary determines that such contract includes an impermissible transfer of the reserve funds or assets, or is otherwise inconsistent with the terms or purposes of this section; and

''(iii) no provision of State law shall apply to the actions of the Secretary in terminating the operations of a guaranty agency.''; and

(H) by adding after paragraph (9) the following new paragraph:

''(10) USE OF SURPLUS FUNDS.—(A) A guaranty agency with an agreement under this subsection may retain the amount determined in accordance with subparagraph (B) for activities in support of postsecondary education that are approved by the Secretary.

''(B)(i) A guaranty agency may retain 50 percent of its net revenues for fiscal year 1998 in excess of the guaranty agency's need for working capital for such year, as determined after compliance with section 422(h), for approved activities.

''(ii) A guaranty agency may retain for approved activities for fiscal year 1999 and succeeding fiscal years the lesser of—

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

''(ii) the amount of its net revenues for such year in excess of its need for working capital, as determined after compliance with section 422(h), that is equal to a uniform percentage, established annually by the Secretary, of federal revenues received by the guaranty agency for the preceding year. In determining such percentage, the Secretary shall take into account all guaranty agencies' revenues and costs for the preceding year to determine an adequate level of economic incentive for guaranty agencies to maximize their efficiency.'';

(4) by amending subsection (g) to read as follows:

''(g) DEFAULT PREVENTION FEE PAID BY LENDERS.—(1) An eligible lender shall pay a guaranty agency, to which such lender referred a delinquent loan, a default prevention fee of not to exceed $100 per borrower account if the guaranty agency succeeds in bringing such loan into current repayment status.

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

(5) in subsection (l)—

(A) in paragraph (1), by striking the paragraph designation and the paragraph heading; and

(B) by striking paragraph (2).

(b) Section 435(j) of the Act is amended by striking ''section 428(b).'' and inserting ''section 428(c).''

REPEAL OF STATE SHARE OF DEFAULT COSTS

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

CONSOLIDATION LOANS

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

(1) in subsection (a)(3)—

(A) in subparagraph (A), by inserting ''in an in-school period,'' after ''for a consolidation loan is''; and

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

''(i) Eligible student loans received by the eligible borrower may be added to a consolidation loan during the 180-day period following the making of such consolidation loan.'';

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

''(ii) provides that interest shall accrue and be paid—

''(I) by the Secretary, in the case of a consolidation loan made before October 1, 1997 that consolidated only Federal Stafford Loans for which the student borrower received an interest subsidy under section 428;

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

''(III) by the borrower, or capitalized, in the case of a consolidation loan, or portion thereof, other than one described in subclause (I) or (II);''; and

(3) in subsection (c)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking ''subparagraph (B) or (C).'' and inserting ''subparagraph (B), (C), (D), or (E), and subject to subparagraph (F).'';

(ii) in subparagraph (C), by striking ''after July 1, 1994,'' and inserting ''after July 1, 1994 and before October 1, 1997,''; and

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

''(D) A consolidation loan made on or after October 1, 1997, that repays loans made under section 428 or 428H, or a combination thereof, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to—

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

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

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

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

''(i) a borrower of a consolidation loan that repays a combination of loans eligible to be consolidated under this section, shall continue to receive, after consolidation, any interest subsidy benefits associated with a loan, without extending such benefits to any other loans consolidated that do not have interest subsidy benefits;

''(ii) in the case of a consolidation loan that repays a combination of loans described in subparagraphs (D) and (E), the interest rate on such consolidation loan shall be calculated in a manner that reflects the interest rate applicable to loans made under each such subparagraph; and

''(iii) in the case of a consolidation loan that repays a loan eligible to be consolidated

under this section other than those described in subparagraphs (D) and (E), the interest rate applicable to such other loan shall be the interest rate described in subparagraph (D) if such other loan is considered by the Secretary to be subsidized, and the interest rate described in subparagraph (E) if such other loan is considered by the Secretary to be unsubsidized.''; and

(B) in paragraph (4)—

(i) by striking ''Repayment'' and inserting ''(A) Except as provided in subparagraph (B), repayment''; and

(ii) by adding after subparagraph (A) (as redesignated by clause (i)) the following new subparagraph:

''(B) In the case of a consolidation loan that repays a loan made under this part for which the borrower is in an in-school period at the time the consolidation application is received, the repayment period for such consolidation loan shall commence after the completion of a grace period, as described in section 428(b)(7)(i).''.

CONTRACTS WITH OTHER ENTITIES

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

''CONTRACT AUTHORITY

''SEC. 428E. The Secretary may enter into one or more contracts to carry out any of the functions that otherwise would be carried out by a guaranty agency with an agreement under section 428(c).''.

ELIGIBLE LENDER

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

(1) in paragraph (1), by striking ''(6),'' and inserting ''(7),''; and

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

''(7) UNIFORM TERMS AND CONDITIONS.—Subject to such exceptions as the Secretary may prescribe in regulations, the term 'eligible lender' shall not include any lender that offers different terms and conditions to different borrowers of the same type of loan made or insured under this part.''.

SPECIAL ALLOWANCE

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

(1) in subsection (a)(3), by striking ''quarterly rate'' each place it appears and inserting ''rate''; and

(2) in subsection (b)—

(A) in paragraph (2)—

(i) by striking ''subparagraphs (B), (C), (D), (E), and (F)'' and inserting ''subparagraphs (B), (C), (D), (E), (F), and (G)''; and

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

''(G)(i) Notwithstanding any other provision of this section, in the case of loans made or insured under this part for which the first disbursement is made on or after October 1, 1997, the special allowance paid pursuant to this subsection shall be computed for any 12-month period beginning on July 1 and ending on June 30 by—

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

''(II) subtracting the applicable interest rate on such loans from such amount.

''(ii) The amount of special allowance computed under clause (i) shall be paid in quarterly increments for the 3-month periods described in paragraph (1).''; and

(B) in paragraph (3), in the second sentence, by striking ''determined for any such 3-month period shall be paid promptly after the close of such period,'' and inserting ''calculated under this subsection shall be paid promptly after the close of the 3-month period for which such special allowance payment is due.''.

STUDENT LOAN MARKETING ASSOCIATION OFFSET FREE

SEC. 132. Section 439(h)(7) of the Act is amended by adding after subparagraph (C) the following new subparagraph:

''(D) The calculation of the fee required under subparagraph (A) or (B), as the case may be, shall be determined on the basis of the principal amount of all loans (except for loans made under section 428C, 430(o) or 430(q))—

''(i) owned, in whole or in part, by the Association, any subsidiary of the Association, or any company, trust or other entity owned by, or controlled by, the Association; or

''(ii) held by a trust (including a trustee on behalf of a trust), or by any other entity in which the Association, or any subsidiary, holds more than a minimal beneficial interest (as determined by the Secretary).''.

DIRECT LOAN TRANSITION FEE

SEC. 133. Section 452(b) of the Act is amended to read as follows:

''(b) TRANSITIION FEES.—The Secretary shall pay fees to institutions of higher education (or a consortium of those institutions) with agreements under section 454(b), in the first year of their participation in the program authorized by this part, in order to compensate for costs associated with their transition to the program. The fees shall not exceed an average of $10 per borrower at all institutions receiving the fees.''.

FUNDS FOR ADMINISTRATIVE EXPENSES

SEC. 134. Section 458(a) of the Act is amended, in the first sentence, by striking ''$260,000,000'' through the end of the sentence and inserting the following: ''$532,000,000 in fiscal year 1998, $610,000,000 in fiscal year 1999, $705,000,000 in fiscal year 2000, $806,000,000 in fiscal year 2001, and $904,000,000 in fiscal year 2002.''.

PART C—NEED ANALYSIS AND GENERAL PROVISIONS

HOPE SCHOLARSHIP NEED ANALYSIS AMENDMENTS

SEC. 141.(a) CALCULATION OF AVAILABLE INCOME.—(1) Section 475 of the Act is amended—

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

''(A) the sum of—

''(i) Federal income taxes;

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

''(iii) the amount by which tax liability determined without regard to the deduction provided under section 221 of the Internal Revenue Code exceeds the amount of tax liability determined after taking such deduction into account;''; and

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

''(A) the sum of—

''(i) Federal income taxes;

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

''(iii) the amount by which tax liability determined without regard to the deduction provided under section 221 of the Internal Revenue Code exceeds the amount of tax liability determined after taking such deduction into account;''.

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

''(A) the sum of—

''(i) Federal income taxes;

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

''(iii) the amount by which tax liability determined without regard to the deduction provided under section 221 of the Internal Revenue Code exceeds the amount of tax liability determined after taking such deduction into account;''.

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

''(A) the sum of—

''(i) Federal income taxes;

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

''(iii) the amount by which tax liability determined without regard to the deduction provided under section 221 of the Internal Revenue Code exceeds the amount of tax liability determined after taking such deduction into account;''.

(b) DEFINITIONS.—Section 480 of the Act is amended—

(1) in subsection (a)(2)—

(A) by striking ''and no portion'' and inserting ''no portion''; and

(B) by inserting after ''(42 U.S.C. 12571 et seq.),'' the following: ''and no portion of any tax credit taken under section 24A of the Internal Revenue Code of 1986,'';

(2) in subsection (b)—

(A) in paragraph (13), by striking ''and'' at the end of the paragraph;

(B) by redesignating paragraph (14) as paragraph (15); and

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

''(14) any tax deduction taken under section 221 of the Internal Revenue Code of 1986; and'';

(3) in subsection (e)—

(A) in paragraph (3), by striking ''and'' at the end of the paragraph;

(B) in paragraph (4), by striking the period at the end of the paragraph and inserting ''; and''; and

(C) by adding after paragraph (4) the following new paragraph:

''(5) any tax credit taken under section 24A of the Internal Revenue Code of 1986; and'';

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

''(4) Notwithstanding paragraph (1), a tax credit taken under section 24A of the Internal Revenue Code of 1986 shall not be treated as estimated financial assistance for purposes of section 471(3).''.

INCOME PROTECTION ALLOWANCE FOR INDEPENDENT STUDENTS WITHOUT DEPENDENTS

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

(1) in paragraph (1)—

(A) in subparagraph (A)—

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

''(iv) an income protection allowance, determined in accordance with paragraph (4);''; and

(ii) in clause (v), by striking ''paragraph (4);'' and inserting ''paragraph (5);''; and

(B) in subparagraph (B), by striking ''paragraph (5).'' and inserting ''paragraph (6).'';

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

(3) by inserting after paragraph (3) the following new paragraph:

''(4) INCOME PROTECTION ALLOWANCE.—The income protection allowance is determined by the following table (or a successor table prescribed by the Secretary under section 478):

''INCOME PROTECTION ALLOWANCE

Family Size (including student)	Number in College	
	1	2
1	8,000	
2	10,250	8,720''.

(b) Section 478(b) of the Act is amended by striking ''sections 475(c)(4) and 477(b)(4).'' and inserting ''sections 475(c)(4), 476(b)(4), and 477(b)(4).''.

HOPE SCHOLARSHIP DEFINITIONS

SEC. 143. Section 481 of the Act is amended by adding after subsection (f) the following new subsection:

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

''(A) academic period;

''(B) normal full-time workload;

''(C) first two years of postsecondary education;

''(D) qualifying grade point average;

''(E) job skills; and

''(F) new job skills.

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

EXTENSION OF STUDENT AID PROGRAMS

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

(1) in section 401(a)(1), by striking ''September 30, 1998,'' and inserting ''September 30, 1999,'';

(2) in section 424(a), by striking ''1998.'' and ''2002.'' and inserting ''2002.'' and ''2006.'', respectively;

(3) in section 428(a)(5), by striking ''1998,'' and ''2002.'' and inserting ''2002,'' and ''2006.'', respectively;

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

(5) in section 466—

(A) in subsection (a)—

(i) in the matter preceding paragraph (1), by striking ''September 30, 1996,'' and ''March 31, 1997,'' and inserting ''September 30, 1998,'' and ''March 31, 1999'', respectively; and

(ii) in paragraph (1), by striking ''September 30, 1996,'' and inserting ''September 30, 1998,'';

(B) in subsection (b), by striking ''September 30, 1996,'' and inserting ''September 30, 1998,''; and

(C) in subsection (c), by striking out ''October 1, 1997,'' and inserting ''October 1, 1998,''.

PART D—EFFECTIVE DATES

EFFECTIVE DATES

SEC. 151. (a) Except as otherwise provided in this section, the amendments made by this title shall take effect on the date of enactment of this Act.

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

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

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

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

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

(g) Section 232 is effective as if it were enacted on August 10, 1993, but does not apply to the privatized entity that may be created as a result of the Student Loan Marketing Association Reorganization Act of 1996 (Title VI of the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, 1997, as enacted by section 101(e) of Division A of Pub. L. No. 104–208).

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

U.S. DEPARTMENT OF EDUCATION,
Washington, DC, March 20, 1997.

Hon. ALBERT GORE, Jr.,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: We are enclosing for the consideration of the Congress the Administration's legislative proposal entitled ''The Hope and Opportunity for Postsecondary Education (HOPE) Act of 1997.'' This bill, which includes higher education tax and spending proposals, would promote access to college for low- and middle-income students and provide tax relief to middle-income families struggling to pay for college. These proposals are fully paid for in the President's fiscal year 1998 budget proposal. An identical letter is being sent to the Speaker of the House.

The need for higher education—both for the individual and the Nation—has never been greater. Economic prosperity in the next century will come through productivity gains and technological advances that require an adaptable and highly-skilled work force. Those nations that provide their citizens with opportunities to gain higher level skills and to learn throughout a lifetime will thrive.

The Federal student aid programs have already opened the doors to college for millions of Americans. Despite making tremendous gains in access to college, students from lower-income families still are far less likely to attend college or earn a degree than are students from higher-income families. Even students from middle-income families are only one-half as likely to earn a college degree as those from upper-income families. This gap shows that we must do more to make higher education readily available to all.

To enable all of our citizens, young and old, to gain access to higher education and training, and to strengthen the Nation's ability to compete in the global economy, the Administration proposes a set of integrated grant, loan and tax relief measures that would: create HOPE Scholarships, higher education tax deductions and other tax benefits worth $38.6 billion between fiscal years 1997 and 2002; create strong incentives for saving to help families pay for postsecondary education costs; significantly increase the amount of grant aid available to needy students through the Pell Grant program; and reduce up-front fees in the loan programs to put an additional $2.6 billion over five years in the hands of students. These targeted financing proposals would help our citizens acquire and maintain the knowledge and skills they need to be productive throughout their lives.

TITLE I—TAX PROVISIONS

This section of the bill would create a HOPE Scholarship tax credit to help make 14 years of education the standard for all Americans. A taxpayer could claim a $1,500 per-student nonrefundable tax credit for tuition and required fees for enrollment of the taxpayer, the taxpayer's spouse, or the taxpayer's dependent in a postsecondary degree or certificate program.

The credit would be available for payments made after December 31, 1996 with respect to education commencing on or after July 1, 1997. The amount of the credit would be reduced by other non-taxable Federal educational grants, such as Pell Grants, received by the student. The student could claim the credit for two different years, so long as he or she is enrolled on at least a half-time basis in each of those years. The HOPE Scholarship would be available for a second year only if the student had obtained at least a B-minus average for all prior postsecondary course work completed before the beginning of the second taxable year. A credit would not be available in any year for a student who had been convicted of a drug-related felony. The maximum credit amount would be indexed for inflation beginning in 1998.

In addition to the HOPE Scholarship tax credit, an annual tax deduction of up to $5,000 per family ($10,000 after 1998) would be permitted for the tuition costs of college, graduate study, job training, or retraining for the taxpayer, or the taxpayer's spouse or dependents. The deduction would be available to all taxpayers, whether or not they itemized deductions. Because the deduction would be available for students enrolled in as little as one course at a time if the course is career-enhancing, it would be especially valuable for working adults seeking to improve their job skills.

A taxpayer could claim either the HOPE Scholarship tax credit or the tax deduction but not both, for a student's expenses in the same tax year. In addition, both the credit and deduction would be phased out for taxpayers filing a joint return with adjusted gross income (AGI) between $80,000 and $10,000. For taxpayers filing a head-of-household or single return, the credit and deduction would be phased out for those with AGI between $50,000 and $70,000. The phase-out ranges would be indexed for inflation beginning in 2001. Education expenses qualifying for the credit and deduction include tuition and fees paid to institutions eligible to participate in Federal student aid programs under the Higher Education Act (HEA).

This bill would exempt from taxation up to $5,250 annually in employer-provided educational assistance and restore this benefit for graduate level education. In addition, beginning in 1998, small businesses would be eligible for a new credit equal to 10 percent of amounts spent on worker training provided by third parties. The bill also would provide tax relief for loan forgiveness so that students whose loans are forgiven by charitable or educational institutions in return for community service, and borrowers whose Direct Loans are forgiven after 25 years in the Income Contingent Repayment plan, are not taxed on the forgiven amount.

As you know, in addition to the tax proposals contained in the HOPE Act, the President has also proposed targeted tax cuts to help middle-income Americans raise their young children and save for the future. Under the economic and technical assumptions of the Office of Management and Budget (OMB), which we stand behind, all of these tax cuts could be made permanent, and the President's budget would still reach balance in 2002.

At the same time, the President has committed to reach balance in 2002 under the assumptions of the Congressional Budget Office (CBO) as well. For the sole purpose of ensuring that CBO continues to score the President's budget as balanced in 2002, we have included in this proposal, and elsewhere, sunset dates that would end most of our tax cuts after the year 2000. However, the President's budget also includes a fast-track procedure for the Congress to extend the tax cuts if, as we believe, OMB's assumptions prove more accurate than CBO's, and we can still reach balance in 2002.

TITLE II—STUDENT AID PROVISIONS

The Administration is proposing funding sufficient to establish the maximum Pell Grant award at $3,000 in its fiscal year 1998 appropriation request, up from $2,700 in fiscal year 1997. The HOPE Act contains language that would reinforce this funding request by requiring that the Pell Grant maximum award be at least $3,000, a level that is needed to help restore the value of the grant and to provide a meaningful level of support.

This bill also proposes substantial improvements in the way financial need is determined for disadvantaged independent students who do not have dependents (other than a spouse). The bill would set the income protection allowances for independent students who do not have dependents in the same way as the allowances used for other students. The Administration has included an amendment in the 1998 appropriation language for the 1998–99 award year. This bill would make a permanent change to the HEA for later years.

The proposed bill would amend the HEA to reduce loan fees for students by $2.6 billion over five years and lower interest rates for Unsubsidized Stafford Loan borrowers by one percentage point, thereby saving students an additional $1 billion over five years. The bill also would standardize benefits for students, to the extent practicable, across the Direct Loan and Federal Family Education Loan (FFEL) programs, and address a number of structural problems and inefficiencies in the FFEL program.

Under this bill, borrowers would realize substantial benefits as loan origination fees are cut in half for the neediest students and by 25 percent for others. Interest rates on Unsubsidized Stafford loans would be lowered by one percentage point while borrowers are in school. Lenders would be required to offer the same terms to all borrowers for the same type of loan—just as the government is required to do under the Direct Loan program. Borrowers who consolidate loans within FFEL would receive the same interest rates and comparable benefits to those who consolidate in Direct Loans.

This bill proposes a number of changes to the FFEL guaranty agency system in recognition that these State and private nonprofit entities are not the ultimate guarantors of FFEL and act only as administrative agents of the Federal government. Because the Federal government is the sole insurer of FFEL loans, the Secretary would undertake the obligation to pay lenders directly using his agents and recall guaranty agency reserves over the next five years, saving some $2.5 billion.

To address structural deficiencies that hamper default prevention activities, guaranty agencies would be authorized to retain no more than 18.5 percent of default collections—comparable to the Department's cost of collections—not the arbitrary 27 percent guaranty agencies retain under current law. Guaranty agencies would receive a default prevention fee from lenders when delinquent loans are brought current. To further encourage default prevention, lender risk-sharing would be increased to 5 percent from 2 percent, and lenders would be required to offer borrowers certain additional flexible repayment options now offered under the Direct Loan program.

A more complete summary of the bill's provisions is contained in the Section-By-Section Analysis enclosed with this letter.

This bill is part of an ambitious national agenda—an agenda for the next century that places education at the center and recognizes that all workers need to possess ever higher levels of skills throughout their lifetime. Provisions in this bill reflect the Administration's strong belief that we must raise educational expectations and make 14 years of education the standard for every American. At the same time, this bill offers substantial increases in benefits to needy students, significant, targeted education tax relief to working and middle-income families, and lifelong learning opportunities for all Americans.

The HOPE Act creates a powerful new way for the Nation to invest in its citizens and the economy. I urge you to join me in supporting this legislation. The Office of Management and Budget advises that there is no objection to the submission of this legislation to the Congress and that its enactment would be in accord with the program of the President.

Pay-As-You-Go Requirement

The Omnibus Budget Reconciliation Act of 1990 requires that all revenue and direct spending legislation meet a pay-as-you-go requirement. That is, no such bill should result in an increase in the deficit; and if it does, it will trigger a sequester if not fully offset.

EDUCATION TAX INCENTIVES—CHANGE IN FEDERAL REVENUES

[Millions of dollars]

	1997	1998	1999	2000	2001	2002	97–02
PAYGO—on-budget	−138	−4,479	−6,662	−8,372	−8,819	−9,349	−37,819
Non-PAYGO—off-budget	−28	−210	−207	−234	−60	0	−739
Total Receipts—Effects	−166	−4,689	−6,869	−8,606	−8,879	−9,349	−38,558

STUDENT LOAN PROVISIONS—CHANGE IN BUDGET AUTHORITY AND OUTLAYS

[Millions of dollars]

	1997	1998	1999	2000	2001	2002	97–02
Loans: Budget Authority	−340	−1,304	−154	−190	−193	−1,287	−3,468
Loans: Outlays	−340	−1,050	−347	−225	−210	−1,294	−3,466

Sincerely,

RICHARD W. RILEY,
Secretary of Education.
ROBERT RUBIN,
Secretary of the Treasury.

THE HOPE AND OPPORTUNITY FOR POSTSECONDARY EDUCATION ACT OF 1997

SECTION-BY-SECTION ANALYSIS

TITLE I—EDUCATION AND TRAINING TAX INCENTIVES

HOPE SCHOLARSHIP TUITION TAX CREDIT AND EDUCATION AND JOB TRAINING TAX DEDUCTION

Current Law

Taxpayers generally may not deduct the expenses of higher education and training. There are, however, special circumstances in which deductions for higher education expenses are allowed, or in which the payment of higher education expenses by others is excluded from income.

Higher education expenses may be deductible, but only if the taxpayer itemizes deductions, and only to the extent that the expenses, along with other miscellaneous itemized deductions, exceed two percent of adjusted gross income (AGI). A deduction for educational purposes is allowed only if the education maintains or improves a skill required in the individual's employment or other trade or business, or is required by the individual's employer, or by law or regulation for the individual to retain his or her current job.

The interest from qualified U.S. savings bonds is excluded from a taxpayer's gross income to the extent the proceeds of the bonds are used to pay qualified educational expenses. To be qualified, the savings bonds must be purchased after December 31, 1989, by a person who has attained the age of 24. The interest exclusion is phased out for taxpayers with AGI over certain amounts. For 1996, the exclusion was phased out for taxpayers with modified AGI between $49,450 and $64,450 ($74,200 and $104,200 for joint returns). Qualified educational expenses consist of tuition and fees for enrollment of the taxpayer, the taxpayer's spouse, or the taxpayer's dependent at a public or non-profit institution of higher education, including two-year colleges and vocational schools.

Reasons for Change

Well-educated workers are essential to an economy experiencing technological change and facing global competition. The Administration believes that reducing the after-tax cost of education for individuals and families through tax credits and deductions will encourage investment in education and training while lowering tax burdens for middle-income taxpayers.

The expenses of higher education place a significant burden on many middle-class families. Grants and subsidized loans are available to students from low- and moderate-income families; high-income families can afford the cost of higher education. The combination of Federal grants and a tax credit reduces the after-tax cost of higher education, creating a Federal guarantee of a specified amount of assistance for higher education expenses by reducing the after-tax cost of higher education. This guarantee will help make 14 years of education the norm in America.

Proposal

As described in detail below, taxpayers would be able to claim a non-refundable tax credit or a tax deduction for qualified higher education expenses incurred for themselves, their spouses or their dependents during their first two years of postsecondary education in a degree or certificate program. If the requirements for both the credit and the deduction were met with respect to a particular student's expenses, the taxpayer would be free to choose either the credit or the deduction for those expenses. The deduction, but not the credit, would be available for qualified higher education expenses incurred after the first two years of postsecondary education or at any time for courses that enable the taxpayer, the taxpayer's spouse or dependent to acquire or improve job skills.

HOPE Scholarship Tuition Credit

A taxpayer would be allowed a non-refundable credit against Federal income tax for qualified higher education expenses paid during the taxable year for the education of the taxpayer, the taxpayer's spouse, or the taxpayer's dependents. The credit would be

available with respect to an individual student for two taxable years, provided the student has not completed the first two years of postsecondary education.

A credit for qualified higher education expenses would be available in the taxable year the expenses are paid, subject to the requirement that the education commence or continue during that year or during the first three months of the next year, and provided the student is enrolled during the year (or in the first three months of the next year) at least half-time in a degree or certificate program. Qualified higher education expenses paid with the proceeds of a loan generally would be eligible for the credit (rather than repayment of the loan itself). The credit would be recaptured where a student or the taxpayer received a refund (or reimbursement through insurance) of tuition and fees for which a credit had been claimed in a prior year.

With respect to an individual student, a taxpayer is limited to a tuition tax credit of the lesser of the taxpayer's qualified higher education expenses and the maximum credit amount. The maximum credit for a taxable year would be $1500, reduced by any Federal educational grants, such as Pell Grants, awarded for that year (or for education beginning in the first three months of the next year, if credits are claimed based on payments for that education). Beginning in 1998, the maximum credit amount would be indexed for inflation, rounded down to the closest multiple of $50.

The maximum credit amount would be phased out ratably for taxpayers with modified AGI between $50,000 and $70,000 ($80,000 and $100,000 for joint returns). Modified AGI would include taxable Social Security benefits and amounts otherwise excluded with respect to income earned abroad (or income from Puerto Rico or U.S. possessions), and would be determined before the deduction for education expenses contained in this proposal. Beginning in 2001, the income phaseout ranges would be indexed for inflation, rounded down to the closest multiple of $5000.[1]

Qualified higher education expenses would be defined as tuition and fees charged by an institution of higher education that are directly related to an eligible student's course of study (e.g., registration fees, laboratory fees, and extra charges for particular courses). Charges and expenses associated with meals, lodging, student activities, athletics, health care, transportation, books and similar personal, living or family expenses would not be included. The expenses of education involving sports, games or hobbies would not be qualified higher education expenses unless this education is required as part of a degree program.

Qualified higher education expenses generally would include only out-of-pocket tuition and fees. Qualified higher education expenses would not include expenses covered by educational assistance that is not required to be included in the gross income of either the student or the taxpayer claiming the credit. Thus, total tuition and required fees would be reduced by scholarship or fellowship grants excludable from gross income under section 117 of the Internal Revenue Code (scholarships and fellowships that pay for tuition, required fees, books and equipment) and any educational assistance received as veterans' benefits. However, assistance with expenses other than tuition, required fees and books, such as expenses associated with meals, lodging, student activities, athletics, health care and transportation, could be received without a reduction of creditable higher education expenses. In addition, qualified higher education expenses would be reduced by the interest from qualified U.S. savings bonds that is excluded from a taxpayer's gross income for the taxable year. However, no reduction would be required for a gift, bequest, devise, or inheritance within the meaning of section 102(a).

An eligible student would be one who is enrolled or accepted for enrollment during the taxable year in a degree, certificate, or other program (including a program of study abroad approved for credit by the institution at which such student is enrolled) leading to a recognized educational credential at an eligible institution. The student must pursue a course of study on at least a half-time basis. In addition, for a student's qualified higher education expenses to be eligible for the credit, the student must not have been convicted of a Federal or state felony consisting of the possession or distribution of certain drugs, and generally cannot be a nonresident alien. Furthermore, a taxpayer would not be entitled to a credit for a second taxable year unless the student obtained a qualifying grade point average for all previous postsecondary education. Generally, this would be an average of at least 2.75 on a 4-point scale, or a substantially similar measure of achievement. This provision would allow institutions that do not use a 4-point grading scale to retain their own system while still allowing their students to qualify for the credit: these institutions will determine what measure under the system they use reasonably approximates a B- grade point average.

An ''institution of higher education'' is defined by reference to section 481 of the Higher Education Act. Such institutions generally would be accredited postsecondary educational institutions offering credit toward a bachelor's degree, an associate's degree, or another recognized postsecondary credential. They could also be proprietary institutions or postsecondary vocational institutions. The institution must be eligible to participate in Department of Education student aid programs.

This proposed credit would not affect deductions claimed under any other section of the Code, except that if a student's qualified higher education expenses for a taxable year are deducted under another section of the Code (including the proposed deduction for education expenses) no credit would be available. If a taxpayer is eligible to claim either the credit or the deduction for qualified higher education expenses with regard to a single student, the taxpayer may choose between the credit and the deduction, but may not claim both. In addition, a taxpayer may claim the credit for some students and the deduction for others. An eligible student would not be entitled to claim a credit under this provision if that student is claimed as a dependent for tax purposes by another taxpayer. If a parent claims a student as a dependent, any education expenses paid by the student would be treated as paid by the parent for purposes of this proposal.

The Secretary of the Treasury and the Secretary of Education, operating in close consultation, will have authority to issue regulations to implement the provisions. The Secretary of the Treasury generally would be authorized to issue regulations to implement this section of the Internal Revenue Code. For example, the Secretary of the Treasury would have authority to issue regulations providing appropriate rules for recordkeeping and information of reporting. These regulations would address the information reports institutions of higher education would file to assist students and the IRS in determining whether a student meets the eligibility requirements for the credit and calculating the amount of the credit that is potentially available. However, certain terms would be defined by reference to the Higher Education Act of 1965. The Secretary of Education would have the authority to issue regulations under those provisions as well as authority to define other education terms as necessary. The Secretary of the Treasury and the Secretary of Education would coordinate their work in developing their respective regulations.

The proposal would be effective for payments made on or after January 1, 1997, for education commencing on or after July 1, 1997.

Education and Job Training Tax Deduction

A taxpayer would be allowed a deduction for qualified higher education expenses paid during the taxable year for the education or training of the taxpayer, the taxpayer's spouse, or the taxpayer's dependents. The deduction would be allowed in determining AGI. Therefore, taxpayer's could claim the deduction even if they do not itemize their deductions and even if they do not meet the two-percent of AGI floor on miscellaneous itemized deductions.

The term ''eligible student'' generally is defined in the same way for the proposed deduction as it is for the proposed tuition credit, that is, to include students enrolled at least half-time in a degree or certificate program at an institution of higher education. However, a student taking a course to improve or acquire jobs skills would also be an eligible student for purposes of the deduction. Qualified higher education expenses would also be defined in the same way for the deduction proposal as they are for the tuition credit proposal, that is, tuition and required fees that are directly related to an eligible student's course of study.

''Institution of higher education'' is defined the same way for purposes of this proposal as it is in the tuition credit proposal.

Qualified higher education expenses would be deductible in the taxable year the expenses are paid, subject to the requirement that the education commences or continues during that year or during the first three months of the next year. Deductible educational expenses paid with the proceeds of a loan generally would be deductible (rather the repayment of the loan itself). Normal tax benefits rules would apply to refunds (and reimbursement through insurance) of previously deducted tuition and fees, making such refunds includable in income in the year received.

In 1997 and 1998 the maximum deduction for a taxpayer would be $5,000. In 1999 and thereafter, this maximum would increase to $10,000. The deduction would be phased out ratably over an income range in the same way as the credit. The maximum deduction would not vary with the number of students in a family.

This proposal would not affect deductions claimed under any other section of the Code, except that any amount deducted under another section of the Code could not also be deducted under this provision. In addition, a taxpayer who claimed a deduction for a student's qualified higher education expenses for a particular taxable year could not also claim a tuition tax credit for any of the student's qualified higher education expenses for the year. A student would not be eligible to claim a deduction under this provision if that student is claimed as a dependent for tax purposes by another taxpayer. If a parent claims a student as a dependent, any education expenses paid by the student will be treated as paid by the parent for purposes of this proposal.

The proposal would grant the Secretary of the Treasury authority to issue regulations

[1] This description of the proposal reflects a modification of the indexing date contained in the OMB analytical materials relating to this proposal.

under this section, including rules requiring record keeping and information reporting.

This proposal would be effective for payments made on or after January 1, 1997, for education commencing on or after July 1, 1997.

TAX INCENTIVES FOR EXPANSION OF STUDENT LOAN FORGIVENESS

Current Law

Generally, a taxpayer has income when all or part of a loan made to the taxpayer is forgiven. However, an exception is provided in section 108(f) for the forgiveness of certain student loans. If the United States, a State or local government, or a public benefit corporation with control over a state, county, or municipal hospital makes a loan to a student to support the student's attendance at an educational institution and subsequently forgives all or part of the loan, the income resulting from the cancellation of indebtedness is excluded from the student's income, provided the loan forgiveness is contingent on the student's working for a certain period of time in certain professions for any of a broad class of employers.

Reasons for Change

The Administration believes in encouraging Americans to use their education and training in community service. Providing tax relief in connection with the forgiveness of certain student loans will help make it possible for students with valuable professional skills to accept lower-paying jobs that serve the public.

Proposal

The income exclusion for student loan forgiveness would be expanded to cover forgiveness of loans extended by nonprofit tax-exempt charitable or educational institutions to their students or graduates when the proceeds are to be used to repay outstanding student loans, provided the loan forgiveness is contingent on the student's working for a certain period of time in certain professions for any of a broad class of employers. The income exclusion would not be available where a loan is extended and then forgiven by an institution that employs the borrower. The exclusion would also be expanded to cover forgiveness of direct student loans made through the William D. Ford Federal Direct Loan Program where loan repayment and forgiveness are contingent on the borrower's income level.

The proposal would be effective with respect to amounts otherwise includable in income after the date of enactment.

EXCLUSION FOR EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE

Current Law

Section 127 provides that an employee's gross income and wages do not include amounts paid or incurred by the employer for educational assistance provided to the employee if such amounts are paid or incurred pursuant to a qualified educational assistance program. This exclusion is limited to $5,250 of educational assistance with respect to an individual during a calendar year. The exclusion applies whether or not the education is job-related. In the absence of this exclusion, educational assistance is excludable from income only if it is related to the employee's current job.

The exclusion for undergraduate education expires in mid-1997. The exclusion does not apply to graduate level courses beginning after mid-1996.

Reason for Change

Well-educated workers are essential to an economy experiencing technological change and facing global competition. Extension of section 127, including reinstatement of its application to graduate courses, will expand educational opportunity and increase productivity. In addition, these provisions will encourage the retraining of current and former employees to reflect the changing needs of the workplace. The extension of section 127 also will simplify the rules for employers and workers by eliminating the need to distinguish between job-related expenses and other employer-provided educational assistance.

Proposal

The section 127 exclusion would be extended through December 31, 2000 and reinstated for graduate education.

SMALL BUSINESS TAX CREDIT FOR EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE

Current Law

Under current law, job-related training and education expenses, as well as amounts paid or incurred by an employer for educational assistance provided to employees pursuant to a qualified educational assistance program, are deductible by the employer. Employer payments for job-related training and amounts paid under a qualified educational assistance program up to $5,250 annually are excluded from the gross income and wages of the employee. No special incentive is provided to assist small businesses in promoting employee education.

Reason for Change

Education and training builds skills and increases the productivity of the American workforce. Well-educated workers are better able to adapt to changes in the workforce and the demands of technological challenges and global competition. An additional incentive is needed to foster increased educational opportunities and workforce training for employees of small businesses that otherwise may be unable to devote sufficient resources to their employees' skill development.

Proposal

Small businesses would be allowed a 10 percent income tax credit for payments made in taxable years beginning after December 31, 1997, and before January 1, 2001, with respect to expenses incurred during those taxable years for education of employees by third parties under an employer-provided educational assistance program. The credit would be available to employers with average annual gross receipts of $10 million or less for the prior three years.

TITLE II—STUDENT FINANCIAL AID PROVISIONS

Section 201.—Section 201 of the bill sets out the short title for Title II of the bill, the ''Student Financial Aid Improvements Act of 1997''.

PART A—PELL GRANTS

Section 211.—Section 211 of the bill would amend section 401 (b)(2)(A) of the Higher Education Act of 1965 (hereinafter referred to as ''the Act'') to provide that, subject to the award rules in section 401(b) of the Act, the Pell Grant maximum award may not be less than $3,000. This increase from the $2,700 maximum for FY 1997, which was in turn a significant increase in the Pell Grant maximum award over previous years, further restores the eroded buying power of Pell Grants. By providing more aid to students at the lowest income levels, this increase would complement the tax proposals in Title I of the bill, which are focused more on middle class students and their families. Together, these proposals would significantly enhance the affordability of postsecondary education.

PART B—STUDENT LOAN PROVISIONS

Section 221.—Section 221 of the bill would add a new subsection (h) to section 422 of the Act, and make conforming changes to subsection (g) of that section. Under new section 422(h), the Secretary would recall from the reserve funds held by guaranty agencies at least $731,000,000 in fiscal year 1998; $127,000,000 in fiscal year 1999; $186,000,000 in each of the fiscal years 2000 and 2001; and $1,271,000,000 in fiscal year 2002. The amounts recalled from each guaranty agency each year would be in proportion to its share of the total reserve funds held by guaranty agencies as of September 30, 1996, and recalled funds would be deposited in the Treasury.

Each guaranty agency would be required, within 45 days of the date of enactment of this provision, to transfer all reserve funds that it holds (that have not yet been recalled) to a restricted account and invest those funds in United States Government securities specified by the Secretary. Except under the working capital provisions described below, the guaranty agency could not use any restricted account funds for any purpose without the express permission of the Secretary.

A guaranty agency would be permitted to use the FY 1998 earnings on its restricted account to assist in meeting its operational expenses. In addition, the Secretary would permit the use of up to $350,000,000 in the aggregate of restricted account funds to be used as working capital to assist with guaranty agency operating expenses. A guaranty agency's share of working capital would be based on its proportionate share of all borrower accounts outstanding on September 30, 1006. Working capital provided to the guaranty agency must be repaid by no later than September 30, 2002, or the date on which the guaranty agency's agreement under section 428(c) ends (through resignation, expiration, or termination), whichever is earlier.

Finally, new subsection 422(h) would specify that non-liquid reserve fund assets, such as buildings and equipment purchased or developed by the guaranty agency with reserve funds, as well as any liquid assets remaining in a guaranty agency's restricted account after the recalls, would remain the property of the United States, could only be used for purposes that the Secretary determines are appropriate, and would be subject to recall by the Secretary no later than the date on which the guaranty agency's agreement under section 428(c) ends.

The proposed recall of reserves is consistent with the legal status of those reserves as Federal property, as well as the current role of the guaranty agency in the Federal Family Education Loan (FFEL) program, as well as the changes proposed in section 226 of the bill, described below. Section 432(o) of the Act, which was added by the Higher Education Amendments of 1992 (P.L. 102–325), clarified that the Secretary is the ultimate insurer of all FFEL guarantees. Thus, guaranty agencies function more like loan servicers than guarantors, and their need for reserve funds is currently limited to their 2 percent risk-sharing requirement, which also comes from Federal funds. The changes proposed in section 226 of the bill would eliminate any need for a guaranty agency to hold capital excess of their working capital requirements.

Section 222.—Section 222 of the bill would amend sections 427, 428(b), 428C, and 455(d) of the bill to provide FFEL borrowers with the extended and graduated repayment options currently available only to Direct Loan borrowers. These new options would be in addition to the standard and income sensitive repayment plans currently available to FFEL borrowers (a more limited form of graduated repayment is also currently available to FFEL borrowers), and would provide far greater flexibility to FFEL borrowers in managing their loan obligations, and therefore may avoid defaults. As with Direct Loan repayment, a FFEL borrower would also

have the ability to change repayment plans. The Secretary would also be required to ensure that, to the extent practicable and not otherwise provided in statute, the repayment plans offered to FFEL borrowers are comparable to Direct Loan repayment plans.

Section 223.—Section 223 of the bill would amend sections 427A and 455 of the Act to reduce the applicable interest rate on all subsidized and unsubsidized FFEL and Direct Loans during in-school, grace, and deferment periods to the same rate as the Department of Education's own borrowing rate, although the interest rates would be capped at the same levels as in current law. This change would reduce Federal costs by reducing excess profits to lenders during times when there are few servicing costs associated with subsidized loans, but the highest profit margins. It would also provide lower interest rates to borrowers of unsubsidized loans while they are in in-school, grace, or deferment periods. Finally, these amendments would standardize interest subsidy costs for the FFEL and Direct Loan programs.

In addition, section 223 of the bill would clarify that the interest rate used to determine the rebate of excess interest under section 427A(i)(7)(B) of the Act was not intended to be used to change special allowance payments for the period affected by the rebate. This change would correct a recent contrary court decision.

Section 224.—Section 224 of the bill would amend section 428(b)(1)(G) of the Act by reducing lenders' insurance rate from 98 to 95 percent. This change would give lenders a greater economic incentive to prevent loan defaults.

Section 225.—Section 225 of the bill would amend sections 428(b)(1)(H), 428H(h), 438(c), and 455(c) of the Act to eliminate the one percent insurance premium that may be charged to a FFEL borrower at the time his or her loan is originated, to reduce FFEL origination fees on subsidized FFELs by one percent (*i.e.,* from three percent to two percent), and to reduce comparably the loan fee charged on Direct Loans. The loan fee for Direct Loans is currently four percent, and is designed to be the equivalent of the FFEL insurance premium plus the FFEL origination fee. Thus, the Direct Loan loan fee would be reduced from four percent to three percent for unsubsidized Direct Loans, and from four percent to two percent for subsidized Direct Loans.

These reductions in fees will provide significant benefits to all students, and will provide additional funds to borrowers up front, at the time that the loan funds are needed to pay for costs of attendance. The proposed changes would also assist in standardizing borrower benefits within the FFEL program as well as between the FFEL and Direct Loan programs, because lenders and guaranty agencies will no longer be able to selectively reduce costs for certain FFEL borrowers by waiving or paying the insurance premium on the borrower's behalf. The Secretary is not authorized to waive or lower loan fees under the Direct Loan program.

The additional reduction in fees for subsidized FFEL and Direct Loans would also complement the HOPE Scholarship and tax deduction proposals in Title I of the bill by significantly reducing loan costs for the neediest students and providing them with additional resources when the loan is originated.

Section 226.—Section 226 of the bill would substantially revise section 428 of the Act to reflect more accurately the current role of the guaranty agency in the FFEL program, and to affirmatively recognize that the Secretary is the sole guarantor of FFELs. Section 432(o) of the Act, which was added by the Higher Education Amendments of 1992 (P.L. 102–325), clarified that the Secretary is the ultimate insurer of all FFEL guarantees. Thus, in practice, guaranty agencies actually function more like loan servicers than guarantors. The changes proposed in section 226 of the bill would treat guaranty agencies in a manner more consistent with their current program functions.

Subsections (a) and (b) of section 428 would be modified and reorganized to reflect the substantive changes proposed primarily to section 428(c) of the Act. Under these changes, the Secretary would be authorized to enter into an agreement with a guaranty agency, under which the Secretary would insure loans with the guaranty agency acting as the agent of the Secretary. Any guaranty agency that had an agreement with the Secretary under section 428(b) on the day before the date of enactment of this bill could enter into an initial agreement with the Secretary, and all existing guaranty agency agreements would expire within 180 days of the date of enactment. Outstanding loan insurance issued by the guaranty agency would be replaced by loan insurance issued by the Secretary, and the guaranty agency would, in general, be relieved of any further liability on the loans. To help ensure a smooth transition, for the first year after the date of enactment the Secretary could specify interim administration measures necessary for the efficient transfer of the loan insurance function.

The new guaranty agreements would be for five years, renewable by the Secretary for successive five-year periods, although the Secretary could terminate the agreements prior to expiration of certain circumstances. After the initial agreement with a guaranty agency entered into after the date of enactment has ended (through its expiration, the termination of the guaranty agency agreement by the Secretary, or the resignation of the guaranty agency), the Secretary, in his discretion, may enter into another agreement with that guaranty agency, an alternate agreement under with a different guaranty agency, or one or more contracts under section 428E (as added by section 229 of the bill) under which contractors would carry out one or more of the functions formerly performed by the guaranty agency.

The agreement between the Secretary and a guaranty agency would specify the responsibilities of the guaranty agency, if any, for: administering the issuance of insurance on FFELs on behalf of the Secretary; monitoring insurance commitments made under this section; default prevention activities; review of default claims made by lenders; payment of default claims, collection of defaulted loans; adoption of internal systems of accounting and auditing that are acceptable to the Secretary; reporting requirements; and monitoring or participating institutions and lenders. The Secretary could also permit the guaranty agency, on a case-by-case basis, to engage in such other businesses, previously purchased or developed with reserve funds, that relate to the FFEL program.

Under the agreement, guaranty agencies would receive the following fees and revenues: a one-time issuance fee for each new FFEL insured by the Secretary through the guaranty agency; and annual maintenance fee for each active borrower account; a default prevention fee, paid by lenders, of not to exceed $100 per borrower account if the guaranty agency succeeds in bringing a loan into current repayment status; a collection retention allowance of not to exceed 18.5 percent, determined on the basis of the Secretary's review of payments for similar services in a competitive environment; the interest earned on working capital provided under section 422(h) (as added by section 221 of the bill); and revenues derived from other FFEL-related businesses in which the Secretary permits the guaranty agency to engage.

In addition to restructuring guaranty agency agreements, the changes proposed in section 226 of the bill would provide guaranty agencies with an incentive to improve their efficiency by permitting them to retain a share of their net revenues for activities, approved by the Secretary, in support of postsecondary education. The share that guaranty agencies may retain and use for this purpose would be calculated by the Secretary after determining an adequate level of economic incentive for guaranty agencies to maximize their efficiency, in an amount not to exceed 50 percent of guaranty agency net revenues.

A guaranty agency would be required to carry out its responsibilities under the agreement in accordance with performance standards specified by the Secretary, which would be uniformly applied to all guaranty agencies. The Secretary would compare the performance of the guaranty agencies with one another, and publicly disseminate the comparison. A guaranty agency that fails to achieve a specified level of performance on one or more performance standards could be fined, and if its failure resulted in a financial loss to the United States, the guaranty agency would be required to indemnify the Secretary for that loss.

A guaranty agency's agreement could be ended in advance of its expiration date, either because its agreement becomes automatically void under certain circumstances, or because the Secretary, after notice and opportunity for a hearing, terminates the guaranty agency for substantially failing to achieve an acceptable level of performance under its agreement.

Finally, while most of the changes proposed in this section of the bill pertain to guaranty agencies and their functions, section 226(a)(2)(E) of the bill would require only eligible lenders that originates or holds more than $5,000,000 in FFELs during an annual audit period to submit to the Secretary a compliance audit for that audit period. This change is similar to exemptions provided in recent Appropriation Acts, and would alleviate the burden and disproportionate expense that annual compliance audits impose on lenders with small FFEL portfolios.

Section 227.—Section 227 of the bill would repeal section 428(n) of the Act, which requires a State to pay to the Secretary an annual amount that represents the State's share of risk for high default rates at institutions within the State. This provision has never been implemented.

Section 228.—Section 228 of the bill would make a number of changes to section 428C of the Act pertaining to FFEL consolidation loans that would make the terms of these loans more comparable to Direct consolidation loans. (Changes to repayment terms for FFEL consolidation loans are proposed in section 222 of the bill.) Section 228 would permit borrowers to obtain a FFEL consolidation loan while they are in ''in-school'' status, and to consolidate FFEL consolidation loans into new FFEL consolidation loans. Lenders would also retain the interest subsidy on the portion of a FFEL consolidation loan that repays subsidized loans, and the interest rate on FFEL consolidation loans would be changed to a variable rate comparable to the rate applicable to Direct consolidation loans. By extending favorable terms currently available only to borrowers of Direct consolidation loans to borrowers of FFEL consolidation loans, these amendments would reduce costs for, and provide greater flexibility to, these FFEL borrowers, particularly those FFEL borrowers with

loans from multiple lenders who have not consolidated these loans because they would lose the benefits associated with the separate loans.

Section 229.—Section 229 of the bill would add a new section 428E to part B of Title IV of the Act that would authorize the Secretary to enter into one or more contracts to carry out any of the functions that otherwise would be carried out by a guaranty agency. This amendment is consistent with the changes to guaranty agency functions that are proposed in section 226 of the bill.

Section 230.—Section 230 of the bill would amend the definition of an ''eligible lender'' in section 435(d) of the Act to require lenders to offer uniform terms and conditions to all borrowers taking out the same type of FFEL loans (for example, Unsubsidized or Consolidation Loans). The Secretary would be authorized to prescribe regulatory exceptions to this requirement.

Section 231.—Section 231 of the bill would amend section 438 of the Act to provide for the computation of special allowance rates at the same time and in the same manner as student loan interest rates (annually rather than quarterly), to eliminate the potential for special allowance payments merely because the rates are calculated on a different cycle.

Section 232.—Section 232 of the bill would amend section 439(h)(7) of the Act to reflect congressional intent that the Student Loan Marketing Association (Sallie Mae) not be able to circumvent the requirement that it pay an offset fee on loans it holds by ''securitizing'' loans upon which it would otherwise be required to pay the offset fee. This provision would also remedy a recent, partially adverse, court decision and would be effective retroactively to August 10, 1993, the date of enactment of the Sallie Mae offset fee requirement, but would not apply to the privatized entity that may be created as a result of the Student Loan Marketing Association Reorganization Act of 1996.

Section 233.—Section 233 of the bill would amend section 452(b) of the Act to replace the statutory requirement (currently overridden by the FY 1997 Appropriation Act) to pay all participating institutions that originate Direct Loans a fee to assist in meeting the costs of loan origination with a fee to be paid only to institutions (or consortia of institutions) in their first year of participation in the Direct Loan program, in order to compensate for costs associated with their transition to the program. The new, more targeted transition fee could not exceed an average of $10 per borrower at the institutions receiving the fee.

Section 234. Section 234 of the bill would amend section 458(a) to specify funding levels through FY 2002 for mandatory administrative expenses for the student financial aid programs, including the Direct Loan program, at levels lower than the current baseline.

PART C—NEED ANALYSIS AND GENERAL PROVISIONS

Section 241.—Section 241 of the bill would make a series of changes to the calculation of a postsecondary student's need for assistance under Title IV of the Act that complement the HOPE Scholarship and deduction proposals in Title I of the bill. These changes are intended to ensure that a student's future eligibility for Title IV assistance is not affected by his or her family's use of the HOPE Scholarship tax credit or the education and training tax deduction. These amendments would: 1) prevent the HOPE Scholarship tax credit from being treated as part of the family's total income by treating the credit amount as ''excludable income'' and making clear that it is not to be treated as ''untaxed income and benefits''; 2) prevent the education and training tax deduction from reducing the family's total income by treating the amount deducted as ''untaxed income and benefits''; 3) ensure that the family's available income is accurately reflected by taking account of federal taxes that would be owed if neither the HOPE Scholarship tax credit nor the education and training tax deduction were available; and 4) prevent the HOPE Scholarship tax credit from substituting for other forms of student aid by making clear that the amount of the credit is not to be treated as ''financial assistance.''

Section 242.—Section 242 of the bill would amend section 476(b) of the bill to make the income protection allowance (IPA) (one factor used in the calculation of a student's need assistance) for independent students without dependents (other than a spouse) comparable to the IPAs used for parents of dependent students and for independent students with dependents. This change would increase the Pell Grant and other need-based aid available to low- and moderate-income students in this category. A conforming change would also be made to section 478(b) of the Act to permit the updating of the numbers used in the IPA calculation to reflect inflation, consistent with the IPA calculations for the other categories of students.

Section 243.—Section 243 of the bill would add a new subsection (g) to section 481 of the Act that would require the Secretary to define in regulations certain education-related terms for purposes of the HOPE Scholarship tax credit and the deduction proposed in Title I of the bill. Section 482(c) of the Act, which requires that regulations must be published in final form by December 1 in order to be effective for the award year beginning the following July 1, shall not apply to these regulations, which pertain to the administration of the tax provisions, not the student aid programs under Title IV.

Section 244.—Section 244 of the bill would amend several provisions of Title IV of the Act primarily to extend the FFEL program and section 458 of the Act through FY 2002. These extensions are necessary in order to make the other changes proposed in this Title for years after FY 1998.

PART D—EFFECTIVE DATES

Section 251.—Section 251 sets out the effective dates for the amendments proposed in this Title of the bill.

Mr. KENNEDY. Mr. President, I give my strong support to President Clinton's HOPE and Opportunity for Postsecondary Education Act of 1997, introduced today by Senator DASCHLE and myself.

Education must continue to be a top priority in Congress. We need to do more to make college accessible and affordable for all students. It is not enough to maintain current spending levels for education. Targeted increases are essential to help students, and also to help colleges deal with increasing enrollments.

Today, college is priced out of reach for many families. From 1980 to 1990, the cost of college rose by 126 percent, while family income increased by only 73 percent. To meet that rising cost, students are going deeper and deeper into debt. In 1993 alone, students borrowed $30 billion—a 65-percent increase since 1993. Since 1988, borrowing in the Federal student loan program has increased by more than 100 percent, while starting salaries for college graduates have failed to increase at all. Many students and their families are fearful of the mounting debt burdens that await college graduates.

The President's bill will help students pay for college in two ways: through tax relief and through increased direct financial aid. With the tax relief, students and their families will be able to choose between a $1,500 HOPE tax credit and a $10,000 tax deduction to pay annual tuition expenses for the first 2 years of postsecondary education, including graduate school The tax deduction is also available to help reduce the cost of further years of education, including graduate school. These two changes will make a college education more affordable for thousands of middle and lower income families.

The bill also provides tax relief for students whose loans are forgiven in return for community service or for low-income wage earners under the income-contingent repayment plan. In addition, the bill provides tax incentives to encourage employers to pay for the further education of their employees.

In the area of direct financial aid, the bill broadens the reach of Pell grants to help the neediest students pay for higher education. It increases the maximum Pell grant from $2,700 to $3,000. It also changes the needs analysis for some independent students by increasing the income protection allowance to make it comparable with that allowance for other categories of students.

The bill also decreases the cost of student loans by reducing interest rates, and by lowering the initial fees charged to students. Borrowing has become an essential part of financing education for millions of students. These provisions will benefit them while they are in college by reducing the initial fees, and after college by lowering the interest rates on the amount they owe.

It is fitting that this bill is being introduced today, because many members of the United States Student Association are here on Capitol Hill this week to urge Congress to give education the high priority it deserves. These students want a better education. They know they need it. And they are worried about how to pay for it. They want Congress to work together to provide the financial assistance they need to pursue their dreams. The presence of these intelligent and committed students reminds us that the future of our country depends on the education they receive. This Congress can open the door of higher education for many more of them.

The President's proposal deserves broad bipartisan support. It is vital for the country that higher education be truly open to all qualified students, without monetary barriers. Investing in education is investing in a stronger America here at home and around the world. I look forward to working with

my colleagues on both sides of the aisle to renew and extend our commitment to higher education.

By Mr. D'AMATO (for himself, Mr. FAIRCLOTH, Mr. BENNETT, Mr. SARBANES, Mr. DODD, Mr. KERRY, Mr. BRYAN, Mrs. BOXER, Ms. MOSELEY-BRAUN, Mr. JOHNSON and Mr. REED):

S. 562. A bill to amend section 255 of the National Housing Act to prevent the funding of unnecessary or excessive costs for obtaining a home equity conversion mortgage; to the Committee on Banking, Housing, and Urban Affairs.

THE SENIOR CITIZEN HOME EQUITY PROTECTION ACT

Mr. D'AMATO. Mr. President, I rise today to introduce legislation which will protect our Nation's senior citizens from exploitation by fraudulent operators who are manipulating the Department of Housing and Urban Development's [HUD] Federal Housing Administration [FHA] home equity conversion mortgage program.

I commend the cosponsors of this legislation and thank them for their support of this essential initiative: Senator LAUCH FAIRCLOTH; Senator ROBERT BENNETT; Senator PAUL SARBANES; Senator CHRISTOPHER DODD; Senator JOHN KERRY; Senator RICHARD BRYAN; Senator BARBARA BOXER; Senator MOSELEY-BRAUN; Senator TIM JOHNSON; and Senator JACK REED.

I am pleased to announce a bicameral, bipartisan response to this injustice. Identical companion legislation is being introduced today by Representative RICK LAZIO, chairman of the House Banking Subcommittee on Housing and Community Opportunity. I salute Congressman LAZIO for his swift response in condemning this outrageous practice and for proposing a legislative solution. I pledge to work side-by-side with him on this important issue until our companion bills become law.

This legislation has been endorsed by the administration. I would like to commend HUD Secretary Andrew Cuomo for recognizing this serious problem, bringing these abuses to our attention, and acting courageously to prohibit their continued occurrence.

The FHA home equity conversion mortgage program offers elderly homeowners the opportunity to borrow against the equity in their homes. This effective program assists our senior citizens who have substantial equity in their property but have incomes too low to meet ordinary or extraordinary living expenses. A program recipient can receive cash through this reverse mortgage in the following ways: a lifetime guaranteed monthly payment; a line of credit; a combination of monthly payment and line-of-credit options; or a lump sum. These mortgages are originated by FHA-approved lenders, insured by the FHA and purchased by the secondary mortgage market.

Since the program's inception, approximately 20,000 loans have been made. The median age of borrowers is 76 years old and the median income is $10,400. This reverse mortgage program represents an ideal public/private partnership in which needy, very-low income Americans are aided without cost to the Federal Government.

Unfortunately, unscrupulous middlemen, posing as service providers or estate planners have taken advantage of seniors by charging unnecessary and excessive fees to assist them in obtaining a home equity conversion mortgage. These predators have charged elderly homeowners fees ranging from 6 to 12 percent of the loan amount. In hundreds of cases, very low-income seniors have been manipulated into paying several thousand dollars in return for ministerial and often meaningless services. The Department of Housing and Urban Development provides information on applying for a reverse mortgage at no cost.

These abuses must be stopped at once. Such exploitation is absolutely unconscionable. The elderly who are being preyed upon are some of the most vulnerable in our society. Reverse mortgage proceeds are generally used by the homeowner to maintain a decent standard of living and pay for essentials like property taxes, medical bills, and groceries.

The legislation we are introducing today will assist HUD with its efforts to ensure that our senior citizens are protected. We must ensure that not even one recipient of a HUD reverse mortgage is charged any unnecessary or excessive costs for obtaining that mortgage.

The bill provides two important safeguards to achieve this purpose. First, it provides a requirement that the mortgagor has received a full disclosure of all costs of obtaining the mortgage, including any costs of estate planning, financial advice or other related services. Second, it clarifies that the HUD Secretary has authority to impose restrictions to ensure that the mortgagor is not charged any unnecessary or excessive costs for obtaining a reverse mortgage.

The legislation requires the HUD Secretary to implement the above described safeguards in an expeditious manner by interim notice. Within 90 days of the date of enactment of this Act, the Secretary shall issue final regulations after providing notice and opportunity for public comment. The terms of the interim notice shall not be effective after the final regulations are in place.

I urge all my colleagues to support this vital legislation and look forward to its speedy passage by the Senate. The Senate, the House of Representatives and the administration must work together quickly to ensure that our Nation's most vulnerable homeowners are no longer victimized.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 562

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Senior Citizen Home Equity Protection Act''.

SEC. 2. DISCLOSURE REQUIREMENTS; PROHIBITION OF FUNDING OF UNNECESSARY OR EXCESSIVE COSTS.

Section 255(d) of the National Housing Act (12 U.S.C. 1715z–20(d)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (B), by striking ''and'' at the end;

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following:

''(C) has received full disclosure of all costs to the mortgagor for obtaining the mortgage, including any costs of estate planning, financial advice, or other related services, and'';

(2) in paragraph (9)(F), by striking ''and'';

(3) in paragraph (10), by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following:

''(11) have been made with such restrictions as the Secretary determines to be appropriate to ensure that the mortgagor does not fund any unnecessary or excessive costs for obtaining the mortgage, including any costs of estate planning, financial advice, or other related services.''.

SEC. 3. IMPLEMENTATION.

(a) NOTICE.—The Secretary of Housing and Urban Development shall, by interim notice, implement the amendments made by section 2 in an expeditious manner, as determined by the Secretary. Such notice shall not be effective after the date of the effectiveness of the final regulations issued under subsection (b).

(b) REGULATIONS.—The Secretary shall, not later than the expiration of the 90-day period beginning on the date of the enactment of this Act, issue final regulations to implement the amendments made by section 2. Such regulations shall be issued only after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2) and (b)(B) of such section).

ADDITIONAL COSPONSORS

S. 197

At the request of Mr. ROTH, the name of the Senator from Kansas [Mr. BROWNBACK] was added as a cosponsor of S. 197, a bill to amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, and for other purposes.

S. 257

At the request of Mr. LUGAR, the names of the Senator from Illinois [Ms. MOSELEY-BRAUN] and the Senator from Illinois [Mr. DURBIN] were added as cosponsors of S. 257, a bill to amend the Commodity Exchange Act to improve the Act, and for other purposes.

S. 302

At the request of Mr. CHAFEE, the name of the Seantor from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 302, a bill to amend title XVIII of the Social Security Act to provide additional consumer protections for Medicare supplemental insurance.

S. 318

At the request of Mr. D'AMATO, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S. 318, a bill to amend the Truth in Lending Act to require automatic cancellation and notice of cancellation