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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

7/24/97

Bob —

Per voice mail this is final language on student loans etc. OMB folks are sharing with the Department. Please let me 54790 or Pat Smith know if you have concerns we are looking for

8236
2006

feedback today or
first thing Friday

Thanks

Lisa

Kountoupes

Subtitle B—Higher Education

SEC. 6101. MANAGEMENT AND RECOVERY OF RESERVES.

(a) AMENDMENT.—Section 422 of the Higher Education Act of 1965 (20 U.S.C. 1072) is amended by adding after subsection (g) the following new subsection:

"(h) RECALL OF RESERVES; LIMITATIONS ON USE OF RESERVE FUNDS AND ASSETS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall, except as otherwise provided in this subsection, recall $1,000,000,000 from the reserve funds held by guaranty agencies on September 1, 2002.

"(2) DEPOSIT.—Funds recalled by the Secretary under this subsection shall be deposited in the Treasury.

"(3) REQUIRED SHARE.—The Secretary shall require each guaranty agency to return reserve funds under paragraph (1) based on the agency's required share of recalled reserve funds held by guaranty agencies as of September 30, 1996. For purposes of this paragraph, a guaranty agency's required share of recalled reserve funds shall be determined as follows:

"(A) The Secretary shall compute each guaranty agency's reserve ratio by dividing (i) the amount held in the agency's reserve funds as of September 30, 1996 (but reflecting later accounting or auditing adjustments approved by the Secretary), by (ii) the original principal amount of all loans for which the agency has an outstanding insurance obligation as of such date, including amounts of outstanding loans transferred to the agency from another guaranty agency.

"(B) If the reserve ratio of any guaranty agency as computed under subparagraph (A) exceeds 2.0 percent, the agency's required share shall include so much of the amounts held in the agency's reserve funds as exceed a reserve ratio of 2.0 percent.

"(C) If any additional amount is required to be recalled under paragraph (1) (after deducting the total of the required shares calculated under subparagraph (B)), such additional amount shall be obtained by imposing on each guaranty agency an equal percentage reduction in the amount of the agency's reserve funds remaining after deduction of the amount recalled under subparagraph (B), except that such percentage reduction under this subparagraph shall not result in the agency's reserve ratio being reduced below 0.58 percent. The equal percentage reduction shall be the percentage obtained by dividing—

"(i) the additional amount required to be recalled (after deducting the total of the required shares calculated under subparagraph (B)), by

"(ii) the total amount of all such agencies' reserve funds remaining (after deduction of the required shares calculated under such subparagraph).

"(D) If any additional amount is required to be recalled under paragraph (1) (after deducting the total of the required shares calculated under subparagraphs (B) and (C)), such additional amount shall be obtained by imposing on each guaranty agency with a reserve ratio (after deducting the required shares calculated under such subparagraphs) in excess of 0.58 percent an equal percentage reduction in the amount of the agency's reserve funds remaining (after such deduction) that exceed a reserve ratio of 0.58 percent. The equal percentage reduction shall be the percentage obtained by dividing—

"(i) the additional amount to be recalled under paragraph (1) (after deducting the amount recalled under subparagraphs (B) and (C)), by

"(ii) the total amount of all such agencies' reserve funds remaining (after deduction of the required shares calculated under such subparagraphs) that exceed a reserve ratio of 0.58 percent.

"(4) RESTRICTED ACCOUNTS REQUIRED.—Within 90 days after the beginning of each of the fiscal years 1998 through 2002, each guaranty agency shall transfer a portion of the agency's required share determined under paragraph (3) to a restricted account established by the agency that is of a type selected by the agency with the approval of the Secretary. Funds transferred to such restricted accounts shall be invested in obligations issued or guaranteed by the United States or in other similarly low-risk securities. A guaranty agency shall not use the funds in such a restricted account for any purpose without the express written permission of the Secretary, except that a guaranty agency may use the earnings from such restricted account for default reduction activities. In each of fiscal years 1998 through 2002, each agency shall transfer the agency's required share to such restricted account in 5 equal annual installments, except that—

"(A) a guaranty agency that has a reserve ratio (as computed under subparagraph (3)(A)) equal to or less than 1.10 percent may transfer the agency's required share to such account in 4 equal installments beginning in fiscal year 1999; and

"(B) a guaranty agency may transfer such required share to such account in accordance with such other payment schedules as are approved by the Secretary.

"(5) SHORTAGE.—If, on September 1, 2002, the total amount in the restricted accounts described in paragraph (4) is less than the amount the Secretary is required to recall under paragraph (1), the Secretary shall require the return of the amount of the shortage from other reserve funds held by guaranty agencies under procedures established by the Secretary. The Secretary shall first attempt to obtain the amount of such shortage from each guaranty agency that failed to transfer the agency's required share to the agency's restricted account in accordance with paragraph (4).

"(6) ENFORCEMENT.—

"(A) IN GENERAL.—The Secretary may take such reasonable measures, and require such information, as may be necessary to ensure that guaranty agencies comply with the requirements of this subsection.

"(B) PROHIBITION.—If the Secretary determines that a guaranty agency has failed to transfer to a restricted account any portion of the agency's required share under this subsection, the agency may not receive any other funds under this part until the Secretary determines that the agency has so transferred the agency's required share.

"(C) WAIVER.—The Secretary may waive the requirements of subparagraph (B) for a guaranty agency described in such subparagraph if the Secretary determines that there are extenuating circumstances beyond the control of the agency that justify such waiver.

"(7) LIMITATION.—

"(A) RESTRICTION ON OTHER AUTHORITY.—The Secretary shall not have any authority to direct a guaranty agency to return reserve funds under subsection (g)(1)(A) during the period from the date of enactment of the Balanced Budget Act of 1997 through September 30, 2002.

"(B) USE OF TERMINATION COLLECTIONS.—Any reserve funds directed by the Secretary to be returned under subsection (g)(1)(B) during such period that do not exceed a guaranty agency's required share of recalled reserve funds under paragraph (3)—

"(i) shall be used to satisfy the agency's required share of recalled reserve funds; and

"(ii) shall be deposited in the restricted account established by the agency under paragraph (4), without regard the whether such funds exceed the next installment required under such paragraph.

"(C) USE OF SANCTIONS COLLECTIONS.—Any reserve funds directed by the Secretary to be returned under subsection (g)(1)(C) during such period that do not exceed a guaranty agency's next installment under paragraph (4)—

"(i) shall be used to satisfy the agency's next installment; and

"(ii) shall be deposited in the restricted account established by the agency under paragraph (4).

"(D) BALANCE AVAILABLE TO SECRETARY.—Any reserve funds directed by the Secretary to be returned under subparagraph (B) or (C) of subsection (g)(1) that remain after satisfaction of the requirements of subparagraphs (B) and (C) of this paragraph shall be available in accordance with subsection (g)(4).

"(8) DEFINITIONS.—For the purposes of this subsection:

"(A) DEFAULT REDUCTION ACTIVITIES.—The term 'default reduction activities' means activities to reduce student loan defaults that improve, strengthen, and expand default prevention activities, such as—

"(i) establishing a program of partial loan cancellation to reward disadvantaged borrowers for good repayment histories with their lenders;

"(ii) establishing a financial and debt management counseling program for high-risk borrowers that provides long-term training (beginning prior to the first disbursement of the borrower's first student loan and continuing through the completion of the borrower's program of education or training) in budgeting and other aspects of financial management, including debt management;

"(iii) establishing a program of placement counseling to assist high-risk borrowers in identifying employment or additional training opportunities; and

"(iv) developing public service announcements that would detail consequences of student loan default and provide information regarding a toll-free telephone number established by the guaranty agency for use by borrowers seeking assistance in avoiding default.

"(B) RESERVE FUNDS.—The term 'reserve funds' when used with respect to a guaranty agency—

"(i) includes any reserve funds in cash or liquid assets held by the guaranty agency, or held by, or under the control of, any other entity; and

"(ii) does not include buildings, equipment, or other nonliquid assets.".

(b) CONFORMING AMENDMENT.—Section 428(c)(9)(A) of the Higher Education Act of 1965 (20 U.S.C. 1078(c)(9)(A)) is amended—

(1) in the first sentence, by striking "for the fiscal year of the agency that begins in 1993"; and

(2) by striking the third sentence.

SEC. 6102. REPEAL OF DIRECT LOAN ORIGINATION FEES TO INSTITUTIONS OF HIGHER EDUCATION.

Section 452 of the Higher Education Act of 1965 (20 U.S.C. 1087b) is amended—

(1) by striking subsection (b); and

(2) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

SEC. 6103. FUNDS FOR ADMINISTRATIVE EXPENSES.

Subsection (a) of section 458 of the Higher Education Act of 1965 (20 U.S.C. 1087h(a)) is amended to read as follows:

"(a) ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—Each fiscal year, there shall be available to the Secretary from funds not otherwise appropriated, funds to be obligated for—

"(A) administrative costs under this part and part B, including the costs of the direct student loan programs under this part, and

"(B) administrative cost allowances payable to guaranty agencies under part B and calculated in accordance with paragraph (2),

not to exceed (from such funds not otherwise appropriated) $532,000,000 in fiscal year 1998, $610,000,000 in fiscal year 1999, $705,000,000 in fiscal year 2000, $750,000,000 in fiscal year 2001, and $750,000,000 in fiscal year 2002. Administrative cost allowances under subparagraph (B) of this paragraph shall be paid quarterly and used in accordance with section 428(f). The Secretary may carry over funds available under this section to a subsequent fiscal year.

"(2) CALCULATION BASIS.—Administrative cost allowances payable to guaranty agencies under paragraph (1)(B) shall be calculated on the basis of 0.85 percent of the total principal amount of loans upon which insurance is issued on or after the date of enactment of the Balanced Budget Act of 1997, except that such allowances shall not exceed—

"(A) $170,000,000 for each of the fiscal years 1998 and 1999; or

"(B) $150,000,000 for each of the fiscal years 2000, 2001, and 2002.".

SEC. 6104. EXTENSION OF STUDENT AID PROGRAMS.

Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended—

(1) in section 424(a), by striking "1998." and "2002." and inserting "2002." and "2006.", respectively;

(2) in section 428(a)(5), by striking "1998," and "2002." and inserting "2002," and "2006.", respectively; and

(3) in section 428C(e), by striking "1998." and inserting "2002.".

Subtitle C—Repeal of Smith-Hughes Vocational Education Act

SEC. 6201. REPEAL OF SMITH-HUGHES VOCATIONAL EDUCATION ACT.

The Act of February 23, 1917 (39 Stat. 929, chapter 114; 20 U.S.C. 11 et seq.) (commonly known as the "Smith-Hughes Vocational Education Act"), is repealed.

STATEMENT OF MANAGERS
SUBCONFERENCE ON STUDENT LOANS/OTHER (#8)
BALANCED BUDGET ACT OF 1997 (H.R. 2015/ S. 947)

Subtitle B – Higher Education

RECALL OF GUARANTY AGENCY RESERVES

Note #1

House bill

The House bill requires the return of $1,000,000,000 in guaranty agency reserve funds.

Senate amendment

The Senate amendment requires the return of $1,028,000,000 in guaranty agency reserve funds and defines reserve funds as any reserve funds held by or under the control of any other entity.

Conference agreement

The Senate recedes.

Note #2

House bill

The House bill uses the term "required share" to describe each guaranty agency's share of recalled reserve funds.

Senate amendment

The Senate amendment uses the term "equitable share" to describe each guaranty agency's share of recalled reserve funds.

Conference agreement

The Senate recedes.

Note #3

House bill

The House bill allows for accounting adjustments approved by the Secretary in determining reserve ratios and ties the outstanding insurance obligations to September 30, 1996.

Senate amendment

The Senate amendment defines reserve funds as including funds held by, or under the control of, any other entity.

Conference agreement

The Senate recedes with an amendment adding at the end of the subparagraph "including amounts of outstanding loans transferred to the guaranty agency from another guaranty agency."

Note #4

House bill

The House bill includes all funds in excess of a 2-percent reserve ratio in an agency's required share.

Senate amendment

The Senate amendment includes all funds in excess of a 1.12-percent reserve ratio in an agency's equitable share.

Conference agreement

The Senate recedes with an amendment. The compromise amendment includes a three step formula for calculating the required share for each guaranty agency. In step one, all funds in excess of a 2-percent reserve ratio will be included in an agency's required share. In step two, the total amount recalled under step one shall be subtracted from the total amount to be recalled under this part and the difference shall be calculated as a percentage of total remaining reserves. Each agency will then include this percentage of its remaining reserves in its required share with the exception that no agency will be required to reduce its reserve ratio below .58%. If an additional amount is required to meet the total recall, a third calculation shall be employed. The remaining amount required to meet the total recall after steps one and two shall be calculated as a percentage of the total reserves above .58% of all agencies with reserve levels above .58%. This percentage shall, in turn, be multiplied by each agency's remaining reserves over a .58% level. This additional amount shall be included within the agency's required share. If any agency fails to transfer its required share to its restricted account, the Secretary will attempt to obtain the shortage from the agency which fails to make the required payment. If, on September 1, 2002, after collecting funds from agencies which have failed to make required payments, the Secretary determines that the total amount within the restricted accounts is less than the amount required, the Secretary shall require the return of the amount of the shortage from other reserve funds held by guaranty agencies.

Note #5

House bill

The House bill uses the term "required shares."

Senate amendment

The Senate amendment uses the term "equitable shares."

Conference agreement

The Senate recedes.

Note #6

6a

House bill

The House bill requires five equal annual installments to the restricted accounts, except that a guaranty agency with a reserve ratio under 1.10-percent may make four equal annual installments beginning in 1999 or in accordance with an agreement with the Secretary.

Senate amendment

The Senate amendment provides that the transfer to the restricted accounts in the first year is based on all agencies combined transferring 20 percent. All amounts in excess of a 2-percent reserve ratio would first be transferred and, then, equal percentages would come from each agency. In 1999 through 2002, each agency must transfer 25 percent of its remaining equitable share.

Conference agreement

The Senate recedes with an amendment incorporating the compromise formula. (See note #4.)

6b
House bill

The House bill allows guaranty agencies to use earnings on the restricted account for operational expenses.

Senate amendment

The Senate amendment allows guaranty agencies to use earnings on the restricted account for activities to reduce student loan defaults.

Conference agreement

The House recedes with an amendment defining default reduction activities as activities to reduce student loan defaults that improve, strengthen and expand default prevention activities. It is the intent of the conferees that guaranty agencies use the earnings on the restricted account to improve and strengthen current default prevention activities as well as to expand these activities.

Note #7

House bill

The House bill gives the Secretary the authority to withhold funds if a guaranty agency fails to comply with this part, prohibits the Secretary from requiring the return of excess reserves under subsection (g)(1)(A) and requires that any reserve funds returned under (g)(1)(B) or (g)(1)(C) will be placed in the restricted accounts and returned to the Treasury in 2002.

Senate amendment

The Senate amendment has no comparable provision dealing with the withholding of funds but does prohibit the Secretary from requiring the return of excess reserves under subsection (g)(1)(A) and requires that any reserve funds returned under (g)(1)(B) or (g)(1)(C) will be placed in the restricted accounts and returned to the Treasury in the year 2002.

Conference agreement

The Senate recedes with an amendment clarifying that a guaranty agency which has not transferred its required share to a restricted account may not receive any other funds under Part B of Title IV until the Secretary determines the agency is in compliance. The Secretary may waive this provision due to extenuating circumstances beyond the control of the agency.

In addition, the amendment clarifies that reserve amounts returned to the Secretary under section 422(g)(1)(B) will first be applied to the agency's total required share. Amounts recalled to the Secretary in excess of the required share will be returned to the Treasury. Reserve amounts recalled by the Secretary under section 422(g)(1)(C) will first be used to satisfy the agency's next installment required under the recall formula. Amounts recalled in excess of this amount will be returned to the Treasury.

Note #8

House bill

The House bill refers to cash reserve funds when defining reserve funds.

Senate amendment

The Senate amendment refers to reserve funds without specifically mentioning cash.

Conference agreement

The Senate recedes with an amendment including both cash and "liquid assets" in the definition of "reserve funds."

Note #9

House bill

The House bill provides that funds under Section 458 may be used for administrative costs under Part B.

Senate amendment

The Senate amendment does not mention Part B.

Conference agreement

The Senate recedes.

Note #10

House bill

The House bill includes a provision which clarifies the amounts that may be retained by guaranty agencies when defaulted loans are collected through consolidation. Under the House provision, guaranty agencies may retain 18.5 percent plus the reinsurance complement in effect for all such loans consolidated on or after July 1, 1997. For defaulted loans consolidated prior to that date, guaranty agencies which have retained 18.5 percent are allowed to retain only 18.5 percent, and agencies which have been retaining 27 percent plus the reinsurance complement are allowed to retain 27 percent plus the reinsurance complement.

Senate amendment

Conference agreement

The House recedes. This agreement to remove this provision is not an endorsement or rejection of any particular position on the collection retention issue. Rather, it represents the conferees' agreement that this policy issue should be addressed during the reauthorization process where it can be given full and thorough consideration. In recognition of that agreement, five of the six conferees will be asking that the Department defer further attempts to collect amounts in dispute with respect to these particular loans for a period of one year or until the Higher Education Act is reauthorized, whichever occurs first. It is the conferees' understanding that the Department has issued final regulations on this issue which went into effect on July 1, 1997. The conferees fully expect that guaranty agencies will comply with those regulations for loans consolidated on or after that date until Congress has the opportunity to act on this issue.

Subtitle C -- Smith-Hughes Vocational Education Act

SMITH-HUGHES VOCATIONAL EDUCATION ACT

Note #11

House bill

The House bill repeals the Smith-Hughes Vocational Education Act.

Senate amendment

The Senate amendment has no comparable provision.

Conference agreement

The Senate recedes.

SECTION-BY-SECTION ANALYSIS OF CONFERENCE AGREEMENT

Subtitle B--Higher Education

Section 6101. Management and Recovery of Reserves

This section describes section 422 of the Higher Education Act of 1965 as proposed to be added to or amended by the conference agreement. Unless otherwise noted, all section and paragraph references are to the Balanced Budget Act of 1997.

Required shares

The conference agreement requires that the guaranty agencies return one billion dollars of their current excess cash reserves to the Federal Treasury in Fiscal Year 2002. The Secretary shall require each guaranty agency to return excess reserve funds based on each agency's required share. This share will be calculated based upon the excess reserve funds held by the agency as of September 30, 1996. For the sole purpose of determining each agency's required share, the calculation of the reserve ratio will include transfers of the liabilities to each agency of the outstanding loans from merged agencies as well as transfers of the reserves from the merged agencies. Once the reserve ratios are determined for each agency, their required shares will be calculated in accordance with a three-step formula.

In step one, all funds in excess of a 2-percent reserve ratio will be included in an agency's required share. In step two, the total amount recalled under step one shall be subtracted from the total amount to be returned under the recall ($1 billion) and the difference shall be calculated as a percentage of the total remaining reserves. Each agency will then include this percentage of its remaining reserves in its required share with the exception that no agency will be required to reduce its reserve ratio below .58%. Such guarantors will pay their share up until the point where their reserve level is .58%.

If an additional amount is required to meet the $1 billion recall, a third calculation shall be made. The remaining amount required to meet the $1 billion recall after steps one and two shall be calculated as a percentage of the reserves above .58% of all agencies with reserve levels above .58%. This percentage shall, in turn, be multiplied by each agency's remaining reserves over a .58% level. This additional amount shall be included within each agency's required share.

The formula approved by the conferees meets the goals of the bipartisan budget agreement without jeopardizing the viability of guaranty agencies with low reserve levels. This step was necessary to ensure that students participating in the Federal Family Education Loan Program would continue to be able to access loans and services without disruption. The conferees deferred consideration of all proposals to restructure the FFELP program until they could be reviewed in the context of reauthorization of the Higher Education Act.

Restricted accounts

Each agency shall establish a restricted account of its own choosing with approval from the Secretary. Each agency shall, consistent with current law, invest the reserves placed within the restricted accounts in obligations issued or guaranteed by the United States or in other similarly low-risk securities. A guaranty agency may use the earnings from these funds to improve and strengthen current default reduction activities as well as to initiate new default reducation activities. Authorized activities include, but are not limited to, partial loan cancellation programs, debt management counseling programs, placement counseling programs, and development of public service announcements.

Orderly recall

Paragraph (4) establishes a timetable for the orderly recall of the $1 billion in excess guaranty agency reserves over the next five years. In each of fiscal years 1998-2002, each guaranty agency that has a reserve ratio in excess of 1.10 percent must transfer its required share into its restricted account in five equal annual installments. Each agency with a reserve ratio equal to or less than 1.10 percent may transfer its required share into its restricted account in four equal payments beginning in fiscal year 1999. A guaranty agency may also transfer its required share in accordance with an alternate payment schedule approved by the Secretary of Education.

Shortage

Paragraph (5) provides that if, on September 1, 2002, any agency has failed to transfer all of its required share to its restricted account, the Secretary will attempt to obtain the shortage from the agency which fails to make the full required payment. If, on September 1, 2002, after collecting funds from agencies which have failed to make required payments, the Secretary determines that the total amount within the restricted accounts is less than the amount required, the Secretary shall require the return of the amount of the shortage from other reserve funds held by guaranty agencies.

Enforcement

Paragraph (6) provides that the Secretary of Education may take reasonable measures to ensure that guaranty agencies comply with the requirements of the subsection. If a guaranty agency fails to transfer a portion of its required share into its restricted account, the agency may not receive any other funds under Part B of Title IV until the agency has made the required transfer of funds. The Secretary may waive this provision in the case of extenuating circumstances.

Limitations on recall authority

In order to ensure that sufficient reserve funds will be available to meet the $1 billion recall, paragraph (7) places restrictions on the Secretary's recall authority during the five year period covered by the budget agreement. The Secretary may not recall reserves under 422(g)(1)(A) of the Higher Education Act. Funds recalled to the Secretary under 422(g)(1)(B) must first be used to satisfy the agency's required share of reserve funds and deposited in the restricted account established by the agency. Funds recalled to the Secretary in excess of this amount will be deposited in the Treasury. Funds recalled to the Secretary under 422(g)(1)(C) shall be used to satisfy the agency's next installment of its required share and deposited in its restricted account. Funds recalled to the Secretary in excess of the amount required for the next annual installment will be deposited in the Treasury.

Minimum reserve ratio

Each guaranty agency is required to maintain a minimum reserve level in order to ensure that it will be able to meet its insurance obligations. In 1993, the minimum level was 0.5% of outstanding loans guaranteed by an agency. Between FY 1994 and FY 1996, the minimum level rose to 1.1%. In order to accommodate the reduced reserve ratios that will be produced under the recall formula, Section 428(c)(9)(A) of the Higher Education Act of 1965 is amended to restore the minimum reserve ratio for guaranty agencies to .5%.

Section 6102. Repeal of the direct lending loan origination payment

This section describes section 452 of the Higher Education as proposed to be amended by the conference report.

The authority to make the Federal payment of $10 per loan to schools and/or alternative originators that make direct loans under subsection (b) of section 452 of the Higher Education Act of 1965 is repealed. This repeal extends for five years a provision currently contained within the FY 1997 Labor, HHS, Education and Related Agencies Appropriations Bill and provides savings of $160 million over five years.

Section 6103. Funds for Administrative Expenses

Unless otherwise indicated, references are to section 458 of the Higher Education Act of 1965, as proposed to be added or amended by the conference report.

The bipartisan budget agreement preserved a commitment to maintaining two viable student loan programs and called for "an equitable balance of savings between the direct student loan program and the guaranteed student loan program." In order to preserve this balance, $604 million in savings are required from the Department of Education's mandatory account to administer the federal direct lending program, the FFELP program and to pay the administrative cost allowance to guaranty agencies. The Department will receive $3.2 billion for this account over the next five years.

In accordance with current law, the payment of administrative cost allowances to guaranty agencies is to be provided by the Department of Education from funds available in Section 458. The conference agreement provides that the administrative cost allowance paid to guaranty agencies will be capped at .85% of every new loan. These expenditures are capped at $170 million in each of Fiscal Years 1998 and 1999 and $150 million in each of Fiscal Years 2000, 2001, and 2002.

Section 6104. Extension of Student Aid Programs

This section refers to Title IV of the Higher Education Act, as proposed to be amended by the conference report.

Section 424 (a) is amended to extend the duration of the Federal Loan Insurance program from 1998 to 2002. Section 428(a)(5) is amended to extend the duration of the authority to make interest subsidized loans from 1998 until 2002. Section 428C(e) is amended to extend the authority to make consolidation loans from 1998 until 2002. These extensions are required for Congressional Budget Office scoring purposes.

Subtitle C--Repeal of Smith-Hughes Vocational Education Act

The Smith-Hughes Act (39 Stat. 929, chapter 114; 20 U.S.C. 11 et seq) provides a permanent appropriation for vocational education. Consistent with the Administration's budget request, this program is repealed providing $29 million in savings over 5 years.

SECTION-BY-SECTION ANALYSIS OF CONFERENCE AGREEMENT

Subtitle B--Higher Education

Section 6101. Management and Recovery of Reserves

This section describes section 422 of the Higher Education Act of 1965 as proposed to be added to or amended by the conference agreement. Unless otherwise noted, all section and paragraph references are to the Balanced Budget Act of 1997.

Required shares

The conference agreement requires that the guaranty agencies return one billion dollars of their current excess cash reserves to the Federal Treasury in Fiscal Year 2002. The Secretary shall require each guaranty agency to return excess reserve funds based on each agency's required share. This share will be calculated based upon the excess reserve funds held by the agency as of September 30, 1996. For the sole purpose of determining each agency's required share, the calculation of the reserve ratio will include transfers of the liabilities to each agency of the outstanding loans from merged agencies as well as transfers of the reserves from the merged agencies. Once the reserve ratios are determined for each agency, their required shares will be calculated in accordance with a three-step formula.

In step one, all funds in excess of a 2-percent reserve ratio will be included in an agency's required share. In step two, the total amount recalled under step one shall be subtracted from the total amount to be returned under the recall ($1 billion) and the difference shall be calculated as a percentage of the total remaining reserves. Each agency will then include this percentage of its remaining reserves in its required share with the exception that no agency will be required to reduce its reserve ratio below .58%. Such guarantors will pay their share up until the point where their reserve level is .58%.

If an additional amount is required to meet the $1 billion recall, a third calculation shall be made. The remaining amount required to meet the $1 billion recall after steps one and two shall be calculated as a percentage of the reserves above .58% of all agencies with reserve levels above .58%. This percentage shall, in turn, be multiplied by each agency's remaining reserves over a .58% level. This additional amount shall be included within each agency's required share.

The formula approved by the conferees meets the goals of the bipartisan budget agreement without jeopardizing the viability of guaranty agencies with low reserve levels. This step was necessary to ensure that students participating in the Federal Family Education Loan Program would continue to be able to access loans and services without disruption. The conferees deferred consideration of all proposals to restructure the FFELP program until they could be reviewed in the context of reauthorization of the Higher Education Act.

Restricted accounts

Each agency shall establish a restricted account of its own choosing with approval from the Secretary. Each agency shall, consistent with current law, invest the reserves placed within the restricted accounts in obligations issued or guaranteed by the United States or in other similarly low-risk securities. A guaranty agency may use the earnings from these funds to improve and strengthen current default reduction activities as well as to initiate new default reducation activities. Authorized activities include, but are not limited to, partial loan cancellation programs, debt management counseling programs, placement counseling programs, and development of public service announcements.

Orderly recall

Paragraph (4) establishes a timetable for the orderly recall of the $1 billion in excess guaranty agency reserves over the next five years. In each of fiscal years 1998-2002, each guaranty agency that has a reserve ratio in excess of 1.10 percent must transfer its required share into its restricted account in five equal annual installments. Each agency with a reserve ratio equal to or less than 1.10 percent may transfer its required share into its restricted account in four equal payments beginning in fiscal year 1999. A guaranty agency may also transfer its required share in accordance with an alternate payment schedule approved by the Secretary of Education.

Shortage

Paragraph (5) provides that if, on September 1, 2002, any agency has failed to transfer all of its required share to its restricted account, the Secretary will attempt to obtain the shortage from the agency which fails to make the full required payment. If, on September 1, 2002, after collecting funds from agencies which have failed to make required payments, the Secretary determines that the total amount within the restricted accounts is less than the amount required, the Secretary shall require the return of the amount of the shortage from other reserve funds held by guaranty agencies.

Enforcement

Paragraph (6) provides that the Secretary of Education may take reasonable measures to ensure that guaranty agencies comply with the requirements of the subsection. If a guaranty agency fails to transfer a portion of its required share into its restricted account, the agency may not receive any other funds under Part B of Title IV until the agency has made the required transfer of funds. The Secretary may waive this provision in the case of extenuating circumstances.

Limitations on recall authority

In order to ensure that sufficient reserve funds will be available to meet the $1 billion recall, paragraph (7) places restrictions on the Secretary's recall authority during the five year period covered by the budget agreement. The Secretary may not recall reserves under 422(g)(1)(A) of the Higher Education Act. Funds recalled to the Secretary under 422(g)(1)(B) must first be used to satisfy the agency's required share of reserve funds and deposited in the restricted account established by the agency. Funds recalled to the Secretary in excess of this amount will be deposited in the Treasury. Funds recalled to the Secretary under 422(g)(1)(C) shall be used to satisfy the agency's next installment of its required share and deposited in its restricted account. Funds recalled to the Secretary in excess of the amount required for the next annual installment will be deposited in the Treasury.

Minimum reserve ratio

Each guaranty agency is required to maintain a minimum reserve level in order to ensure that it will be able to meet its insurance obligations. In 1993, the minimum level was 0.5% of outstanding loans guaranteed by an agency. Between FY 1994 and FY 1996, the minimum level rose to 1.1%. In order to accommodate the reduced reserve ratios that will be produced under the recall formula, Section 428(c)(9)(A) of the Higher Education Act of 1965 is amended to restore the minimum reserve ratio for guaranty agencies to .5%.

Section 6102. Repeal of the direct lending loan origination payment

This section describes section 452 of the Higher Education as proposed to be amended by the conference report.

The authority to make the Federal payment of $10 per loan to schools and/or alternative originators that make direct loans under subsection (b) of section 452 of the Higher Education Act of 1965 is repealed. This repeal extends for five years a provision currently contained within the FY 1997 Labor, HHS, Education and Related Agencies Appropriations Bill and provides savings of $160 million over five years.

Section 6103. Funds for Administrative Expenses

Unless otherwise indicated, references are to section 458 of the Higher Education Act of 1965, as proposed to be added or amended by the conference report.

The bipartisan budget agreement preserved a commitment to maintaining two viable student loan programs and called for "an equitable balance of savings between the direct student loan program and the guaranteed student loan program." In order to preserve this balance, $604 million in savings are required from the Department of Education's mandatory account to administer the federal direct lending program, the FFELP program and to pay the administrative cost allowance to guaranty agencies. The Department will receive $3.2 billion for this account over the next five years.

In accordance with current law, the payment of administrative cost allowances to guaranty agencies is to be provided by the Department of Education from funds available in Section 458. The conference agreement provides that the administrative cost allowance paid to guaranty agencies will be capped at .85% of every new loan. These expenditures are capped at $170 million in each of Fiscal Years 1998 and 1999 and $150 million in each of Fiscal Years 2000, 2001, and 2002.

Section 6104. Extension of Student Aid Programs

This section refers to Title IV of the Higher Education Act, as proposed to be amended by the conference report.

Section 424 (a) is amended to extend the duration of the Federal Loan Insurance program from 1998 to 2002. Section 428(a)(5) is amended to extend the duration of the authority to make interest subsidized loans from 1998 until 2002. Section 428C(e) is amended to extend the authority to make consolidation loans from 1998 until 2002. These extensions are required for Congressional Budget Office scoring purposes.

Subtitle C--Repeal of Smith-Hughes Vocational Education Act

The Smith-Hughes Act (39 Stat. 929, chapter 114; 20 U.S.C. 11 et seq) provides a permanent appropriation for vocational education. Consistent with the Administration's budget request, this program is repealed providing $29 million in savings over 5 years.

STATEMENT OF MANAGERS
SUBCONFERENCE ON STUDENT LOANS/OTHER (#8)
BALANCED BUDGET ACT OF 1997 (H.R. 2015/ S. 947)

Subtitle B -- Higher Education

RECALL OF GUARANTY AGENCY RESERVES

Note #1

House bill

The House bill requires the return of $1,000,000,000 in guaranty agency reserve funds.

Senate amendment

The Senate amendment requires the return of $1,028,000,000 in guaranty agency reserve funds and defines reserve funds as any reserve funds held by or under the control of any other entity.

Conference agreement

The Senate recedes.

Note #2

House bill

The House bill uses the term "required share" to describe each guaranty agency's share of recalled reserve funds.

Senate amendment

The Senate amendment uses the term "equitable share" to describe each guaranty agency's share of recalled reserve funds.

Conference agreement

The Senate recedes.

Note #3

House bill

The House bill allows for accounting adjustments approved by the Secretary in determining reserve ratios and ties the outstanding insurance obligations to September 30, 1996.

Senate amendment

The Senate amendment defines reserve funds as including funds held by, or under the control of, any other entity.

Conference agreement

The Senate recedes with an amendment adding at the end of the subparagraph "including amounts of outstanding loans transferred to the guaranty agency from another guaranty agency."

Note #4

House bill

The House bill includes all funds in excess of a 2-percent reserve ratio in an agency's required share.

Senate amendment

The Senate amendment includes all funds in excess of a 1.12-percent reserve ratio in an agency's equitable share.

Conference agreement

The Senate recedes with an amendment. The compromise amendment includes a three step formula for calculating the required share for each guaranty agency. In step one, all funds in excess of a 2-percent reserve ratio will be included in an agency's required share. In step two, the total amount recalled under step one shall be subtracted from the total amount to be recalled under this part and the difference shall be calculated as a percentage of total remaining reserves. Each agency will then include this percentage of its remaining reserves in its required share with the exception that no agency will be required to reduce its reserve ratio below .58%. If an additional amount is required to meet the total recall, a third calculation shall be employed. The remaining amount required to meet the total recall after steps one and two shall be calculated as a percentage of the total reserves above .58% of all agencies with reserve levels above .58%. This percentage shall, in turn, be multiplied by each agency's remaining reserves over a .58% level. This additional amount shall be included within the agency's required share. If any agency fails to transfer its required share to its restricted account, the Secretary will attempt to obtain the shortage from the agency which fails to make the required payment. If, on September 1, 2002, after collecting funds from agencies which have failed to make required payments, the Secretary determines that the total amount within the restricted accounts is less than the amount required, the Secretary shall require the return of the amount of the shortage from other reserve funds held by guaranty agencies.

Note #5

House bill

The House bill uses the term "required shares."

Senate amendment

The Senate amendment uses the term "equitable shares."

Conference agreement

The Senate recedes.

Note #6

6a

House bill

The House bill requires five equal annual installments to the restricted accounts, except that a guaranty agency with a reserve ratio under 1.10-percent may make four equal annual installments beginning in 1999 or in accordance with an agreement with the Secretary.

Senate amendment

The Senate amendment provides that the transfer to the restricted accounts in the first year is based on all agencies combined transferring 20 percent. All amounts in excess of a 2-percent reserve ratio would first be transferred and, then, equal percentages would come from each agency. In 1999 through 2002, each agency must transfer 25 percent of its remaining equitable share.

Conference agreement

The Senate recedes with an amendment incorporating the compromise formula. (See note #4.)

6b
House bill

The House bill allows guaranty agencies to use earnings on the restricted account for operational expenses.

Senate amendment

The Senate amendment allows guaranty agencies to use earnings on the restricted account for activities to reduce student loan defaults.

Conference agreement

The House recedes with an amendment defining default reduction activities as activities to reduce student loan defaults that improve, strengthen and expand default prevention activities. It is the intent of the conferees that guaranty agencies use the earnings on the restricted account to improve and strengthen current default prevention activities as well as to expand these activities.

Note #7

House bill

The House bill gives the Secretary the authority to withhold funds if a guaranty agency fails to comply with this part, prohibits the Secretary from requiring the return of excess reserves under subsection (g)(1)(A) and requires that any reserve funds returned under (g)(1)(B) or (g)(1)(C) will be placed in the restricted accounts and returned to the Treasury in 2002.

Senate amendment

The Senate amendment has no comparable provision dealing with the withholding of funds but does prohibit the Secretary from requiring the return of excess reserves under subsection (g)(1)(A) and requires that any reserve funds returned under (g)(1)(B) or (g)(1)(C) will be placed in the restricted accounts and returned to the Treasury in the year 2002.

Conference agreement

The Senate recedes with an amendment clarifying that a guaranty agency which has not transferred its required share to a restricted account may not receive any other funds under Part B of Title IV until the Secretary determines the agency is in compliance. The Secretary may waive this provision due to extenuating circumstances beyond the control of the agency.

In addition, the amendment clarifies that reserve amounts returned to the Secretary under section 422(g)(1)(B) will first be applied to the agency's total required share. Amounts recalled to the Secretary in excess of the required share will be returned to the Treasury. Reserve amounts recalled by the Secretary under section 422(g)(1)(C) will first be used to satisfy the agency's next installment required under the recall formula. Amounts recalled in excess of this amount will be returned to the Treasury.

Note #8

House bill

The House bill refers to cash reserve funds when defining reserve funds.

Senate amendment

The Senate amendment refers to reserve funds without specifically mentioning cash.

Conference agreement

The Senate recedes with an amendment including both cash and "liquid assets" in the definition of "reserve funds."

Note #9

House bill

The House bill provides that funds under Section 458 may be used for administrative costs under Part B.

Senate amendment

The Senate amendment does not mention Part B.

Conference agreement

The Senate recedes.

Note #10

House bill

The House bill includes a provision which clarifies the amounts that may be retained by guaranty agencies when defaulted loans are collected through consolidation. Under the House provision, guaranty agencies may retain 18.5 percent plus the reinsurance complement in effect for all such loans consolidated on or after July 1, 1997. For defaulted loans consolidated prior to that date, guaranty agencies which have retained 18.5 percent are allowed to retain only 18.5 percent, and agencies which have been retaining 27 percent plus the reinsurance complement are allowed to retain 27 percent plus the reinsurance complement.

Senate amendment

The Senate amendment has no comparable provision.

Conference agreement

The House recedes. This agreement to remove this provision is not an endorsement or rejection of any particular position on the collection retention issue. Rather, it represents the conferees' agreement that this policy issue should be addressed during the reauthorization process where it can be given full and thorough consideration. In recognition of that agreement, five of the six conferees will be asking that the Department defer further attempts to collect amounts in dispute with respect to these particular loans for a period of one year or until the Higher Education Act is reauthorized, whichever occurs first. It is the conferees' understanding that the Department has issued final regulations on this issue which went into effect on July 1, 1997. The conferees fully expect that guaranty agencies will comply with those regulations for loans consolidated on or after that date until Congress has the opportunity to act on this issue.

Subtitle C -- Smith-Hughes Vocational Education Act

SMITH-HUGHES VOCATIONAL EDUCATION ACT

Note #11

House bill

The House bill repeals the Smith-Hughes Vocational Education Act.

Senate amendment

The Senate amendment has no comparable provision.

Conference agreement

The Senate recedes.

Subtitle D – Expansion of Portability and Health Insurance Coverage

House bill

The House bill amends the Employee Retirement Income Security Act (ERISA) to establish a certification procedure for Association Health Plans (AHPs) in order to promote multiple employer pooling, particularly among small businesses, so as to expand health insurance coverage for the employees of such businesses and their families. In general, bona fide associations, multiemployer plans, franchise networks, and certain other entities meeting financial, reporting, fiduciary and solvency requirements would be able to offer self-insured coverage as well as fully-insured coverage options. The bill also clarifies the status of single employer, multiemployer and other collectively-bargained plans with respect to the application of the preemption provisions of section 514 of ERISA. The bill amends ERISA's enforcement sections to provide federal cease and desist authority to shut down fraudulent health insurance operations and to provide for criminal penalties for certain willful misrepresentations by such entities.

Senate amendment

The Senate amendment has no comparable provision.

Conference agreement

The House recedes.

Committee on Education and the Workforce

William L. Clay, Ranking Democratic Member
U. S. House of Representatives
2101 Rayburn House Office Building
Washington, D.C. 20515

OFFICE NUMBER - (202) 225-3725
FAX NUMBER - (202) 226-4864

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CALIFORNIA STUDENT AID COMMISSION

1515 S Street, Suite 500, North Building
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(916) 322-1904

OFFICE OF EXECUTIVE DIRECTOR JON D. SHAVER

June 10, 1997

FINANCIAL AID
JUN 16 1997
OFFICE

Dr. Stephen L. Weber
President
San Diego State University
5500 Campanile Drive
San Diego, CA 92182

Dear President Weber:

I would hope that you would have noticed a resurgence in both interest in and performance of the California Student Aid Commission over the past year.

As we are about to embark on the 1997-98 academic year, I would like to share some observations and insights in regard to our relationship. The Commission, and now EDFUND, are teaming up to provide the most effective, lowest cost programs to the students and institutions we serve. Our ability to quickly and effectively respond to your institution's needs should be the measure by which we are judged. Expect innovation as we go forward!

In reviewing our results through April, I would like to share some loan and grant volume data:

	Number	Dollars
Total Loans Guaranteed by CSAC	326,283	$1,327,932,421
Your Estimated Loan Volume	18,714	$67,219,604
Your Loan Volume Guaranteed by CSAC	0	$0
Total Grants Reconciled to Date	83,533	$220,998,329
Your Reconciled Grant Volume	2,028	3,579,499

If all of your loans had been guaranteed by the Commission, it is estimated your students would have saved $672,196 this year as a result of our zero insurance premium fee. Your grant dollars may increase as the Commission continues to award over $282,000,000 and finalize late in the year awards for the 1996-97 academic year.

I would encourage you to review the enclosed materials. These highlight a variety of specific activities and initiatives underway. The Commission is committed to listening to and working with its schools to streamline and enhance the delivery of services. Any comments or suggestions furthering this dialogue are always welcome. Please feel free to call me or our Regional Associate for your institution, Kathy Kordis at 467-4222.

VISION
Toward a California that invests in educational opportunity. Reflecting an active, effective ministry and providing a higher quality of social and economic life for its citizens

MISSION
Making education beyond high school financially accessible to all Californians

Sincerely,

Jon D. Shaver
Executive Director

cc: William Boyd

FAX COVER

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Executive Office of the President
Office of Management and Budget
Washington, D.C. 20503

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Impact of Republican Budget Proposal on Section 458 Funding Under Alternative Scoring

(In millions of dollars)

	1998	1999	2000	2001	2002	1998-02
Section 458 Under CBO Post-Policy Baseline						
BA	$953	$750	$750	$750	$750	$3,953
O	715	768	756	753	745	3,737
Section 458 Moved to Subsidy Under Alternative Scoring						
BA	12	87	197	318	422	1,036
O	6	48	129	235	344	762
Section 458 under CBO Alternative Baseline						
BA	941	663	553	432	328	2,917
O	709	720	627	518	401	2,975
Proposed Reductions in Republican Proposal						
BA	-462	-259	-259	-259	-178	-1,417
O	-245	-285	-270	-253	-214	-1,277
Section 458 under Republican Proposal						
BA	479	404	294	173	150	1,500
O	464	435	357	255	187	1,698
Administrative Cost Allowances under Republican Proposal						
BA	-150	-150	-150	-150	-150	-750
O	-150	-150	-150	-150	-150	-750
Remaining Section 458 Funds						
BA	329	254	144	23	0	750
O	314	285	207	105	37	948

4/29/97
Budget Service

FAX COVER

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Executive Office of the President
Office of Management and Budget
Washington, D.C. 20503

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Impact of Republican Budget Proposal on Section 458 Funding Under Alternative Scoring

(In millions of dollars)

	1998	1999	2000	2001	2002	1998-02
Section 458 under CBO Alternative Baseline						
BA	$941	$663	$553	$432	$328	$2,917
O	709	720	627	518	401	2,975
Proposed Reductions in Republican Proposal						
BA	-462	-259	-259	-259	-178	-1,417
O	-245	-285	-270	-263	-214	-1,277
Section 458 under Republican Proposal						
BA	479	404	294	173	150	1,500
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Administrative Cost Allowances under Republican Proposal						
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4/29/97

Budget Service