

Student Aid Provisions of the Higher Education Amendments of 1998 (Pub.L. 105-244)
November 1998

The following pages contain summaries of each of the provisions of the Higher Education Amendments of 1998, commonly referred to as reauthorization. Included with the discussion of each provision is the statutory citation showing where the provision is included in the Amendments. In most instances the citation follows the heading for either a group of provisions or for one specific provision. Because of certain statutory constructions contained in the Amendments a few citations follow the brief summary of each provision. Readers should be aware that the numbering in the Amendments does not correspond to the section of the Higher Education Act that is being amended.

While the Amendments provide that most provisions take effect on October 1, 1998, there are some exceptions. Some provisions are effective upon “the date of enactment,” which is October 7, 1998, since that is the day the President signed H.R.6 into law. Other provisions provide that the effective date is a specific date (i.e. June 30, 2000) or is the beginning or end of a certain Award Year (July 1 or June 30) or the beginning or end of a specific Federal Fiscal Year (October 1 or September 30). If the effective date for a provision is not October 1, 1998, we have indicated the effective date for that provision within its discussion.

Rather than present the summaries in the exact order they appear in the Amendments, we have placed them in a more logical and, we think, more useful order. The document begins with the provisions that create a Performance-Based Organization for the administration of the Title IV student assistance programs, followed by other general administrative provisions including those related to “Year 2000” issues and the requirements for Negotiated Rulemaking. Next are those provisions that affect students under all of the Title IV programs, followed by provisions that relate to institutional eligibility and other issues directly affecting schools. The document then moves to each of the specific Title IV student aid programs, beginning with the grant programs under Part A of Title IV. Next are provisions related to the three campus-based programs.

There are a number of provisions that, while included only in Part B of the law, affect both the FFEL and Direct Loans programs. These provisions are presented under a category called “FFEL and Direct Loans – Common Provisions”. Next is a section on those provisions that affect only Direct Loans followed by those that relate only to the FFEL Program. This last group is further broken down into those that are not related to guaranty agencies and those that are.

Finally, when a provision that was included in the Amendments is one area but affects another area, we include the summary in both places. For example, the Amendments moved the provision that allows a financial aid administrator to refuse to certify an FFEL loan or to originate a Direct Loan from Part B (FFELP) of the law to Part F along with the other “professional judgement” provisions. The discussion of this provision will be included in both the “General Provisions – Students” section and in the “FFEL and Direct Loans – Common Provisions section” of the summaries.

As was noted in the cover letter to this document, we will be providing additional information on the Amendments, including implementation guidance. That information and access to the text of the Amendments, will be available on the Information for Financial Aid Professionals (IFAP) website in the *Bookshelf* section.

Finally, as was also noted in the cover letter, when we review your compliance with the provisions of the Amendments, we will take into account any guidance that had been provided by the Department during the period under review or, as applicable, the absence of such guidance.

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Each provision discussed in this document is effective October 1, 1998, unless otherwise noted. Provisions marked with an asterisk (*) are included in both the section of the law where they appear and in the section where they have actual policy or operational implications.

I. Performance-Based Organization - Section 101(a)

C. Establishment and Purpose

- Establishes in the U.S. Department of Education a Performance-Based Organization (PBO) for managing the operational functions of the programs authorized under Title IV of the Higher Education Act of 1965, as amended.
- Sets forth the purposes of the PBO:
 - To improve service to students and other participants.
 - To reduce administrative costs.
 - To increase accountability.
 - To provide greater flexibility in program management.
 - To integrate the student aid information systems.
 - To implement an open, common, integrated system.
 - To develop a system that contains complete, accurate, and timely data to ensure program integrity.

D. PBO Functions

- Provides that the PBO reports to the Secretary and is responsible for the administration of the information and financial systems that support Title IV student assistance programs.
- Authorizes the Secretary to assign additional functions to the PBO.
- Requires the Secretary and the Chief Operating Officer, in consultation with interested parties, to develop and make available to the public a performance plan to cover a 5-year period. Requires that the plan include measurable goals and objectives for the PBO.

E. Chief Operating Officer (COO)

- Authorizes the Secretary to appoint the COO for a 3 to 5 year term.
- Authorizes the Secretary to reappoint the COO for succeeding terms if the COO's performance is satisfactory as determined under the required annual performance agreement.
- Authorizes the COO to be paid at a rate not to exceed the maximum annual pay for the Senior Executive Service plus the COO may receive a bonus determined by the Secretary.

F. Senior Management

- Authorizes the COO to appoint senior managers.
- Requires that the COO establish an Annual Performance Agreement for each senior manager.
- Authorizes senior managers to be compensated at a rate not to exceed the maximum annual pay for the Senior Executive Service plus the senior managers may receive a bonus.

G. Personnel Flexibility

- Eliminates the use of a ceiling on number of staff and implements the use of budgets as the controlling factor determining the number of employees.
- Provides administrative flexibility in hiring staff.
- Requires the implementation of a fair and equitable system for measuring staff performance.

H. Procurement Flexibility

- Provides that the COO may exercise the authority of the Secretary to procure property and services in the performance of the functions of the PBO.
- Authorizes the PBO to enter into contracts for information systems for the services of experts and consultants in accordance with applicable Federal procurement laws.
- Requires the COO to use, to the extent practicable, performance-based service contracts.
- Authorizes the COO to acquire services related to the Title IV delivery system using fee for service arrangements.
- Establishes a two-phase source-selection procedure that the PBO may use to procure property or services.

Procurement Flexibility- continued

- Authorizes the use of simplified procedures for the acquisition of commercial items.
- Provides that the PBO acquire a system incrementally by carrying out successive procurements of modules of the system.
- Provides that the PBO may use special simplified procedures for the procurement of noncommercial items using small-business set asides.

I. Simplification of Student Aid Delivery

- Requires the Secretary and the COO to participate in the establishment of voluntary consensus standards and requirements for electronic transmission of data.
- Mandates that the COO participate in the activities of standard setting organizations.

H. Student Loan Ombudsman*

- Requires the COO to appoint a student loan ombudsman to assist borrowers in resolving complaints regarding their Title IV loans.
- Requires the COO to publicize the availability and function of the Ombudsman and report its activities and effectiveness as part of the PBO's annual report to Congress. The report must include an analysis of borrower complaints.

II. Other Administrative Provisions

A. Year 2000 (Y2K) Requirements – Section 490E

Preparations

- Requires the Secretary to take the necessary actions to ensure that all internal and external systems, hardware, and data exchange infrastructure that the Department uses in the administration of the Title IV programs is Y2K compliant by March 31, 1999.
- Requires the Secretary to provide equal priority and resources to both the FFEL and Direct Loan programs.
- Requires the Secretary to ensure that the Office of the Inspector General (OIG) or another external, independent entity selected by the OIG performs, publishes, and makes available to the public a risk assessment of the Department's systems and hardware. Requires the OIG (or other entity) to conduct a review and report to Congress on the Department's Y2K compliance.

Year 2000 (Y2K) Requirements – continued

- Requires the Secretary to work with various data exchange partners to test fully all data exchanges using "end-to-end" testing.
- Requires the Secretary to develop a contingency plan to ensure that all Title IV programs will continue to run uninterrupted in the event of widespread disruptions.
- Requires the Secretary to alert Congress as soon as possible if mission critical deadlines cannot be met.

Postponement Authority for the Year 2000

- Provides that the Secretary may temporarily postpone the implementation of any requirement under parts B, D, E, or G of Title IV that the Amendments add or modify if the Secretary determines that the implementation would require extensive systems changes for program participants and that postponement is necessary to avoid jeopardizing the ability of a substantial number of program participants to ensure that all of their systems function successfully after December 31, 1999.
- Provides that the Secretary may not postpone the implementation of the provisions longer than the earlier of the period of time necessary to ensure that participants' systems are functional after December 31, 1999 or one award year after the effective date applicable to the provision.

B. Negotiated Rulemaking – Section 490D

- Subjects to the negotiated rulemaking process all proposed regulations that are published subsequent to the effective date of the Higher Education Amendments of 1998 for any authority under Title IV, unless the Secretary determines that this requirement is impractical, unnecessary, or contrary to the public interest.
- Requires the Secretary to obtain advice and recommendations from the higher education community for consideration in the development of proposed regulations to implement the Amendments.
- Requires the Secretary to provide for comprehensive discussions and exchanges of information through such mechanisms as regional meetings and electronic exchanges of information.
- After obtaining advice and recommendations from the higher education community, requires the Secretary to draft proposed regulations and submit those regulations to the negotiated rulemaking process.

Negotiated Rulemaking – continued

- Requires that the negotiations concerning regulations for any authority under Title IV must be conducted in a timely manner to ensure that final regulations are published within 360 days of enactment of the Amendments.

C. Miscellaneous

Master Calendar – See Below for Each Provision

- Requires notification of software and hardware requirements by December 1 prior to the beginning of an award year. – Section 481(a)
- Requires the Secretary to provide training in an expeditious manner. – Section 481(a)
- Changes from December 1 to November 1 the date that final regulations must be published if they are to apply to the next award year. – Section 481(b)
- Provides that the Secretary may identify provisions in regulations that a regulated entity, at its option, may implement early. – Section 481(b)

Review of Regulations – Section 495

- Requires the Secretary to review each of the regulations in effect under Title IV to determine if the regulation is duplicative or no longer necessary.
- Directs the Secretary to review and evaluate the ways in which regulations affecting small volume institutions (less than \$200,000 in Title IV funds) may be improved, streamlined, or eliminated.
- Requires the Secretary, in conducting the reviews indicated in the two prior bullets, to consult with relevant representatives of institutions.

State Court Judgments – Section 484

- Provides that a State court judgment may be registered in a Federal district court and the judgment may be enforced as a judgment of the district court.

National Student Loan Data System – Section 487

- Requires the Secretary to provide the use of NSLDS to borrowers to identify the current loan holders and servicers of their loans no later than one year after enactment of the Amendments.

Miscellaneous – continued

Wage Garnishment Requirement – Section 490A

- Provides that Title IV assistance shall not be subject to garnishment or attachment except for a debt owed to the Secretary.

Administrative Subpoena Authority – Section 490B

- Gives the Secretary the authority to issue administrative subpoenas to assist in conducting investigations of possible violations of the provisions of Title IV of the HEA.
- Authorizes the Secretary to request the Attorney General to invoke the assistance of any court of the United States for purposes of enforcement if necessary.

Advisory Committee on Student Financial Assistance – Section 490C

- Makes changes to provisions that relate to staffing levels, reports, publications, membership, appointment of personnel, availability of funds, mandated analyses, and term of the Committee.

Electronic Forms – Section 427(c)(2)

- Provides that nothing in the section authorizing common forms formats is to be construed as limiting the development and use of electronic forms.

III. General Provisions -- Students

A. Student Eligibility

General – See Below for Each Provision

- Clarifies that a student must submit the certification of educational purpose to the Secretary as part of the application for financial aid (FAFSA) rather than to the institution or lender. – Section 483(a)(1)
- Adds a provision reflecting the eligibility of students who are citizens of the Freely Associated States, *i.e.*, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau. – Section 483(a)(2)
- Eligibility for citizens of the Freely Associated States is continued until 2004 for the Federal Pell Grant, FSEOG, and Federal Work-Study (FWS) programs if they are attending a school in the Freely Associated States or in a State. – Section 483(c)

Student Eligibility – continued

- Extends student eligibility to home-schooled students who complete a secondary school education in a home school setting that is treated as a home school or private school under State law. – Section 483(b)
- Includes certificate programs of one year or longer, along with associate, bachelor's, and graduate degree programs, in which a student may be taking telecommunications courses that are not considered to be correspondence coursework, if the total amount of telecommunications and correspondence coursework at the institution does not equal or exceed 50 percent of the total amount of all courses at the institution. – Section 483(d)
 - Adds an additional requirement that an institution covered under the prior bullet is one in which 50 percent or more of the programs offered at the institution lead to a recognized associate, baccalaureate, or graduate degree.

Verification of Income Data – Section 483(e)

- Authorizes the Secretary to confirm with the Internal Revenue Service (IRS), the adjusted gross income, Federal income taxes paid, filing status, and exemptions reported by applicants and their parents on their Federal income tax returns.
 - Requires the Secretary to establish procedures to notify the applicant that the IRS is disclosing to the Secretary tax return information.
- Suspension of Eligibility for Drug-related Offenses – Section 483(f)
- Suspends a student's eligibility for Title IV assistance if he or she has been convicted of any offense under Federal or State law involving the possession or sale of a controlled substance for a specified period based upon the type of offense and the number of offenses.
 - Allows a student whose eligibility has been suspended to resume eligibility if the student satisfactorily completes a drug rehabilitation program that meets criteria specified in regulations.
 - Applies to periods of enrollment beginning after October 7, 1998, the date of enactment of the Amendments.
- Professional Judgment – Section 478
- Provides specific examples what may be considered special circumstances such as tuition expenses at an elementary or secondary school, medical or dental expenses not covered by insurance and parents enrolled in college.

Student Eligibility – continued

- Incorporates under the professional judgment provisions the authority for a financial aid administrator, on a case-by-case basis, to refuse to approve an FFEL or Direct loan or to approve for an amount less than the student's need if the financial aid administrator documents the reason and provides the reason to the student. *

Treatment of Veterans and Americorps Benefits* - See Below for Each Provision

- Provides that Americorps benefits are considered to be estimated financial assistance for determining a student's eligibility for Title IV funds. – Section 479
- Excludes Montgomery veteran's benefits under Title 38, chapter 30 and National Service education awards under Title I of the National Community Service Act of 1990 (Americorps) from the definition of estimated financial assistance for purposes of determining eligibility for a subsidized Stafford loan. – Section 417(a)(1)(C)

C. Cost of attendance – See Below for Each Provision

- These four provisions are effective October 7, 1998
 - Includes a reasonable allowance for the documented cost for the purchase or rental of a personal computer. – Section 471(1)
 - Removes the statutory minimums for living allowances for students residing at home with parents and for students living off-campus but not with their parents. – Section 471(2)
 - Removes the prohibition against including the cost of the rental or purchase of equipment for students enrolled in telecommunications study. – Section 471(3)
 - In the provision governing an allowance for a student in a cooperative education program, makes a technical change to apply the provision to a student "engaged" in a work experience rather than a student "placed" in a work experience. – Section 471(4)

D. Need Analysis – See Below for Each Provision

All provisions are effective beginning with the 2000-2001 award year

Exclusion of parents in number in college

- Amends the number in college to exclude the parents of a dependent student. – Section 472 and 473(a)

Need Analysis – continued

Income Protection Allowances

- Increases the income protection allowance for dependent student income from \$1750 to \$2200. – Section 473(b)(1)(A)
- Increases the income protection allowance for an independent student without dependents other than a spouse from \$3000 to \$5000 for single students and married students where both are enrolled in postsecondary education; and from \$6,000 to \$8000 for married students where only one spouse is enrolled in postsecondary education. – Section 474(b)

Adjustments for Enrollment Periods That Are Less Than 9 Months

- Clarifies that a dependent student's contribution for an enrollment period of less than 9 months is prorated in proportion to the number of months in the student's enrollment period. Does not provide for an adjustment for an enrollment period that is greater than 9 months. – Section 473(c)
- Clarifies that the expected family contribution (EFC) for any independent student for an enrollment period that is less than 9 months is prorated in proportion to the number of months in the student's enrollment period. Does not provide an adjustment for an enrollment period that is greater than 9 months. – Section 474(a) and Section 475

Adjustment to Student Income /Allowance for Parents' Negative Available Income

Adds to the adjustment for a dependent student's income an allowance for parents' negative available income if the total amount of the parents' deductions from their total income exceeds the amount of their total income plus their contribution from assets. – Section 473(b)(2)

Revised Tables

- Requires, beginning after the 2000-2001 academic year, the Secretary to publish in the *Federal Register* revised income protection allowances. – Section 476

Simplified Needs Test/Automatic Zero EFC

Clarifies the types of Federal income tax forms of a student, and, if dependent, his or her parents, necessary for the student to be eligible to have his or her EFC calculated under either the simplified needs test or the automatic zero EFC formula. – Section 477

D. Free Application for Federal Student Aid (FAFSA) and Processing – See Below for Each Provision

- Requires the use of a single common application form (the FAFSA) for all of the Title IV programs except the Leveraging Educational Assistance Program (formerly known as the State Student Incentive Grant Program) in place of the previous requirement that the Federal Family Education Loan (FFEL) Program have a separate application. - Section 482(a)(2) and (3)
- Repeals the limitation that the Secretary may include no more than eight nonfinancial data elements to assist the States in awarding State aid and requires the inclusion of no less than the number of data elements on the form at the time of enactment of the Amendments that the Secretary determines are appropriate for inclusion and selects in consultation with the States. - Section 482(a)(2)(C)
- Includes guaranty agencies along with institutions of higher education and the States as parties who receive data from the Secretary that is collected on the FAFSA. - Section 482(a)(4)
- Requires the Secretary to develop an electronic version of the FAFSA not later than 120 days after enactment of the Amendments. - Section 482(a)(5)
 - May be used by other entities including eligible institutions, lenders, guaranty agencies, State grant agencies, and private software providers.
 - Does not have any fees associated with its use.
 - Is implemented with the necessary safeguards to ensure the integrity and confidentiality of the information and in a manner that ensures that no final aid awards are made under Title IV of the HEA until the data collected is processed by the Secretary.
- Requires that the Secretary, to the extent practicable, provide to third party servicers and private software providers all the necessary specifications, including record layouts, in a timely manner needed for the administration of the Federal student aid programs. - Section 482(a)(5)
- Provides the Secretary authorization to collect the social security numbers and dates of birth of a dependent student's parents. - Section 482(a)(5)

E. Cancellations and Deferments for Eligible Disabled Veterans*. - Section 490F

- Requires the Secretary to consult with the Secretary of Veterans Affairs to develop and implement a procedure to permit Department of Veterans Affairs physicians to certify and document that a disabled veteran is eligible for deferments or cancellations of Title IV loans.

IV. General Provisions -- Institutions

A. Institutional Eligibility and Participation

Definitions of Eligible Institutions - Section 101

- Consolidates the definitions of eligible institutions for the HEA, including the student aid programs, in Title I, part A of the amended HEA and repeals section 481(a), (b), and (c) and Title XII.
- Modifies the foreign medical school provisions to include veterinary schools as long as their students complete clinical training programs at approved U.S. veterinary schools.
- Expands the waiver of the percentage of incarcerated students to include not only nonprofit institutions providing 2-year or 4-year programs leading to degrees, but also institutions providing 2-year or 4-year programs of instruction that lead to postsecondary diplomas.
- Modifies the requirement that a proprietary school obtain at least 15 percent of its revenues from sources other than the Title IV student assistance programs (85/15 rule) to require at least 10 percent of its revenues from sources other than the Title IV programs
- Deletes from the definition of a "State" the Trust Territory of the Pacific Islands and adds the to that definition the Freely Associated States which include the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

Program Participation Agreement – Section 489

- Makes conforming changes as a result of the elimination of the State Postsecondary Review Entities (SPREs).
- Requires a newly eligible institution or an institution undergoing a change of ownership, to develop and implement for two years a Default Management Plan. Exempts an institution from submitting a default management plan if (a) neither the subordinate institution nor parent institution has a cohort default rate of 10 percent or less and (b) the new owner does not own, and has not owned, any other institution with a cohort default rate in excess of 10 percent.*
- Requires an institution to distribute voter registration forms received from the State. Prohibits any member of the Executive Branch from instructing institutions concerning the implementation of these provisions.

Institutional Eligibility and Participation - continued

Audit Requirements

- Allows an institution to submit an audit every three years, at the discretion of the Secretary, if the institution receives less than \$200,000 in funds under the Title IV student assistance programs and submits a letter of credit for not less than half of the annual potential liabilities as determined by the Secretary.

B. Program Integrity

State Role – Section 491

- Repeals the State Postsecondary Review Program and replaces it with a subpart on the State role.
- Sets forth the responsibilities of the States to furnish the Secretary with information regarding licensing and other authorization for operation in that State, including the prompt notification of revocations of licensure to operate within a State and of credible evidence that a school has committed fraud with respect to the Title IV programs or has substantially violated a provision of the HEA.
- Requires institutions to provide evidence that they have the authority to operate in a State at the time of certification.

Accrediting Agency Recognition – Section 492

- Changes references to "approval" or "approved" to "recognition" or "recognized" respectively, and changes references to "standards" to "criteria."
- To qualify as a nationally recognized accrediting agency, requires that an agency must apply and enforce standards for accreditation that ensure that distance learning courses of study at an institution of higher education are of sufficient quality to achieve their stated objectives for the duration of the institution's accreditation period.
- To be a nationally recognized agency, requires the agency to have standards to assess an institution. Alters the list of required standards by deleting consideration of program length and tuition and fees in relation to the subject matter taught and now requires that the agency standards consider "measures of program length" and the objectives of the degree or credential offered.
- Revises the requirements for unannounced site visits by an accrediting agency from requiring at least one such visit at institutions providing vocational education and training to authorizing, but not requiring, unannounced site visits at any institution.

Program Integrity – continued

- Provides more detailed procedures for the Secretary to follow in making determinations concerning the limitation, suspension, or termination of an agency's recognition as a nationally recognized accrediting agency.

Eligibility and Certification Procedures - Section 493(a)

- Clarifies that the application is to contain information that would allow the Secretary to evaluate an institution's financial responsibility and administrative capability.
- Allows an institution to provide a copy of its contract with a third-party servicer upon request rather than requiring that it be submitted as part of the recertification process.
- Allows an institution to decide in which loan programs it participates under the FFEL and DL programs.*

Financial Responsibility – Section 493(b)

- Revises the criteria used to determine the financial responsibility of an institution to be based on whether it meets certain ratios that demonstrate financial responsibility in lieu of the previous requirements that the Secretary consider operating losses, net worth, asset-to-liabilities ratios, or operating fund deficits.
- Includes public institutions with for-profit and nonprofit institutions with respect to taking into consideration differences in generally accepted accounting principles.
- Allows the Secretary to determine what third-party financial guarantees are acceptable in order for an institution to be considered financially responsible even though it failed to meet other mandated measures of financial responsibility.

Financial Guarantees from Owners/Failure to Pay Refunds – Section 493(c)

- Allows the Secretary to assess an additional penalty commensurate with the penalty applicable to nonpayment of taxes in instances where an individual owner willfully fails to pay a refund amount owed to a student or borrower. Applies to any unpaid refunds first required to be paid on or after 90 days after October 7, 1998.

Site Visits for Certification – Section 493(d)

- Repeals the ability of the Secretary to charge fees for site visits.
- Makes site visits as part of the certification and recertification process permissive rather than mandatory.

Program Integrity – continued

- Requires the Secretary to establish priorities about how institutions are selected to receive site visits and to coordinate conducting site visits to the extent practicable with States, guaranty agencies, and accrediting agencies.

Recertification – Section 493(e)

- Extends the certification period to 6 years.
- Requires the Secretary to notify institutions six months in advance of the expiration of their certification.
- Directs the Secretary to publish special recertification regulations for foreign schools that receive less than \$500,000 in FFEL loan funds.

Change of Ownership – Section 493(g)

- Allows the Secretary to grant provisional certification to an institution seeking approval of a change in ownership based on the preliminary review of a materially complete application and to extend that status on a month-by-month basis as necessary.

Branches – Section 493(h)

- Clarifies that a branch campus must be in existence for 2 years after certification as a branch campus before the branch can seek certification as a main or freestanding campus.

Program Review and Data – Section 494(1)

- Requires the Secretary to give priority in program reviews to institutions that meet certain criteria.
- Clarifies that significant fluctuations in amounts of aid received by institutions are those that do not relate to programmatic changes.
- Adds Direct Loans to the list of programs to watch for significant fluctuations.
- Makes conforming changes regarding the repeal of the SPREs.
- Defines other institutions that the Secretary would target for program reviews as those that pose a significant risk of failure.
- Clarifies that the central data base (the Postsecondary Education Participant System (PEPS)) regarding institutions should include “relevant” information.

Program Integrity – continued

Special Administrative Rules – Section 494(2)

- Requires the establishment of guidelines designed to ensure uniformity of practice in the conduct of program reviews.
- Requires the Secretary to make copies of all review guidelines and procedures available to all participating institutions.
- Requires the Secretary to permit institutions to correct administrative, accounting, or record keeping errors which are not part of a pattern and not fraudulent.
- Requires penalties to be based upon the gravity of the violation.
- Requires the Secretary to inform the appropriate state and accrediting agency or association whenever the Secretary takes action against an institution.

C. Refunds/Return of Title IV Aid – Section 485

General

- Is effective October 7, 2000 or earlier if the institution chooses to implement the provisions before the effective date.
- Requires that if a recipient of Title IV assistance withdraws from an institution during a payment period or a period of enrollment in which the recipient began attendance, the institution must calculate the percentage and amount of Title IV assistance the student did not earn and return those funds to the Title IV programs.

Withdrawal Date

- Provides that if the institution is required to take attendance the withdrawal date is the date determined from the attendance records.
- If an institution is not required to take attendance, provides that the date the student withdrew is--
 - The date that student began the withdrawal process prescribed by the institution;
 - The date that student otherwise provided official notification to the institution of the intent to withdraw; or

Refunds/Return of Title IV Aid – continued

- If the student did not begin the withdrawal process or otherwise notify the institution of the intent to withdraw, the midpoint of the payment period for which Title IV assistance was disbursed or a later date documented by the institution.
- Special Rule: If the institution determines that a student did not begin the withdrawal process or otherwise notify the institution of the intent to withdraw, due to illness, accident, grievous personal loss, or other such circumstances beyond the student's control, the institution may determine the appropriate withdrawal date.

Leave of Absence

- Authorizes an institution to grant a student a leave of absence of up to 180 days in any 12-month period. During the leave of absence, provides that the student is not considered withdrawn and no refund calculation is required if--
 - The institution has a formal policy regarding leaves of absences;
 - The student followed the institution's policy in requesting the leave of absence; and
 - The institution approved the request in accordance with the institution's policy.
- If a student does not return to the institution at the end of an approved leave of absence, requires the institution to calculate the refund based on the date the student withdrew.

Calculation of Amount of Title IV Assistance Earned

- Provides that the percentage earned is one of the following:
 - If the day the student withdrew occurs on or before the student completed 60 percent of the payment period or period of enrollment for which the assistance was awarded, the amount of aid earned by the recipient is calculated by determining the percentage of the payment period or period of enrollment completed multiplied by the total amount of Title IV aid that was disbursed (and that could have been disbursed) for the payment period or period of enrollment as of the day the student withdrew.
 - If the day the student withdrew occurs after the student has completed 60 percent of the payment period or period of enrollment, the recipient has earned 100 percent.
- Provides that the percentage and amount not earned is the complement of the percentage of Title IV aid earned multiplied by the total amount of Title IV aid that was disbursed (and that could have been disbursed) to the student, or on the student's behalf, for the payment period or period of enrollment, as of the day the student withdrew.

Refunds/Return of Title IV Aid – continued

Percentage of the Payment Period or Period of Enrollment Completed

- If a program is measured in credit hours, requires that the number of calendar days in the payment period or period of enrollment for which the assistance is awarded be divided into the number of calendar days completed in that period as of the day the student withdrew.
- If the program is measured in clock hours, provides that the total number of clock hours in the payment period or period of enrollment for which assistance is awarded be divided into the number of clock hours that are either--
 - Completed by the student in that period as of the day the student withdraws; or
 - If the clock hours completed in the period are not less than a percentage of the hours that were scheduled to be completed by the student in the period, the number of clock hours that are scheduled to be completed by the student as of the day the student withdrew in the period [requires the Secretary to determine the percentage in regulations].

Disposition of Differences between Amount Earned and Amount Received

- If the student receives less Title IV assistance than the amount earned, requires the institution to comply with the procedures for late disbursement specified by the Secretary in regulations.
- If the student receives more Title IV assistance than the amount earned, requires the institution, or the student, or both, to return the unearned funds as required, and in the order specified, below.

Return of Unearned Title IV Program Funds

- Requires the institution to return the lessor of--
 - The amount of Title IV program funds that the student does not earn; or
 - The amount of institutional charges that the student incurred for the payment period or period of enrollment multiplied by the percentage of funds that was not earned.
- Requires the student (or parent, if a Federal PLUS loan) to return or repay, as appropriate, unearned Title IV grant and loan funds minus the amount of unearned aid that must be returned by the institution to the loan and grant programs.
- Provides that a student is not required to return 50 percent of any grant assistance he or she would otherwise be required to return.

- **Refunds/Return of Title IV Aid – continued**

Order of Return of Title IV Funds

- Requires that funds are credited to outstanding loan balances for the payment period or period of enrollment for which a return of funds is required in the following order:
 - Unsubsidized Federal Stafford loans.
 - Subsidized Federal Stafford loans.
 - Unsubsidized Direct Stafford loans (other than PLUS loans).
 - Subsidized Direct Stafford loans.
 - Perkins loans.
 - Federal PLUS loans.
 - Direct PLUS loans.
- If funds remain after repaying all loan amounts, requires those remaining funds to be credited in the following order:
 - Federal Pell Grants for the payment period for which a return of funds is required.
 - Federal Supplemental Educational Opportunity Grants (FSEOG) for the payment period for which a return of funds is required.
 - Other assistance under this Title for which a return of funds is required.

D. Consumerism

General – Section 486(a)

- Includes electronic media in the means an institution may use to provide information to students.
- Clarifies that an institution must make the information available upon request to both current and prospective students.
- Requires an institution to provide to current students a list of the information it must disseminate under the Higher Education Act of 1965, as amended, and the Family Education Rights and Privacy Act (FERPA) and the procedures for obtaining the information.

Consumerism – continued

- Makes conforming changes to the refund information that an institution must provide to students including information about the institution's refund policy and the requirements for officially withdrawing from the institution.
- Adds the campus crime report to the list of disclosures.

Exit Counseling for Borrowers* – Section 486(b)

- Clarifies that institutions may use electronic means to provide exit counseling.

Departmental Publications – Section 486(c)

- To the extent the information is available, requires the Secretary to compile and disseminate information describing State and other prepaid tuition and savings programs, and to--
 - Update the Department's Internet site to include direct links to databases, accessible without charge and with a disclaimer;
 - Provide that the linked databases contain information on public and private financial assistance programs and resources from which students may obtain information about fraudulent and deceptive financial aid practices; and
 - Make a reasonable effort to verify that linked databases do not contain fraudulent information.

Student Right-to-Know – Section 486(a)

- Requires that Student Right-to-Know disclosures are made by July 1 of each year.
- Provides that institutions may provide supplemental information about students who were excluded from the graduation rate calculation or for students transferring into the institution or information showing the rate at which students transfer out of the institution.

Institutions That Offer Athletic Aid - Section 486(d)

- Allows the NCAA to distribute graduation rate information to all secondary schools in the U.S. to satisfy the distribution requirements for prospective student athletes' guidance counselors and coaches
- Establishes the reporting period as September 1-August 31 of each year with reporting as of July 1 of each year.

Consumerism – continued

Campus Crime – Section 486(e)

- Names the subsection the “Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act.”
- Expands the crimes which an institution must include in its campus crime statistics to include manslaughter, arson, and arrests of persons referred for campus disciplinary action for liquor law violations, drug-related violations, and weapons possession.
- Requires statistics by category of prejudice on crimes that manifest evidence of prejudice.
- Requires institutions to submit annual statistics to the Secretary, who must make copies of the annual statistics available to the public.
- Requires the Secretary to submit to Congress a comprehensive report on crime statistics.
- Revises the definition of a "campus" to include reasonably contiguous property used by students that supports institutional purposes such as a food court, certain noncampus buildings or property, and public property.
- Prohibits the identification of victims or persons accused in the statistics.
 - Requires institutions to make, keep and maintain daily logs of crimes reported to police or security departments.
 - Requires logs to be made public except where prohibited by law or when disclosure would jeopardize the confidentiality of the victim.
 - Requires institution to update logs with new information when available but not later than 2 business days.
- Permits institutions to withhold information when the release would jeopardize the investigation or the safety of an individual until the damage would no longer occur as a result of the release of information.
- Requires the Secretary to provide technical assistance to an institution in complying with these requirements at the request of the institution.
- Limits the reporting of privileged information.
- Requires the Secretary to report to Congress institutions that are determined not to be in compliance with the campus crime reporting requirements.

Consumerism – continued

- Requires institutions to report crime statistics by means of separate categories: (a) on campus; (b) in or on a noncampus building or property; (c) on public property; and (d) in dormitories or other residential facilities
- Requires the Secretary to impose a civil penalty up to \$25,000 if the Secretary determines that an institution has substantially misrepresented the number, location, or nature of the crimes required to be reported.
- Clarifies that these provisions do not cause a liability for an institution or its employees or establish standard of care.
- Evidence of compliance or noncompliance with the provisions is not admissible as evidence except for actions enforcing these requirements.

Equity in Athletics – Section 486(f)

- Includes the provisions regarding the reporting of revenues and expenses previously contained in the Program Participation Agreement section as part of the Equity in Athletics reporting requirements.
- Requires institutions to submit their Equity in Athletics reports to the Secretary annually.
- Requires the Secretary to submit a report to Congress by April 1, 2000, that summarizes the information reported by institutions and identifies trends in the information, aggregates the information by divisions of the NCAA, and contains information on each individual institution.
- Requires the Secretary to ensure that the individual school reports and the report to Congress are made available to the public within a reasonable period of time.
- Requires the Secretary to notify all secondary schools in all States regarding the availability of information in the report to Congress and of the individual school reports and how such information may be accessed.

E. Distance Education Demonstration Programs – Section 488

- Defines distance education as an educational process that is characterized by the separation, in time or place, of the student and instructor and includes courses offered principally through the use of various means including television, computer transmission, electronic conferencing, video cassettes or discs, or correspondence.

Distance Education Demonstration Programs – continued

- Provides for distance education demonstration programs to test their quality and viability, to increase student access to higher education, and to help determine the most effective means of delivering quality education, specific statutory and regulatory provisions needing modification, and appropriate levels of Federal student assistance.
- Authorizes the Secretary to select institutions, systems of institutions, or consortia of institutions to participate in the demonstration program.
- Authorizes the Secretary to waive specific requirements in Parts F and G of the HEA and regulations that inhibit the operation of distance education.
- Provides that an institution, in addition to the statutorily eligible Western Governors' University, is eligible to apply to participate in the demonstration program if it--
 - Is not a foreign institution; and it meets all of the current institutional eligibility requirements except, if applicable, the 50 percent correspondence/telecommunications rule.
 - If the institution does not meet the 50 percent rule, it is still eligible to participate providing that it offers at least a two-year or four-year program.
- Requires that each applicant institution submit an application to the Secretary that includes, in addition to an assurance of full cooperation in evaluations of the demonstration program and any other information the Secretary may require, descriptions of its consultation with its accrediting agency with regard to the quality of its distance education program, proposed waivers of statutory and regulatory requirements, and the programs and students to whom the programs will be offered.
- Authorizes the Secretary to select up to 15 projects for the first year and up to 35 additional projects for the third year, if warranted based upon the evaluations, based on criteria that include (a) an institution's financial responsibility, administrative capability, and program(s) being offered through distance education and (b) the diversity of the institutions selected with respect to size, mission, and geographic distribution.
- Requires the Secretary to make available to the public and the Congress a list of participants, the specific requirements being waived for each participant, and a description of the distance education courses being offered by each participating institution.
- Requires the Secretary to evaluate each demonstration program on an annual basis, addressing such issues as those related to program quality assurance, student aid for distance education, student participation, impediments caused by program requirements not waived, and use of effective technologies.

Distance Education Demonstration Programs – continued

- Requires the Secretary to review current policies and identify those that present impediments to the development and use of distance education and to other nontraditional methods of expanding access to higher education.
- Requires the Secretary to report to Congress within 18 months of the demonstration program's initiation with respect to the evaluations of the programs and any proposed statutory changes designed to enhance the use of distance education. In addition, requires the Secretary to provide additional annual reports to Congress regarding the demonstration programs.
- Requires the Secretary to carry out, on a continuing basis, various activities including assuring participants' compliance with applicable statutory and regulatory requirements, providing technical assistance, monitoring student participation, and consulting with accrediting agencies and State regulatory authorities.

F. Quality Assurance/Experimental Sites – Section 490

Quality Assurance Program (QAP)

- Expands the current provisions relating to data verification to include the development and implementation of systems for processing and disbursing student aid and entrance and exit interviews.
- Expands the criteria for the selection of participants to include a requirement to ensure the selection of a diverse group of institutions with respect to size, mission, and geographical distribution.
- Authorizes the Secretary to waive regulations dealing with reporting or verification requirements in Title IV that are addressed in the institution's alternative management plan and prohibits the Secretary from waiving any statutory provisions.
- Requires the Secretary to review and evaluate the QAP conducted at each participating institution and to make recommendations to Congress regarding amendments to the HEA to streamline the administration and enhance the integrity of the student aid programs.

Experimental Sites

- Authorizes the Secretary to continue any experimental sites in existence on the date of enactment. But requires that any previously approved activities that are not consistent with the Amendments must be discontinued no later than June 30, 1999.

Quality Assurance/Experimental Sites – continued

- Requires the Secretary to review and report to Congress on the experience of institutions that participated in the experimental sites program from 1993-1998 not later than six months after enactment of the Amendments. Requires the report to include a list of participants and their experiments, the findings and conclusions resulting from those experiments, and recommendations for amendments to the HEA.
- Upon the submission of the report cited in the prior bullet, authorizes the Secretary to select a limited number of institutions for participation as experimental sites to provide recommendations to the Secretary on the impact and effectiveness of proposed regulations or new management initiatives.
- Prior to approving additional experimental sites, requires the Secretary to consult with Congress and provide a list of institutions and the specific regulatory and statutory waivers, a statement of the objectives to be achieved, and the time period for the experiment.
- Authorizes the Secretary to waive statutory requirements for participating schools based on the experiment except that the Secretary may not waive provisions related to award rules, grant and loan maximums, and need analysis requirements.

V. Pell Grant, State Grant, and Academic Achievement Incentive Scholarship Programs

A. Federal Pell Grant Program – See Below for Each Provision

- Provides that the Secretary may set aside the requirement that he provide not less than 85 percent of the funds an institution requests prior to a payment period if he publishes in the Federal Register a notice on a new payment process that is accurate and timely and provides an opportunity for public comment on the new process. [Note: there are no new payment methods that the Secretary is implementing that do not comply with the 85 percent requirement.] – Section 401(a)(2)
- Amends the relationship of the maximum grant award to tuition and expenses by providing that the trigger amount be \$2700, instead of \$2400. – Section 401(c)
 - Provides that an institution may include fees that normally constitute tuition in its determination of tuition charged as long as it charged only fees in place of tuition as of October 1, 1998.
- Authorizes the Secretary, on a case-by-case basis, to provide a Federal Pell Grant to a student enrolled (a) as at least a half-time student, (b) at an institution that does not offer a baccalaureate degree in education, (c) in a postbaccalaureate program not leading to a graduate degree, and (d) in teacher certificate courses required by a State to teach in that State. – Section 401(e)

Federal Pell Grant Program – continued

- Makes an institution ineligible to participate in the Federal Pell Grant Program if it loses eligibility to participate in FFEL or the Direct Loan programs due to high default rates after the publication of final default rates for fiscal year 1996, or a subsequent fiscal year. – Section 401(f)
 - Provides an institution with the opportunity to appeal its default rate before its participation in Pell is eliminated.
 - Only applies to institutions participating in the FFEL or Direct programs on October 7, 1998, the date of enactment, unless an institution later participates in the loan programs.

B. Leveraging Educational Assistance Partnership Program – Section 407(a) and (b)

- Renames the State Student Incentive Grant Program (SSIG) as the Leveraging Educational Assistance Partnership Program (LEAP) Program.
- Provides that first \$30 million appropriated must be used as SSIG appropriations have been used in the past.
- Requires that amounts appropriated in excess of \$30,000,000 must be used for the purposes of the new Special Leveraging Educational Assistance Partnership Program.

C. Special Leveraging Educational Assistance Partnership (SLEAP) Program – Section 407(c)

- Authorizes the allocation of funds to States in the same manner as in LEAP Program to pay the Federal share of costs for authorized SLEAP Program activities.
- Requires that the provisions of the LEAP Program also apply to SLEAP Program if they are not in conflict with the new provisions of SLEAP Program.
- Authorizes States to use the funds for any or all of eight activities:
 - Increasing the dollar amount of grants under the LEAP Program.
 - Carrying out transition programs from secondary school to postsecondary education for needy students.
 - Carrying out a financial aid program for needy students who wish to enter careers in information technology, or other fields determined by the State to be needed in its workforce.

Special Leveraging Educational Assistance Partnership (SLEAP) Program – continued

- Making funds available for community service work-study activities for needy students.
 - Creating a scholarship program for needy students who wish to enter teaching.
 - Creating a scholarship program for needy students who wish to enter a degree program of study in mathematics, computer science, or engineering.
 - Carrying out early intervention, mentoring, and career education programs.
 - Awarding merit or academic scholarships to needy students.
- Provides that the maximum Federal share under the SLEAP Program is 33 1/3 percent
 - Requires each State provide an assurance that it is maintaining expenditures of non-Federal funds for allowable activities that are not less than the amount for the second preceding fiscal year based on either (a) an amount expended per pupil or (b) an aggregate expenditure.

D. National Early Intervention Partnership and Scholarship Program – Section 403

- Replaces the NEISP Program with GEAR UP (Gaining Early Awareness and Readiness for Undergraduate Programs).

E. Academic Achievement Incentive Scholarship Program – Section 404

- Authorizes a new program to provide scholarships to Pell Grant recipients who graduate from secondary schools, after May 1, 2000, in the top 10 percent of their class to help pay for the first two academic years of undergraduate education.
 - Awards can be up to the full amount of the student's Pell Grant for the year depending upon amount of appropriation.
 - Requires specific funds to be appropriated. [Note: No funds for this program were appropriated for the 1999-2000 award year.]

VI. Campus-Based Programs

A. Common Provisions – See Below for Each Provision

- Changes the allocation formulas, starting with funding for the 2000-2001. These changes are effective for the 2000-2001 award year as follows: - Sections 406(c), 442, and 462(a)

Common Provisions – continued

- Revising the base to be equal the total of the base guarantee plus the pro rata share received for the 1999-2000 award year (the base guarantee for a specific award year is zero for Perkins when the cohort default rate is 25 percent or higher);
 - Eliminating the pro rata share; and
 - Basing the fair share calculation on all the excess funds after the base guarantees are met.
- Requires an institution to offer a reasonable proportion of its FSEOG allocation, its FWS allocation, and the dollar amount of the loans made from its Perkins revolving fund to independent or less-than-full-time students in lieu of the previous requirement to offer these students at least 5 percent of the funds. – Sections 406(b), 443(d), and 464(b)

B. Federal Supplemental Educational Opportunity Grant Program – Section 406(d)

- Adds a new authority for an institution to carry up to 10 percent of its current award year funds forward to spend in the next award year and to carry back up to 10 percent of its current award year funds to spend in the prior award year.
- In addition, adds a new authority for an institution to carry back any portion of its current award year funds to cover payments to students in the timeframe of the prior award year occurring after the end of the spring enrollment period.

C. Federal Work-Study Program – See Below for Each Provision

- Clarifies that the definition of "community services" includes child care services provided on campus that are open and accessible to the community and services to students with disabilities who are enrolled at the institution. – Section 441(b)
- Requires that the Secretary, beginning with the 2000-2001 award year, reallocate returned FWS funds to institutions that used at least 5 percent of their total FWS allocation to pay students employed as reading tutors or in family literacy activities. This requirement is in lieu of the prior requirement to reallocate funds to institutions that used at least 10 percent of their allocations for students employed in community services. – Section 442(b)(6)
- Clarifies that employment may include internships, practica, or research assistantships as determined by the Secretary. – Section 443(a)

Federal Work-Study Program – continued

- Provides that, beginning with the 1999-2000 award year, students may be paid for a reasonable amount of time for travel or training that is directly related to a community service job. – Section 443(b)
- Starting with the 2000-2001 award year, increases the minimum percentage of an institution's allocation that must be spent on community service jobs to 7 percent. – Section 443(c)
- Starting with the 2000-2001 award year, requires that at least one reading tutoring of children or in a family literacy project be included in meeting the community service requirement. – Section 443(c)
- Starting with the 2000-2001 award year, the Federal share of compensation paid students employed as reading tutors or in family literacy activities may exceed 75 percent. Note that the FWS regulations, at 34 CFR675.26(d) already allow this increased amount of Federal share. – Section 443(c)
- Removes the requirement that an FWS institution must make equivalent non-FW jobs reasonably available to all students who want work. – Section 443(f)
- Provides that the Federal share of a student's compensation may exceed the current limit of 75 percent by up to 90 percent for up to 10 percent of the FWS students if, consistent with regulations, the student is employed at a nonprofit or public organization that has no ownership, operation, or control relationship with the institution and is unable to pay the regular non-Federal share. – Section 443(e)
- Amends the requirement that jobs in a private for-profit company must always be academically relevant to require such relevance only to the maximum extent possible. – Section 443(g)
- Provides that, upon request of a student, an institution may make payments directly to the student's account at a bank or may credit the student's account at the institution for tuition and fees, room and board, and other institutionally provided goods and services. – Section 444
- Provides that Work Colleges may also use available funds to coordinate and carry out joint projects to promote work service learning and to conduct a comprehensive longitudinal study of academic progress and academic and career outcomes. – Section 445

D. Perkins Loan Program

Cohort Default Rates – See Below for Each Provision

- For years preceding fiscal year 2000, retains current default penalties, except that institutions with a default rate of less than 20 percent and less than 100 students with loans for that academic year are exempt from default reduction plan filing requirements. – Section 462(c)
- For fiscal year 2000 and succeeding fiscal years, requires that any institution with a cohort default rate that equals or exceeds 25 percent to have a default penalty of zero and eliminates the default reduction plan filing requirement. – Section 462(c)
- For fiscal year 2000 and any succeeding fiscal year, provides that an institution with a cohort default rate of 50 percent or more for the 3 most recent years is ineligible to participate in the program and must liquidate its portfolio. Provides that institutions may appeal such a determination based on inaccurate calculation of its cohort default rate or a low number of borrowers entering repayment. – Section 462(c)
- Excludes from an institution's cohort default rate borrowers who voluntarily make six consecutive payments; voluntarily make all payments currently due; repay the loan in full; receive a deferment or forbearance that predates the 240/270 day past due status; rehabilitates or cancels the loan; or satisfies conditions determined by the Secretary. – Section 462(d)(3)(C)
- Deletes the provision that allows an institution to exclude improperly serviced loans from its cohort default rate. – Section 462(d)(3)(A)
- Eliminates the Expanded Lending Option. – Section 463(a)(1)
- Amends the credit bureau reporting requirements to allow agreements to be with either the Secretary or the institution; eliminates the 7-year reporting limit and allows credit bureaus to report on a loan until it is paid in full; requires an institution to disclose promptly any changes to information previously disclosed; authorizes the Secretary to establish criteria under which an institution may cease reporting; and requires an institution to report when a borrower has made 6 consecutive monthly payments on a defaulted loan. – Section 463(b)
- Raises loan limits to former ELO limits: (a) annual--\$4000 for undergraduate students and \$6000 for graduate students and (b) aggregate--\$20,000 for undergraduate students who have completed 2 academic years and are pursuing bachelor's degrees and \$40,000 for graduate students. Redefines the aggregate loan limit to include only unpaid principal. – Section 464(a)
- Reestablishes a borrower's eligibility for Perkins Loans if the borrower satisfies any of the conditions that remove the borrower from the cohort default rate. – Section 464(b)(1)

Perkins Loan Program – continued

- Effective October 7, 1998, extends deferment benefits in Section 464(c)(2)(A) to previously ineligible borrowers regardless of when the loan was made or the terms of the borrower's promissory note. – Section 464(c)(3)
- Excludes from a borrower's initial grace period any period, not to exceed 3 years, during which a borrower who is a member of the Armed Forces reserve is called or ordered to active duty for a period of more than 30 days. – Section 464(c)(4)
- Authorizes discharge of a Federal Perkins Loan made on or after January 1, 1986, if the borrower is unable to complete his or her program of study due to the closure of the institution. Provides that a defaulted loan discharged due to the closure of an institution does not preclude the borrower's receipt of further Title IV aid and requires the holder to report the discharge to a credit bureau. – Section 464(d)
- Authorizes rehabilitation of a defaulted loan on which a borrower makes 12 consecutive on-time monthly payments, as determined by the holder of the loan. Requires the holder to report the rehabilitation to a credit bureau and reestablishes the borrower's eligibility for further Title IV aid. Allows the borrower to rehabilitate a loan only one time. – Section 464(d)
- Restores Title IV eligibility to a defaulted borrower with a loan made under part E, to the extent the borrower is otherwise eligible, if the borrower makes 6 on-time consecutive monthly payments of amounts owed on the loan. Allows the borrower to obtain this benefit only once. – Section 464(d)
- Establishes an Incentive Repayment Program allowing an institution, with the approval of the Secretary, to reduce the interest rate on a loan, by no more than 1 percent, if the borrower makes 48 consecutive monthly repayments, or to discount, by no more than 5 percent, the balance owed on a loan which the borrower pays in full prior to the end of the repayment period. Allows an institution to establish any other incentive repayment options that reduce default and replenish student loan funds. Prohibits the use of Federal funds or institutional funds from the Perkins Loan revolving fund to pay for the program. – Section 464(d)
- Effective October 7, 1998, extends all cancellation benefits in Section 465(a)(2) to previously ineligible borrowers regardless of when the loan was made or the terms of the borrower's promissory note. Requires the Secretary, to the extent feasible, to reimburse an institution for canceled loans not later than 3 months after the institution files for reimbursement. . – Section 465
- Effective October 7, 1998, repeals the authority of the Secretary to establish a Perkins Loan Revolving Fund and requires the transfer and deposit of amounts in the Secretary's Revolving Fund in the U.S. Treasury. . – Section 467

VII. FFELP and Direct Loan Common Provisions

A. Cohort Default Rates

Exclusion from Sanctions Based upon Participation Rate - Section 429(a)(3)

- Codifies the regulatory participation rate index standard for exclusion from sanctions.
- Requires the Secretary to notify a school of the results of its submission of participation rate data prior to issuing final rates.

Appeal Based upon Mitigating Circumstances - Section 429(a)(3)

- Provides appeals to ineligibility sanction based on statutorily defined exceptional mitigating circumstances or other circumstances that may be defined by the Secretary.
- Defines exceptional mitigating circumstances as including cases in which at least 2/3rds of the institution's students who were enrolled at least half time were eligible to receive at least one half of the maximum Pell eligible or whose AGI is less than the HHS poverty level. In addition, for degree granting institutions must have a completion rate of at least 70 percent for its full-time students. For a nondegree institution must have a placement rate of at least 44 percent

Appeal Based upon Claim of Improper Loan Servicing – Section 429

- For improper loan servicing appeals--
 - Defines 30 days as the reasonable time period for an institution to have access to a representative sample of records.
 - Specifies that the sample records made available for review are those used by the guaranty agency to determine whether to pay a default claim.
 - Specifies that any loans determined to have been improperly serviced are removed from both the numerator and the denominator in the default rate calculation.

Unsuccessful Appeals – Section 429(a)(1)(A)

- Requires that institutions that unsuccessfully appeal a loss of eligibility pay the Secretary interest, special allowance, reinsurance, and any related payments made (or obligated to be made) during the appeal process.

Cohort Default Rates - continued

Special Exemptions – Section 429(a)(3)

- Extends through 1999 the exemption from sanctions for HBCUs, tribally controlled, and Navajo community colleges.
 - Provides certain steps that must be taken by any of these institutions that rely on the exception after 1999--
 - Submit a default management plan to the Secretary that provides for reduction of the rate to less than 25 percent by July 1, 2002.
 - Engage an independent third party for technical assistance.
 - Submit a report to the Secretary showing rate improvement, annually or as the Secretary requires.
 - Specifies that eligibility of such institution is at the discretion of the Secretary for one-year periods between 1999-2001 based on substantial rate improvement during the preceding year and compliance with the requirements for the default management plan.

B. Interest Rates – Section 416

- Provides the formula for Stafford Loan interest rates: T-bill plus 1.7/2.3 percent for loans first disbursed on or after October 1, 1998, and before July 1, 2003, not to exceed 8.25 percent.
- Provides the formula for PLUS Loan interest rates: T-bill plus 3.1 percent for loans first disbursed on or after October 1, 1998, and before July 1, 2003, not to exceed 9.0 percent.
- Provides slightly different timing for the setting of interest rates between the FFEL Consolidation and Direct Loan Consolidation. Please refer to the Consolidation Loan area of each program's individual section of this analysis.

C. Loan Limits – See Below for Each Provision

- Provides that annual loan limits are applicable to an academic year as defined in section 481(d)(2). – Section 417(b)(1)(A)
- Provides for consistent treatment for loan proration for programs (or remainder of programs) of less than an academic year by eliminating the statutorily specified reduced loan limits and requiring proportional amounts calculated based on the program length's relationship to the academic year. – Section 417(b)(1)(B) and 423(b)

Loan Limits – continued

- Establishes for subsidized Stafford Loans, a \$2625 annual loan limit for coursework necessary for enrollment in an undergraduate degree or certificate program and for students with baccalaureate degrees, a \$5,500 annual loan limit for coursework necessary for enrollment in a graduate or professional program. Establishes annual loan limits for unsubsidized Stafford Loans for the same coursework to be \$6,625 less any subsidized amount and \$10,500 less any subsidized amount respectively. - Section 417(b)(1)(E) and 423(b)(1)(D)
- Establishes for subsidized Stafford Loans, a \$5,500 annual loan limit for post-baccalaureate coursework necessary for a professional credential or teacher certification by a State for teaching in elementary or secondary schools. Establishes \$10,500 less any subsidized loan amount, as the annual loan limit for Unsubsidized Stafford Loans for such coursework. - Section 417(b)(1)(E) and 423(b)(1)(D)
- Stipulates that interest capitalized on Unsubsidized Stafford Loans shall not be counted in determining whether a borrower has exceeded annual or aggregate loan amounts. – Section 423(c)

D. Deferments – Section 417(b)

- Eliminates the requirement that FFEL borrowers who were new borrowers between July 1, 1987 and June 30, 1993, and are enrolled less than full time must borrow a loan for the same period of enrollment for which deferment is sought in order to qualify for an in-school deferment.
- Provides that evidence of eligibility for unemployment benefits is sufficient documentation to establish eligibility for an unemployment deferment.)
- Specifies that the methods by which a borrower can be determined to be eligible for an in-school or rehabilitation training/graduate fellowship deferment.
 - Borrower request and supporting documentation of eligibility;
 - Newly completed loan application; or
 - Student status information on the borrower's enrollment.
- Provides that use of the newly completed application or student status information requires a notice to the borrower of the granting of a deferment and offering of the option to continue paying.

E. Grace Period – Section 417(b)(10)

- Exempts from the six-month grace period any period of active duty military service of more than 30 days required of a borrower who is a member of a reserve component of the Armed Forces, up to a maximum of 3 years. The period necessary to resume regular enrollment in the next available regular enrollment period is also exempted.

F. Forbearance – Section 417(c)(4) and 423(e)

- Deletes requirement that requests for forbearance be written.
- Authorizes the granting of forbearance for a period not to exceed 60 days after a borrower's request for deferment, forbearance, change in repayment plan, or consolidation of loans to allow for submission of supporting documentation or processing the request. Specifies that interest accruing during the 60-day period cannot be capitalized.

G. Loan Forgiveness Programs

Teaching Service Forgiveness – Section 424 and 456

- Establishes a teacher loan forgiveness program for any new Stafford loan borrower (who did not have an outstanding balance on October 7, 1998) who is not in default and who has been employed as a full-time teacher for 5 consecutive years in a school that qualifies for loan cancellation under the Perkins Loan Program.
- Requires that secondary school teachers be certified as teaching in a subject area relevant to their academic major and that elementary teachers must be certified as having knowledge/teaching skills in reading, writing, mathematics, and other areas of the elementary curriculum.
- Provides that amount to be forgiven cannot exceed \$5,000 of the aggregate loan amount that is outstanding after completion of the fifth complete year of teaching.
- Authorizes the Secretary to regulate as necessary.

Child Care Provider Forgiveness Program – Section 425

- Authorizes a demonstration program to forgive loans for new borrowers (did not have an outstanding balance on October 7, 1998) who receive a degree in early childhood education who are employed full-time for 2 consecutive years providing child care services in a child care facility, including a licensed home facility, located in a low income community.

Loan Forgiveness Programs – continued

- Defines as a low-income community one in which 70 percent of households earn less than 85 percent of the State median household income.
- Provides that application be made to the Secretary and awards made on a first-come, first-served basis subject to the availability of appropriations.
- Provides that 20 percent of eligible loans, including proportionate share of accrued interest, be cancelled after completion of each of the second and third years of consecutive service and 30 percent after completion of each of the fourth and fifth years.
- Provides that forbearance be granted during period of qualifying employment, unless borrower is in deferment.
- Requires independent national evaluation of the demonstration program.

H. Loan Discharge – Section 431

- Provides for the discharge of all or a portion of a loan if an institution failed to refund loan proceeds to a lender or to the Secretary on behalf of a borrower.
- Requires annual report to Congress on the amounts discharged under these criteria.

I. Definition of Default – Section 429(c)

- Modifies the definition of default from 180 days to 270 days past due for loans repayable in monthly installments (from 240 days to 330 days for a loan repayable less frequently than monthly installments) for loans for which the first day of delinquency occurs on or after October 7, 1998.

J. Treatment of Veterans and Americorps Benefits* – Section 417(a)(1)(C)

- Excludes Montgomery veteran's benefits under Title 38, chapter 30 and National Service education awards under Title I of the National Community Service Act of 1990 (Americorps) from the definition of estimated financial assistance for purposes of determining eligibility for a subsidized loan.

K. PLUS Eligibility – Section 419

- Authorizes the Secretary, in consultation with guaranty agencies, lenders, and other organizations, to develop regulatory eligibility criteria for PLUS loans in addition to current adverse credit requirements.

PLUS Eligibility – continued

- Conditions eligibility of PLUS applicants on verification of their immigration status and social security numbers. – Section 419

L. Loan Disbursement – Section 422

- Exempts schools whose cohort default rate for each of the last three years for which rates have been calculated, is less than 10 percent from multiple disbursement requirements for any period of enrollment that is not more than one quarter, one semester, one trimester, or four months.
- Exempts schools whose cohort default rate for each of the last three years for which rates have been calculated, is less than 10 percent from the 30-day delayed delivery requirements for first-year, first-time borrowers.
- Exempts schools whose most recently calculated cohort default is less than 5 percent from the multiple disbursement requirement and the 30-day delayed delivery requirements for loans made for attendance in a study abroad program approved by the eligible home institution.

M. Master Promissory Note – Section 427(c)(1)(D)

- Requires the Secretary to develop, in consultation with appropriate parties, and implement master promissory notes that can be used as a multi-year note for FFEL and Direct Loans for periods of enrollment beginning not later than July 1, 2000.
- Provides that each loan made using the master note may be separately sold or assigned and retain its enforceability under federal and State law based on the original or copy of the original note.
- Addresses the perfection of security interests in the FFEL Program when using a master note to ensure that loan securitization can continue unaffected.

N. Student Loan Ombudsman*- Section 101(a)

- Requires the Chief Operating Officer (COO) of the Performance Based Organization (PBO) to appoint a student loan ombudsman to assist borrowers in resolving informally complaints regarding their Title IV loans.
- Requires the COO to publicize the availability and function of the Ombudsman and report its activities and effectiveness as part of the PBO's annual report to Congress. The report must include an analysis of borrower complaints.

O. Exit Counseling for Borrowers* – Section 486(b)

- Clarifies that institutions may use electronic means to provide exit counseling.

P. Eligibility and Certification Procedures* - Section 493(a)

- Allows an institution to decide which loan programs it wants to participate in under the FFEL and DL programs.

Q. Professional Judgment* – Section 478

- Incorporates under the professional judgment provisions the authority for a financial aid administrator, on a case-by-case basis, to refuse to certify an FFEL or Direct loan or to certify an FFEL or Direct loan for a lesser amount than the student's need if the financial aid administrator documents the reason and provides the reason to the student in written form. Provides further that the institution shall not practice discrimination against a borrower in obtaining a loan.

R. Cancellations and Deferments for Eligible Disabled Veterans*- Section 490F

- Requires the Secretary to consult with the Secretary of Veterans Affairs to develop and implement a procedure to permit Department of Veterans Affairs physicians to certify and document that a disabled veteran is eligible for deferments or cancellations of Title IV loans.
- Requires the Secretary and the Secretary of Veterans Affairs to report jointly to Congress on their progress in developing and implementing the procedure within 6 months of enactment.

VIII. Direct Loan Program

A. General Requirements – See Below for Each Provision

- Removes references to the “phase-in” of the Direct Loan Program, including restrictions on annual limits for Direct Loan Program volume and the Secretary’s authority to select additional institutions to achieve balanced school representation. – Section 451(a)(1)
- Eliminates two school eligibility criteria for the origination of loans: past participation in the Perkins Loan Program and deficiencies identified by State Postsecondary Review Entities. – Section 451(b)
- Authorizes the Secretary to sell Direct Loan Program loans. Requires that any sale must be in the best interest of the United States and must not result in any cost to the federal government. Proceeds may be used to offer reduced interest rates to encourage timely repayment of Direct Loans. – Section 455

B. Consolidation Loans – Section 452(a)

- Limits Direct Consolidation Loan borrower eligibility for applications received from October 1, 1998 through January 31, 1999. During this period, prohibits a borrower who is enrolled or accepted for enrollment from consolidating his or her loans if the borrower has FFEL or Perkins loans or both.
- Establishes a temporary interest rate formula for Direct Consolidation Loans for applications received between October 1, 1998, and January 31, 1999. Provides that the interest rate is variable (adjusted annually on July 1) and is based on the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to each June 1, plus 2.3 percent, not to exceed 8.25 percent.
- Establishes the interest rate formula for Direct Consolidation Loans for applications received between February 1, 1999 and June 30, 2003. Fixes the interest rate for the life of the loan at the weighted average of the interest rates on the loans being consolidated, rounded to the nearest higher one-eighth of one percent, not to exceed 8.25 percent.

D. Repayment Incentives – Section 452(b)

- Authorizes the Secretary to offer reductions in the interest rates paid by Direct Loan borrowers to encourage on-time repayment of loans. Provides that these reductions may be offered only if the Secretary determines that they are cost neutral and in the best financial interest of the Federal government.

IX. FFEL Program except Guaranty Agencies

A. Repayment Plans – See Below for Each Provision

- Requires lenders to offer all borrowers the option of standard, graduated, and income-sensitive repayment plans to be paid over 10 years. – Section 417(b)(3) and 417(b)(11)
- Exempts, as necessary, graduated and income-sensitive repayment plans from minimum annual payment requirements, but clarifies that no repayment plan may provide for payment amounts less than interest. – Section 417(b)(5)
- Requires lenders to offer an extended repayment plan with fixed or graduated repayment amounts to be paid over a period not to exceed 25 years, to new FFEL borrowers who accumulate after October 7, 1998 FFEL program loans totaling more than \$30,000. – Section 417(b)(11)
- Specifies that the lender shall use a standard repayment plan if the borrower fails to select another repayment plan. – Section 417(b)(11)
- Specifies that FFEL borrowers may change repayment plans annually. – Section 417(b)(2)

B. FFELP Consolidation Loans - See Below for Each Provision

- Continues from the Emergency Act the payment of interest subsidy on that portion of an FFELP Consolidation loan that repaid a subsidized FFEL or subsidized Direct Loan. – Section 420(c)(2)
- Provides interest rate formula for FFELP Consolidation Loans where the application was received on or after October 1, 1998, to be the weighted average of the interest rates of loans consolidated rounded to the nearest higher 1/8th of 1 percent not to exceed 8.25 percent. – Section 420(c)(2)
- Continues Direct Loans as eligible loans for FFEL consolidation. – Section 420(b)
- Provides that borrowers with FFEL loans held by multiple holders may consolidate through any consolidation lender. – Section 420(c)(1)
- Provides that a borrower whose loans are held by one holder must consolidate with that holder unless the borrower certifies that he/she has sought and been unable to secure a consolidation loan with acceptable income-sensitive repayment terms. – Section 420(c)(1)
- Specifies that lenders are not required to provide for consolidation of loans made under subparts I and II of part A of Title VII and subpart II of part B of Title VIII of the Public Health Service Act. – Section 420(c)(3)
- Eliminates from eligibility defaulted borrowers against whom a court has issued a judgment or against whom a wage garnishment order has been issued. – Section 420(a)
- Clarifies treatment of loans made before and after the consolidation loan. – Section 420(a)
 - Borrower may borrow a second consolidation loan to consolidate eligible loans received after the borrower's first consolidation loan is made;
 - Borrower may add loans made prior to the consolidation loan within the 180 days following the making of a consolidation loan;
 - Borrower may add new loans made within the 180-day period after the consolidation loan is made to the consolidation loan no later than the end of the same 180-day period; and
 - Borrower may add loans made prior to the first consolidation loan to a subsequent consolidation loan.

C. Lender Provisions – See Below for Each Provision

- Specifies that if the borrower does not wish to pay accruing interest monthly or quarterly, the lender may add accrued interest to the principal amount of a loan when the loan enters repayment, at the end of a grace, deferment, or forbearance period, or when the borrower defaults. – Section 423(c)
- Establishes special allowance rates. – Section 416(b)
 - For Stafford Loans for loans for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003: 91-day T-bill average MINUS applicable interest rate on the loan PLUS 2.8 percent (PLUS 2.2 percent during in-school and grace periods).
 - For PLUS Loans for loans for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003: 91-day T-bill average MINUS applicable interest rate on the loan PLUS 3.1 percent. (Special allowance not paid during any twelve-month period between July 1- June 30 unless the bond equivalent rate of 91-day T-bill from final auction plus 3.1 percent exceeds 9 percent.)
 - For Consolidation Loans for which the application is received on or after October 1, 1998, and before July 1, 2003: 91-day T-bill average MINUS applicable interest rate on the loan PLUS 3.1 percent. (Special allowance not paid for any 3-month period unless 91-day T-bill auctioned for the 3-month period plus 3.1 percent exceeds the borrower's interest rate.)
- Exempts small volume lenders who originate or hold \$5 million or less in loans from annual audit requirement. – Section 417(b)(7)(B)
- Requires lender notice to borrowers on the availability of income-sensitive repayment for all borrowers, including those consolidating, when a loan is made and when repayment options are offered. – Section 417(d)
- Reduces the lender rebate fee on FFEL consolidation loans from 1.05 percent to 0.62 percent of principal plus accrued unpaid interest for loan applications received from October 1, 1998, through January 31, 1999. – Section 420(e)(3)
- Amends lender default claim requirements to require that the lender submit proof to the guaranty agency that the lender's attempts to locate a borrower included contact with the institution. – Section 417(c)(2)(A)

Lender Provisions – continued

- Amends lender disclosure requirements to borrowers before disbursement and before repayment to require that the disclosures be in simple and understandable terms, to allow lenders to provide the disclosures by electronic as well as written means, to require the lender to provide a telephone number to the borrower for further information, and to allow the lender to also provide an electronic address for further information. – Section 428(a) and (b)
- Clarifies that assistance provided by lenders to schools that is comparable to the kinds of assistance provided by the Department of Education to schools does not constitute a prohibited incentive to the school. – Section 429(b)(2)
- Authorizes the Secretary to collect outstanding origination fees and lender loan fees directly from the lender if the lender fails, or is not required to bill the Secretary for interest and special allowance or withdraws from the FFEL program with unpaid fees. – Section 433(a) and (b)
- Eliminates the requirement that payment of special allowance to holders of loans made or purchased with tax-exempt funding is based on the tax-exempt Authority's submission of a Plan for Doing Business to the governor of the State and the guaranty agency, effective as of the date the Plan was approved previously. Retains the requirement that such holders receive special allowance only if the tax-exempt Authority does not engage in any pattern or practice that results in the denial of a borrower's access to loans. – Section 433(d)

D. Loan Certification Requirements – Section 417(a)(1)(A) and (B)

- Amended to require that only the loan amount for which the borrower is eligible and the disbursement schedule be provided to the lender as certification of eligibility for subsidized Stafford Loans. School determines and retains documentation of need based on cost of attendance, estimated financial assistance, and expected family contribution.

E. Loan Application – Section 427(c)(1)(C)

- Provides that beginning in academic year 1999-2000, the FAFSA shall be used as the application for FFEL loans, except PLUS and Consolidation Loans.

X. FFEL Program -- Guaranty Agencies

A. Recall of Reserves – Section 412(4)

- Requires the Secretary to recall from guaranty agencies reserve funds as follows:
 - \$85 million to be recalled in FY 2002.
 - \$82.5 million to be recalled in FY 2006.
 - \$82.5 million to be recalled in FY 2007.
- Protects an agency that charges a 1.0 percent insurance premium from being forced to reduce reserves below amount of lender claim payments made during 90-day period prior to reserve recall.

B. Establishment of Federal Fund –Section 413(a)

- Requires each guaranty agency, not later than 60 days after the date of enactment to establish a Federal Student Loan Reserve Fund, which may be referred to as the Federal Fund.
- Requires that the Federal Fund be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities selected by the guaranty agency, with the approval of the Secretary.
- Requires the agency to deposit all funds, securities, and other liquid assets contained in the reserve fund into the Federal Fund, plus reinsurance payments received from Secretary, default collections, insurance premiums, payments for supplemental preclaims activity performed prior to October 7, 1998, 70 percent of payments received as ACA after October 7, 1998 for loans insured prior to that date, and other receipts as specified in regulations.
- Requires that the Federal Fund be used to pay lender claims and to pay default aversion fees into the guaranty agency's Operating Fund.
- Specifies that the Federal Fund, including its earnings, is the property of the United States.
- Authorizes a guaranty agency to transfer up to 180 day's of cash expenses for normal operating expenses (not including claim payments) from the Federal Fund to the Operating fund at any time during the first 3 years after the establishment of the fund.

C. Establishment of Operating Fund – Section 413(b)

- Requires a guaranty agency, not later than 60 days after the date of enactment, to establish a fund designated as the Operating Fund.

Establishment of Operating Fund – continued

- Provides that funds deposited into the Operating Fund are invested at the discretion of the guaranty agency in accordance with prudent investor standards.
- Authorizes a guaranty agency to deposit into the Operating Fund: loan processing and issuance fees equal to 0.65 percent of the total principal amount of loans insured during each fiscal year, 30 percent of payments received after October 7, 1998, for the administrative cost allowance for loans insured prior to that date, account maintenance fees, default aversion fees, 24 percent retention of collections on defaulted loans held by the agency, and other receipts as specified in regulations.
- Provides that the Operating Fund must be used for application processing, loan disbursement, enrollment and repayment status management, default aversion, collection activities, school and lender training, financial aid awareness and outreach activities, compliance monitoring, and other student financial aid related activities, as selected by the agency.
- Specifies that the Operating Fund, with the exception of funds transferred from the Federal Fund, shall be considered the property of the guaranty agency.
- Authorizes the Secretary to regulate the uses or expenditure of the Operating Fund during any period in which transferred funds are owed to the Federal Fund. The Secretary may require necessary reports and audits on the Operating Fund.
- Authorizes a guaranty agency to transfer up to 180 day's of cash expenses for normal operating expenses (not including claim payments) from the Federal Fund to the Operating fund at any time during the first 3 years after the establishment of the fund.
 - Requires an agency to begin repayment of sums transferred not later than the start of the fourth year after the establishment of the Operating Fund and to repay all amounts transferred not later than 5 years after the date the Operating Fund is established.
 - If an agency fails to make a scheduled repayment to the Federal Fund, bars the agency from receiving any other Federal funds until the agency makes all scheduled payments unless the Secretary waives this restriction.
- Allows an agency that demonstrates that its Operating Fund will have a negative cash flow to transfer interest earned on the Federal Fund to the Operating Fund, if the agency demonstrates that such a transfer will substantially improve its financial circumstances.

D. Voluntary Flexible Agreements – Section 418

- Provides that the Secretary may enter into a voluntary flexible agreement with a guaranty agency in lieu of agreements with a guaranty agency under 428(b) and 428(c), that will provide for new arrangements between the Secretary and the guaranty agency.
- Provides that Voluntary Flexible Agreements may be entered into during fiscal years 1999, 2000, and 2001 with up to 6 guaranty agencies. Beginning in fiscal year 2002, provides that any agency or consortium thereof may enter into a Voluntary Flexible Agreement with the Secretary.

E. Payments to Guaranty Agencies – See Below for Each Provision

- Changes the Secretary's equitable share of borrower payments made on a defaulted loan so that the agency retains, instead of 27 percent, 24 percent, and then 23 percent on October 1, 2003. – Section 417(c)(5)
- Establishes an account maintenance fee that is paid quarterly by the Secretary to guaranty agencies from section 458 funds. For fiscal years 1999 and 2000, provides that this fee is equal to 0.12 percent of the total principal amount of loans outstanding. For fiscal years 2001, 2002, and 2003, reduces the fee to 0.10 percent. – Section 454
- Provides that a guaranty agency may receive a default aversion fee from the Secretary of 1 percent of the unpaid principal and accrued interest on a loan at the time the lender requests assistance for any loan on which a default claim is not paid within 300 days after the loan was 60 days delinquent because the loan was brought into current status by the agency. – Section 417(h)
- Provides that the Secretary can pay advances to a guaranty agency acting as a lender of last resort only if eligible borrowers are seeking and are unable to obtain FFEL loans and the agency designated for that State has the capability to provide lender-of-last-resort loans in a timely manner but cannot do so without the advances. If not, provides that the Secretary may provide advances to another agency that has such capability. – Section 417(g)
- Authorizes the Secretary to pay to guaranty agencies a quarterly loan processing and issuance fee equal to 0.65 percent of the principal amount of loans originated each quarter. On October 1, 2003, decreases the fee to 0.40 percent. – Section 417(e)
- Provides that if an agency falls below the required minimum reserve level in any 2 consecutive years, Federal reinsurance payments are reduced to 85 percent. Provides that the Secretary can require an agency to submit a management plan within 45 working days (instead of 30) after the Secretary determines that an agency's financial or administrative condition jeopardizes its ability to perform its responsibilities. – Section 417(c)(7)

Payments to Guaranty Agencies – continued

- Reduces the reinsurance payments percentages from 98, 88, and 78 percent to 95, 85, and 75 percent respectively for loans first disbursed on or after October 1, 1998. – Section 417(c)(1)

F. Miscellaneous – See Below for Each Provision

- Requires guaranty agencies to respond to electronic as well as written inquiries from students and lenders. – Section 412(2)
- Prohibits agencies from sending unsolicited student loan application forms to students enrolled in secondary or postsecondary schools or to parents of such students, unless the borrowers have previously received loans guaranteed by the agency. – Section 417(b)(9)(A)
- Provides that guaranty agencies can provide assistance to schools comparable to the kinds of assistance provided to schools by the Department. – Section 417(b)(9)(B)
- Requires a guaranty agency to certify that diligent attempts were made to locate the borrower, including contact with the school under section 428(c)(2)(G) when it submits a reinsurance request to the Secretary. – Section 417(c)(2)(B)
- Prohibits an agency from charging a fee for notifying a school when a lender requests preclaims assistance for a borrower who had attended the school. – Section 417(c)(3)
- Provides that the Secretary may require an agency to assign loans to the Secretary for the protection of the Federal fiscal interest. – Section 417(c)(6)
- Reduces the required minimum reserve level of 0.5 percent of the total attributable amount of all outstanding loans guaranteed by an agency to 0.25 percent. – Section 417(c)(7)(A)
- Requires that, before taking any enforcement action against an agency, the Secretary must give the agency an opportunity for a hearing on the record for actions commenced after September 24, 1998. – Section 417(c)(7)(E)
- Provides that, except as authorized in section 488A, no Title IV assistance, or property traceable to such assistance, may be garnished or attached in order to satisfy any debt owed by the student awarded such assistance, other than a Title IV debt. – Section 490A
- Provides that guaranty agencies may allow lenders to make loans without receiving prior approval for each individual loan. During fiscal years 1999 and 2000, provides that the Secretary may permit a limited number of guaranty agencies to offer such blanket certificates of guaranty on a pilot basis, and, beginning in fiscal year 2001, any guaranty agency may offer blanket certificates. At the conclusion of the pilot program, requires the Secretary to provide a report to Congress. – Section 417(k)

Miscellaneous – continued

- Permits a State court judgment for the recovery of Title IV assistance to be assigned or transferred to the Secretary. – Section 484