

103^D CONGRESS
1ST SESSION

H. R. 2055

To amend the Higher Education Act of 1965 to simplify the delivery of student loans to borrowers and eliminate borrower confusion; to provide a variety of repayment plans, including income contingent repayment through the EXCEL Account, to borrowers so that they have flexibility in managing their student loan repayment obligations, and so that those obligations do not foreclose community service-oriented career choices for those borrowers; to replace, through an orderly transition, the Federal Family Education Loan Program with the Federal Direct Student Loan Program; to avoid the unnecessary cost, to taxpayers and borrowers, and administrative complexity associated with the Federal Family Education Loan Program through the use of a direct student loan program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 11, 1993

Mr. ANDREWS of New Jersey (for himself, Mr. FORD of Michigan, Mr. CLAY, Mr. MILLER of California, Mr. MURPHY, Mr. KILDEE, Mr. MARTINEZ, Mr. ROEMER, Mr. BECERRA, Mr. BAESLER, and Mr. UNDERWOOD) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To amend the Higher Education Act of 1965 to simplify the delivery of student loans to borrowers and eliminate borrower confusion; to provide a variety of repayment plans, including income contingent repayment through the EXCEL Account, to borrowers so that they have flexibility in managing their student loan repayment obligations, and so that those obligations do not foreclose

community service-oriented career choices for those borrowers; to replace, through an orderly transition, the Federal Family Education Loan Program with the Federal Direct Student Loan Program; to avoid the unnecessary cost, to taxpayers and borrowers, and administrative complexity associated with the Federal Family Education Loan Program through the use of a direct student loan program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*
 3 That this Act may be cited as the “Student Loan Reform
 4 Act of 1993”.

5 TITLE I—AMENDMENTS TO FEDERAL DIRECT
 6 LOAN DEMONSTRATION PROGRAM

7 HEADING FOR PART

8 SEC. 111. Part D of title IV of the Higher Education
 9 Act of 1965 (20 U.S.C. 1001 et seq.; hereinafter referred
 10 to as “the Act”) is amended in the part heading—

11 (1) by inserting “STUDENT” immediately fol-
 12 lowing “DIRECT”; and

13 (2) by striking out “DEMONSTRATION”.

14 PURPOSE; PROGRAM AUTHORIZATION

15 SEC. 112. Section 451 of the Act is amended to read
 16 as follows:

17 “PURPOSE; PROGRAM AUTHORIZATION

18 “SEC. 451. (a) PURPOSE.—It is the purpose of this
 19 part—

1 “(1) to simplify the delivery of student loans to
2 borrowers and eliminate borrower confusion;

3 “(2) to provide a variety of repayment plans,
4 including income contingent repayment through the
5 EXCEL Account, to borrowers so that they have
6 flexibility in managing their student loan repayment
7 obligations, and so that those obligations do not
8 foreclose community service-oriented career choices
9 for those borrowers;

10 “(3) to replace, through an orderly transition,
11 the Federal Family Education Loan Program under
12 part B of this title with the Federal Direct Student
13 Loan Program under this part;

14 “(4) to avoid the unnecessary cost, to taxpayers
15 and borrowers, and administrative complexity associ-
16 ated with the Federal Family Education Loan Pro-
17 gram under part B of this title through the use of
18 a direct student loan program; and

19 “(5) to create a more streamlined student loan
20 program that can be managed more effectively at
21 the Federal level.

22 “(b) PROGRAM AUTHORITY.—There are hereby made
23 available, in accordance with the provisions of this part,
24 such sums as may be necessary to make loans to all eligi-
25 ble students in attendance at participating institutions of

1 higher education selected by the Secretary (and the eligi-
2 ble parents of such students), to enable such students to
3 pursue their courses of study at such institutions during
4 the period beginning July 1, 1994 and ending on June
5 30, 1998. Such loans shall be made by participating insti-
6 tutions that also have agreements with the Secretary to
7 originate loans, or by alternative originators designated by
8 the Secretary to make loans for students in attendance
9 at participating institutions (and their parents).”.

10 FUNDS FOR ORIGINATION OF DIRECT STUDENT LOANS

11 SEC. 113. Section 452 of the Act is amended to read
12 as follows:

13 “FUNDS FOR ORIGINATION OF DIRECT STUDENT LOANS

14 “SEC. 452. (a) IN GENERAL.—The Secretary shall
15 provide funds for student and parent loans under this part
16 (1) directly to an institution of higher education that has
17 an agreement with the Secretary under section 454(a) to
18 participate in the direct student loan programs under this
19 part and that also has an agreement with the Secretary
20 under section 454(b) to originate loans under this part,
21 or (2) through an alternative originator designated by the
22 Secretary, on the basis of the need and the eligibility of
23 students at each participating institution, and parents of
24 such students, for such loans.

25 “(b) FEES FOR ORIGINATION SERVICES.—(1) The
26 Secretary shall pay fees to institutions of higher education

1 with agreements under section 454(b), in an amount es-
2 tablished by the Secretary, to assist in meeting the costs
3 of loan origination. Such fees—

4 “(A) shall be paid by the Secretary based on all
5 the loans made under this part to a particular bor-
6 rower in the same academic year;

7 “(B) shall be subject to a sliding scale that de-
8 creases the amount of such fees as the number of
9 borrowers increases; and

10 “(C)(i) for academic year 1994–1995, shall not
11 exceed a program-wide average of \$10 per borrower
12 for all the loans made under this part to such bor-
13 rower in the same academic year; and

14 “(ii) for succeeding academic years, the Sec-
15 retary shall establish such average fee in regulations.

16 “(2) The Secretary shall pay fees for loan origination
17 services to alternative originators of loans made under this
18 part in an amount established by the Secretary in accord-
19 ance with the terms of the contract between the Secretary
20 and each such alternative originator.

21 “(c) NO ENTITLEMENT TO PARTICIPATE OR ORIGI-
22 NATE.—No institution of higher education shall have a
23 right to participate in the programs authorized by this
24 part, originate loans, or perform any program function
25 under this part. Nothing in this subsection shall be con-

1 strued so as to limit the entitlement of an eligible student
2 attending a participating institution (or the eligible parent
3 of such student) to borrow under this part.”.

4 SELECTION OF INSTITUTIONS

5 SEC. 114. Section 453 of the Act is amended—

6 (1) by amending subsections (a) and (b) to read
7 as follows:

8 “(a) PHASE-IN OF PROGRAM.—(1)(A) The Secretary
9 shall enter into agreements pursuant to section 454(a)
10 with institutions of higher education to participate in the
11 direct student loan programs under this part, and agree-
12 ments pursuant to section 454(b) with institutions of
13 higher education to originate loans in such programs, for
14 academic years beginning on or after July 1, 1994. Alter-
15 native origination services, through which an entity other
16 than the participating institution at which the student is
17 in attendance originates the loan, shall be provided by the
18 Secretary, through one or more contracts under section
19 456 or such other means as the Secretary may provide,
20 for students attending participating institutions that do
21 not originate direct student loans under this part. Such
22 agreements for the first year of the program shall, to the
23 extent feasible, be entered into not later than January 1,
24 1994.

25 “(B) In order to ensure an expeditious but orderly
26 transition from the loan programs under part B of this

1 title to the direct student loan programs under this part,
2 the Secretary shall, in the exercise of his or her discretion,
3 determine the number of institutions with which he or she
4 shall enter into agreements under sections 454 (a) and
5 (b) for any academic year, except that the Secretary shall
6 exercise such discretion so as to achieve the following
7 goals—

8 “(i) for academic year 1994–1995, loans made
9 under this part shall represent 4 percent of the sum
10 of new student loan volume under this part and part
11 B of this title;

12 “(ii) for academic year 1995–1996, loans made
13 under this part shall represent 25 percent of the
14 sum of new student loan volume under this part and
15 part B of this title;

16 “(iii) for academic year 1996–1997, loans made
17 under this part shall represent 60 percent of the
18 sum of new student loan volume under this part and
19 part B of this title; and

20 “(iv) for academic year 1997–1998, loans made
21 under this part shall represent 100 percent of the
22 sum of new student loan volume under this part and
23 part B of this title.

24 “(2) The requirements of the Cash Management Im-
25 provement Act of 1990 (Public Law 101–453) shall apply

1 to the program under this part only to the extent specified
2 in a schedule established by the Secretaries of Education
3 and the Treasury, except that such schedule shall provide
4 for the application of all such requirements not later than
5 July 1, 1998.

6 “(b) SELECTION CRITERIA.—

7 “(1) PARTICIPATION.—(A) Each institution of
8 higher education desiring to participate in the direct
9 student loan program under this part shall submit
10 an application satisfactory to the Secretary contain-
11 ing such information and assurances as the Sec-
12 retary may require.

13 “(B) When the program authorized under this
14 part is fully implemented, the Secretary shall enter
15 into agreements under section 454(a) with institu-
16 tions that submit applications in accordance with
17 subparagraph (A).

18 “(C) Until such full implementation, the Sec-
19 retary shall select institutions for participation in
20 the direct student loan program under this part, and
21 shall enter into agreements with them under section
22 454(a), from among those institutions that submit
23 the applications described in subparagraph (A), and
24 meet such other eligibility requirements as the Sec-
25 retary may prescribe, by—

1 “(i)(I) categorizing such institutions ac-
2 cording to anticipated loan volume, length of
3 academic program, and control of the institu-
4 tion; and

5 “(II) selecting institutions that are reason-
6 ably representative of the respective categories;
7 and

8 “(ii) if needed to carry out the purposes of
9 this part, selecting additional institutions.

10 “(2) ORIGINATION.—(A) The Secretary may
11 enter into a supplemental agreement with an institu-
12 tion (or a consortium of such institutions) that—

13 “(i) has an agreement under subsection
14 454(a);

15 “(ii) desires to originate loans under this
16 part; and

17 “(iii) meets the criteria specified in sub-
18 paragraph (B).

19 “(B)(i) For academic year 1994–1995, the Sec-
20 retary may approve an institution to originate loans
21 only if such institution—

22 “(I) made loans under part E of this title
23 in academic year 1993–1994 and did not exceed
24 the applicable maximum default rate under sec-

1 tion 462(g) for the most recent fiscal year for
2 which data are available;

3 “(II) is not on the reimbursement system
4 of payment for any of the programs under sub-
5 part 1 or 3 of part A, part C, or part E;

6 “(III) is not overdue on program or finan-
7 cial reports or audits required under this title;

8 “(IV) is not subject to an emergency ac-
9 tion, or a limitation, suspension, or termination
10 under section 428(b)(1)(T), 432(h), or 487(c);

11 “(V) in the opinion of the Secretary, has
12 not had significant deficiencies identified by the
13 State postsecondary review entity under subpart
14 1 of part H of this title;

15 “(VI) in the opinion of the Secretary, has
16 not had severe performance deficiencies for any
17 of the programs under this title, including those
18 demonstrated by audits or program reviews
19 submitted or conducted during the five calendar
20 years immediately preceding the date of appli-
21 cation; and

22 “(VII) provides an assurance that it has
23 no delinquent outstanding debts to the United
24 States, unless such debts are being repaid
25 under or in accordance with a repayment ar-

1 rangement satisfactory to the United States, or
2 the Secretary in his or her discretion deter-
3 mines that the existence or amount of such
4 debts has not been finally determined by the
5 cognizant Federal agency or agencies.

6 “(ii) For academic year 1995–1996 and subse-
7 quent academic years, the Secretary shall publish
8 regulations governing the approval of institutions to
9 originate loans.”;

10 (2) by striking out subsections (c), (d), (e), and
11 (f);

12 (3) by amending subsection (g) to read as fol-
13 lows:

14 “(g) CONSORTIA.—Subject to such requirements as
15 the Secretary may prescribe, eligible institutions of higher
16 education with agreements under section 454(a) may
17 apply to originate loans under this part for students in
18 attendance at such institutions, as consortia. Such institu-
19 tions shall be required to meet the requirements to partici-
20 pate in the program under this part individually.”; and

21 (4) by redesignating subsection (g) as sub-
22 section (c).

23 AGREEMENTS WITH INSTITUTIONS

24 SEC. 115. Section 454 of the Act is amended to read
25 as follows:

1 “AGREEMENTS WITH INSTITUTIONS

2 “SEC. 454. (a) PARTICIPATION.—An agreement with
3 any institution of higher education for participation in the
4 direct student loan program under this part shall—

5 “(1) provide for the establishment and mainte-
6 nance of a direct student loan program at the insti-
7 tution under which—

8 “(A) the institution will—

9 “(i) identify eligible students who seek
10 student financial assistance at such institu-
11 tion in accordance with section 484;

12 “(ii) estimate the need of each such
13 student as required by part F of this title
14 for an academic year: *Provided*, That, any
15 loan obtained by a student under this part
16 with the same terms (except as otherwise
17 provided in this part) as loans made under
18 section 428A or 428H, or a loan obtained
19 by a parent under this part with the same
20 terms (except as otherwise provided in this
21 part) as loans made under section 428B,
22 or obtained under any State-sponsored or
23 private loan program, may be used to off-
24 set the expected family contribution of the
25 student for that year; and

1 “(iii) provide a statement that cer-
2 tifys the eligibility of any student to re-
3 ceive a loan under this part that is not in
4 excess of the maximum amount applicable
5 to such loan, except that the institution
6 may, in exceptional circumstances specified
7 by the Secretary, refuse to certify a state-
8 ment that permits a student to receive a
9 loan under this part, or certify a loan
10 amount that is less than the student’s de-
11 termination of need (as determined under
12 part F of this title), if the reason for such
13 action is documented and provided in writ-
14 ten form to such student;

15 “(B) the institution will set forth a sched-
16 ule for disbursement of the proceeds of the loan
17 in installments, consistent with the require-
18 ments of section 428G; and

19 “(C) the institution will provide timely and
20 accurate information—

21 “(i) concerning the status of student
22 borrowers (and students on whose behalf
23 parents borrow under this part) while such
24 students are in attendance at the institu-
25 tion and concerning any new information

1 of which the institution becomes aware for
2 such students (or their parents) after they
3 leave the institution, to the Secretary for
4 the servicing and collecting of loans made
5 under this part; and

6 “(ii) if the institution does not have
7 an agreement with the Secretary under
8 subsection (b), concerning student eligi-
9 bility and need, as determined under sub-
10 paragraph (A), to the Secretary as needed
11 for the alternative origination of loans to
12 eligible students and parents in accordance
13 with this part;

14 “(2) provide assurances that the institution will
15 comply with requirements established by the Sec-
16 retary relating to student loan information with re-
17 spect to loans made under this part;

18 “(3) provide that the institution accepts respon-
19 sibility and financial liability stemming from its fail-
20 ure to perform its functions pursuant to the agree-
21 ment;

22 “(4) provide that students at the institution
23 and their parents (with respect to such students)
24 will not be eligible to participate in the programs
25 under part B of this title for the period during

1 which such institution participates in the direct stu-
2 dent loan program under this part;

3 “(5) provide for the implementation of a quality
4 assurance system, as established by the Secretary, to
5 ensure that the institution is complying with pro-
6 gram requirements and meeting program objectives;

7 “(6) provide that the institution will not charge
8 any fees of any kind, however described, to student
9 or parent borrowers for origination activities or the
10 provision of any information necessary for a student
11 or parent to receive a loan under this part, or any
12 benefits associated with such loan; and

13 “(7) include such other provisions as the Sec-
14 retary determines are necessary to protect the inter-
15 ests of the United States and to promote the pur-
16 poses of this part.

17 “(b) ORIGINATION.—An agreement with any institu-
18 tion of higher education for the origination of loans under
19 this part shall—

20 “(1) supplement the agreement entered into in
21 accordance with subsection (a);

22 “(2) include provisions established by the Sec-
23 retary that are similar to the participation agree-
24 ment provisions described in paragraphs (1)(G), (2),
25 (3), (4), (5), (6), and (7) of subsection (a), as modi-

1 fied to relate to the origination of loans by the insti-
 2 tution;

3 “(3) provide that the institution will originate
 4 loans to eligible students and parents in accordance
 5 with this part; and

6 “(4) provide that the note or evidence of obliga-
 7 tion on the loan shall be the property of the
 8 Secretary.

9 “(c) WITHDRAWAL AND TERMINATION PROCEDURE-
 10 DURES.—The Secretary shall establish procedures by
 11 which institutions may withdraw or be terminated from
 12 the program under this part.”.

13 TERMS OF LOANS

14 SEC. 116. Section 456 of the Act is amended to read
 15 as follows:

16 “TERMS AND CONDITIONS OF LOANS

17 “SEC. 456. (a) IN GENERAL.—(1) Unless otherwise
 18 specified in this part, loans made to borrowers under this
 19 part shall have the same terms, conditions, and benefits
 20 as loans made to borrowers under sections 428, 428A,
 21 428B, and 428H of this title.

22 “(2) Loans made to borrowers under this part that,
 23 except as otherwise specified in this part, have the same
 24 terms, conditions, and benefits as loans made to borrowers
 25 under—

1 “(A) section 428 shall be known as ‘Federal Di-
2 rect Stafford Loans’;

3 “(B) section 428A shall be known as ‘Federal
4 Direct Supplemental Loans for Students’;

5 “(C) section 428B shall be known as ‘Federal
6 Direct PLUS Loans’; and

7 “(D) section 428H shall be known as ‘Federal
8 Direct Unsubsidized Stafford Loans’.

9 “(b) INTEREST RATE.—(1) Section 427A(a) shall not
10 apply to loans made under this part.

11 “(2)(A) For Federal Direct Stafford Loans and Fed-
12 eral Direct Unsubsidized Stafford Loans made before July
13 1, 1997, the applicable rate of interest shall, during any
14 twelve-month period beginning on July 1 and ending on
15 June 30, be determined on the preceding June 1 and be
16 equal to—

17 “(i) the bond equivalent rate of ninety-one-day
18 Treasury bills auctioned at the final auction held
19 prior to such June 1; plus

20 “(ii) 3.1 percent,
21 except that such rate shall not exceed 9 percent.

22 “(B) For Federal Direct Stafford Loans and Federal
23 Direct Unsubsidized Stafford Loans made on or after July
24 1, 1997, the applicable rate of interest shall, during any
25 twelve-month period beginning on July 1 and ending on

1 June 30, be determined on the preceding June 1 for all
2 such loans and be equal to—

3 “(i) the bond equivalent rate of the security
4 with a comparable maturity; plus

5 “(ii) 1 percent,

6 except that such rate shall not exceed 9 percent.

7 “(3)(A) For Federal Direct Supplemental Loans for
8 Students made before July 1, 1997, the applicable rate
9 of interest shall, during any twelve-month period begin-
10 ning on July 1 and ending on June 30, be determined
11 on the preceding June 1 and be equal to—

12 “(i) the bond equivalent rate of fifty-two-week
13 Treasury bills auctioned at the final auction held
14 prior to such June 1; plus

15 “(ii) 3.1 percent,

16 except that such rate shall not exceed 11 percent.

17 “(B) For Federal Direct Supplemental Loans for
18 Students made on or after July 1, 1997, the applicable
19 rate of interest shall, during any twelve-month period be-
20 ginning on July 1 and ending on June 30, be determined
21 on the preceding June 1 for all such loans and be equal
22 to—

23 “(i) the bond equivalent rate of the security
24 with a comparable maturity; plus

25 “(ii) 1.5 percent,

1 except that such rate shall not exceed 11 percent.

2 “(4)(A) For Federal Direct PLUS Loans made be-
3 fore July 1, 1997, the applicable rate of interest shall, dur-
4 ing any twelve-month period beginning on July 1 and end-
5 ing on June 30, be determined on the preceding June 1
6 for loans and be equal to—

7 “(i) the bond equivalent rate of fifty-two-week
8 Treasury bills auctioned at the final auction held
9 prior to such June 1; plus

10 “(ii) 3.1 percent,

11 except that such rate shall not exceed 10 percent.

12 “(B) For Federal Direct PLUS Loans made on or
13 after July 1, 1997, the applicable rate of interest shall,
14 during any twelve-month period beginning on July 1 and
15 ending on June 30, be determined on the preceding June
16 1 for all such loans and be equal to—

17 “(i) the bond equivalent rate of the security
18 with a comparable maturity; plus

19 “(ii) 2.1 percent,

20 except that such rate shall not exceed 10 percent.

21 “(c) LOAN FEE.—The Secretary shall charge the bor-
22 rower of a loan made under this part a loan fee of not
23 less than 5 percent, but not more than 6.5 percent, of
24 the principal amount of the loan.

1 “(d) REPAYMENT PLANS.—(1)(A) The Secretary
2 shall design each repayment plan under this subsection so
3 that, to the extent possible, the cost to the Federal Gov-
4 ernment for each cohort of borrowers does not exceed what
5 such cost would be if all borrowers in the cohort selected
6 the standard repayment plan described in clause (i). Con-
7 sistent with criteria established by the Secretary, the Sec-
8 retary shall offer a borrower of a loan made under this
9 part a variety of plans for repayment of such loan, includ-
10 ing principal and interest on the loan. The borrower may
11 choose—

12 “(i) a standard repayment plan, with a fixed
13 annual repayment amount paid over a fixed period
14 of time;

15 “(ii) an extended repayment plan, with a fixed
16 annual repayment amount paid over an extended pe-
17 riod of time: *Provided*, That, the borrower annually
18 repays a minimum amount determined by the
19 Secretary;

20 “(iii) a graduated repayment plan, with annual
21 repayment amounts established at two or more grad-
22 uated levels and paid over a fixed or extended period
23 of time: *Provided*, That, any of the borrower’s sched-
24 uled payments shall not be less than 50 percent, nor
25 more than 150 percent, of what the amortized pay-

1 ment on the amount owed would be if the loan were
2 repaid under the standard repayment plan; and

3 “(iv) except for the borrower of a Federal Di-
4 rect PLUS Loan, an income contingent repayment
5 plan known as an ‘EXCEL Account,’ with varying
6 annual repayment amounts based on the income of
7 the borrower, paid over an extended period of time,
8 not to exceed a maximum length of time determined
9 by the Secretary.

10 “(B) If a borrower of a loan made under this part
11 does not select a repayment plan described in subpara-
12 graph (A), the Secretary may provide the borrower with
13 a repayment plan described in clause (i), (ii), or (iii) of
14 subparagraph (A).

15 “(C) The borrower of a loan made under this part
16 may change his or her selection of a repayment plan under
17 subparagraph (A), or the Secretary’s selection of a plan
18 for the borrower under subparagraph (B), as the case may
19 be, under such terms and conditions as may be established
20 by the Secretary.

21 “(D) The Secretary may provide an alternative repay-
22 ment plan to a borrower of a loan made under this part
23 who demonstrates to the satisfaction of the Secretary that
24 the terms and conditions of the repayment plans available

1 under subparagraph (A) are not adequate to accommodate
2 the borrower's exceptional circumstances.

3 “(E) The Secretary may require any borrower who
4 has defaulted on a loan made under this part to—

5 “(i) pay all reasonable collection costs associ-
6 ated with such loan; and

7 “(ii) repay the loan pursuant to an EXCEL
8 Account.

9 “(2)(A) The Secretary may obtain such information
10 as is reasonably necessary regarding the income of a bor-
11 rower (and the borrower's spouse, if applicable) of a loan
12 made under this part that is, or may be, repaid pursuant
13 to an EXCEL Account for the purpose of determining the
14 annual repayment obligation of the borrower. The Sec-
15 retary shall establish procedures for determining the bor-
16 rower's repayment obligation on that loan for such year,
17 and such other procedures as are necessary to implement
18 effectively repayment pursuant to an EXCEL Account.

19 “(B)(i) A repayment schedule for a loan made under
20 this part and repaid pursuant to an EXCEL Account shall
21 be based on the adjusted gross income (as defined in sec-
22 tion 62 of the Internal Revenue Code of 1986, 26 U.S.C.
23 62) of the borrower or, if the borrower is married and
24 files a Federal income tax return jointly with his or her

1 spouse, on the adjusted gross income of the borrower and
2 his or her spouse.

3 “(ii) A borrower who chooses, or is required, to repay
4 a loan made under this part pursuant to an EXCEL Ac-
5 count, and for whom adjusted gross income is unavailable
6 or does not reasonably reflect his or her current income,
7 shall provide to the Secretary other documentation of in-
8 come satisfactory to the Secretary, which documentation
9 the Secretary may use to determine an appropriate repay-
10 ment schedule.

11 “(iii) EXCEL Account repayment schedules shall be
12 established by the Secretary through regulations and shall
13 require payments measured as a percentage of the appro-
14 priate portion of the annual income of the borrower (and
15 the borrower’s spouse, if applicable) as determined by the
16 Secretary.

17 “(iv) The balance due on a loan made under this part
18 that is repaid pursuant to an EXCEL Account shall equal
19 the unpaid principal amount of the loan, any accrued in-
20 terest, and any fees, such as late charges, assessed on such
21 loan. The Secretary may limit by regulation the amount
22 of interest that may be capitalized on such loan, and the
23 timing of any such capitalization.

24 “(C) The Secretary shall establish procedures under
25 which a borrower of a loan made under this part who

1 chooses or is required to repay such loan pursuant to an
2 EXCEL Account is notified of the terms and conditions
3 of such plan, including notification of such borrower—

4 “(i) that the Internal Revenue Service will dis-
5 close to the Secretary the most recent available in-
6 formation concerning the borrower’s income; and

7 “(ii) that if a borrower considers that special
8 circumstances, such as a loss of employment by the
9 borrower or his or her spouse, warrant an adjust-
10 ment in the borrower’s loan repayment as deter-
11 mined using the information described in clause (i),
12 or the alternative documentation described in sub-
13 paragraph (B)(ii), the borrower may contact the
14 Secretary, who shall determine whether such adjust-
15 ment is appropriate, in accordance with criteria es-
16 tablished by the Secretary.

17 “(e) DEFERMENT.—(1) A borrower of a loan made
18 under this part who meets the requirements described in
19 paragraph (2) shall be eligible for a deferment, during
20 which periodic installments of principal need not be paid,
21 and interest—

22 “(A) shall not accrue, in the case of a Federal
23 Direct Stafford Loan or a Federal Direct Consolida-
24 tion Loan that consolidated only Federal Direct
25 Stafford Loans, or a combination of such loans and

1 Federal Stafford Loans for which the student bor-
2 rower received an interest subsidy under section
3 428; or

4 “(B) shall accrue and be capitalized or paid by
5 the borrower, in the case of a Federal Direct Supple-
6 mental Loan for Students loan, a Federal Direct
7 PLUS Loan, a Federal Direct Unsubsidized Staf-
8 ford Loan, or a Federal Direct Consolidation Loan
9 other than those described in subparagraph (A).

10 “(2) A borrower of a loan made under this part shall
11 be eligible for a deferment during any period—

12 “(A) during which the borrower—

13 “(i) is pursuing at least a half-time course
14 of study at an eligible institution, as determined
15 by such institution; or

16 “(ii) is pursuing a course of study pursu-
17 ant to a graduate fellowship program approved
18 by the Secretary, or pursuant to a rehabilitation
19 training program for individuals with disabili-
20 ties approved by the Secretary.

21 except that no borrower shall be eligible for a deferment
22 under this subparagraph, or a loan made this part (other
23 than a Federal Direct PLUS Loan, or a Federal Direct
24 Consolidation Loan), while serving in a medical internship
25 or residency program;

1 “(B) not in excess of three years during which
2 the borrower is seeking and unable to find full-time
3 employment;

4 “(C) not in excess of three years during which
5 the Secretary determines, in accordance with regula-
6 tions prescribed under section 435(o), that the bor-
7 rower has experienced or will experience an economic
8 hardship, regardless of the reason for such hardship.

9 “(f) FORBEARANCE.—(1)(A) A borrower of a loan
10 made under this part shall be eligible for forbearance, as
11 defined in subparagraph (B), which shall be granted by
12 the Secretary if the Secretary determines that the bor-
13 rower is willing but unable to make scheduled loan pay-
14 ments.

15 “(B) The term ‘forbearance’ means permitting the
16 temporary cessation of payments, allowing an extension of
17 time for making payments, or temporarily accepting small-
18 er payments than previously scheduled. Interest shall con-
19 tinue to accrue on a loan for which a borrower receives
20 forbearance and shall be capitalized or paid by the
21 borrower.

22 “(2)(A) A borrower of a loan made under this part
23 who is serving in a national service position, for which he
24 or she receives a national service educational award under
25 the National Service Trust Act of 1993, shall be eligible

1 for forbearance granted by the Secretary during periods
2 in which the borrower is serving in such position.

3 “(B) For purposes of this paragraph, ‘forbearance’
4 shall mean the temporary cessation of payments unless the
5 borrower selects another option described in paragraph
6 (1)(B).

7 “(g) FEDERAL DIRECT CONSOLIDATION LOANS.—A
8 borrower of a loan made under this part may consolidate
9 such loan with the loans described in subsection (a)(4) and
10 (d)(1)(C) of section 428C only under the terms and condi-
11 tions established by the Secretary under this part. Loans
12 made under this subsection shall be known as ‘Federal
13 Direct Consolidation Loans’;

14 “(h) BORROWER DEFENSES.—Notwithstanding any
15 other provision of State or Federal law, the Secretary shall
16 specify in regulations (except as authorized under section
17 458(a)), which acts or omissions of an institution of higher
18 education a borrower may assert as a defense to repay-
19 ment of a loan made under this part, except that in no
20 event may a borrower recover from the Secretary, in any
21 action arising from or relating to a loan made under this
22 part, an amount in excess of the amount such borrower
23 has repaid on such loan.

24 “(i) OPTICALLY IMAGED DOCUMENTS.—Records
25 maintained in accordance with section 484A(c) may be

1 used in any proceeding, as permitted by section 484A(c),
2 with respect to a loan made under this part.

3 “(j) NONDISCHARGEABILITY IN BANKRUPTCY.—Not-
4 withstanding any other provision of law, a loan made
5 under this part shall not be dischargeable in bankruptcy.”.

6 CONTRACTS

7 SEC. 117. Section 457 of the Act is amended to read
8 as follows:

9 “CONTRACTS

10 “SEC. 457. (a)(1) The Secretary may award one or
11 more contracts for services and supplies under subsection
12 (b). The entities with which the Secretary may enter into
13 such contracts may include, but are not limited to, agen-
14 cies with agreements with the Secretary under sections
15 428 (b) and (c), if such agencies are otherwise qualified
16 and comply with the procedures applicable to the award
17 of such contracts.

18 “(2) The Secretary may, through June 30, 1998,
19 award contracts under this section without regard to the
20 requirements in section 253 of title 41, United States
21 Code, section 416 of title 41, United States Code, and sec-
22 tion 637(e) of title 15, United States Code and the cor-
23 responding requirements of the Federal Acquisition Regu-
24 lations if he or she determines, on a case-by-case basis,
25 that exemption from such requirements is in the public
26 interest and necessary for the orderly transition from the

1 loan programs under part B to the direct student loan
2 programs under this part.

3 “(3) On and after July 1, 1998, all statutory and
4 regulatory requirements described in paragraph (2) shall
5 apply to the award of a contract under this section.

6 “(b) The Secretary may enter into one or more con-
7 tracts for—

8 “(1) the alternative origination of loans to stu-
9 dents attending institutions with agreements to par-
10 ticipate in the program under this part (or their par-
11 ents), if such institutions do not have agreements
12 with the Secretary under section 454(b);

13 “(2) the servicing and collection of loans made
14 under this part;

15 “(3) the establishment and operation of one or
16 more data systems for the maintenance of records
17 on all loans made under this part;

18 “(4) services to assist in the orderly transition
19 from the loan programs under part B to the direct
20 student loan programs under this part; and

21 “(5) such other aspects of the direct student
22 loan programs as the Secretary determines are nec-
23 essary to ensure the successful operation of the pro-
24 grams.”.

25 REPORTS

26 SEC. 118. Section 458 of the Act is amended—

1 (1) in subsection (a), by striking out “dem-
2 onstration program.” and inserting in lieu thereof
3 “program under this part.”;

4 (2) by striking out subsections (b), (c), (d), and
5 (e); and

6 (3) adding at the end thereof the following new
7 subsections:

8 “(b) RESEARCH, DEMONSTRATION, AND EVALUA-
9 TION.—The Secretary may use a portion of the funds de-
10 scribed in section 459 for research on, or the demonstra-
11 tion or evaluation of, any aspects of the program author-
12 ized by this part, including flexible repayment plans.

13 “(c) PLAN FOR IRS PARTICIPATION AND OTHER RE-
14 PAYMENT OPTIONS.—(1) The Secretaries of Education
15 and the Treasury shall, within six months of the date of
16 enactment, submit a plan to the President that—

17 “(A) provides for repayment for loans made
18 under this part through wage withholding by the
19 Internal Revenue Service; and

20 “(B) evaluates the feasibility of other wage-
21 withholding repayment options for such loans.

22 “(2) If the President determines that the implemen-
23 tation of one or more repayment options contained in the
24 plan described in paragraph (1) would further the pur-
25 poses of this part, the Secretaries of Education and the

1 Treasury shall be authorized to take such actions as are
2 reasonable and necessary to implement such repayment
3 options, including entering into an agreement pursuant to
4 section 6306 of the Internal Revenue Code of 1986.

5 “(3) The Secretary of Education may use such
6 amounts as may be necessary for the funds available
7 under section 459 to implement the repayment options se-
8 lected by the President under paragraph (2) and shall
9 make available to the Secretary of the Treasury such
10 amounts under section 459 as the Secretaries determine
11 to be necessary to implement those repayment options car-
12 ried out by the Internal Revenue Service.”.

13 SECRETARIAL ACTIVITIES

14 SEC. 119. Section 459 of the Act is amended—

15 (1) in the section heading, by striking out
16 “SCHEDULE OF”;

17 (2) by striking out subsection (a) and inserting
18 in lieu thereof the following new subsection:

19 “(a) NOTICE IN LIEU OF REGULATIONS FOR FIRST
20 YEAR OF PROGRAM.—The Secretary shall publish in the
21 Federal Register whatever standards, criteria, and proce-
22 dures, consistent with the provisions of this part, the Sec-
23 retary determines are reasonable and necessary to the suc-
24 cessful implementation of the first year of the direct stu-
25 dent loan program authorized by this part. Section 431
26 of the General Education Provisions Act shall not apply

1 to the publication of such standards, criteria, and proce-
2 dures.”;

3 (3) by striking out subsections (b) and (e);

4 (4) in subsection (c)—

5 (A) by inserting “a date not later than”
6 immediately preceding “October 1, 1993,”; and

7 (B) by striking out “participate” through
8 the end thereof and inserting in lieu thereof the
9 following: “participate in the first year of the
10 direct student loan program under this part.”;

11 (5) in subsection (d), by striking out “partici-
12 pate” through the end thereof and inserting in lieu
13 thereof the following: “participate in the first year of
14 the loan program under this part.”; and

15 (6) by redesignating subsections (c) and (d) as
16 subsections (b) and (c), respectively.

17 REPEALS AND REDESIGNATIONS

18 SEC. 120. (a) Section 455 of the Act is repealed.

19 (b) Sections 456, 457, 458, 459, and 459A are redес-
20 igned as sections 455, 456, 457, 458, and 459, respec-
21 tively.

22 FUNDS FOR ADMINISTRATIVE EXPENSES

23 SEC. 121. Section 459 of the Act (as redesignated
24 by section 120) is amended by striking out “administra-
25 tive costs under this part,” through the end thereof and
26 inserting in lieu thereof the following: “administrative

1 costs under this part, including the costs of the transition
2 from the loan programs under part B to the direct student
3 loan programs under this part and transition support for
4 the expenses of guaranty agencies in servicing outstanding
5 loans in their portfolios and in guaranteeing new loans,
6 not to exceed \$261,000,000 in fiscal year 1994,
7 \$346,000,000 in fiscal year 1995, \$552,000,000 in fiscal
8 year 1996, \$596,000,000 in fiscal year 1997, and
9 \$749,000,000 in fiscal year 1998. If in any fiscal year,
10 the Secretary determines that additional funds for admin-
11 istrative expenses are needed as a result of such transi-
12 tion, or the expansion of the direct student loan programs
13 under this part, the Secretary is authorized to use funds
14 available under this section for a subsequent fiscal year
15 for such expenses. The Secretary is also authorized to
16 carry over funds available under this section to a subse-
17 quent fiscal year.”.

18 TITLE II—CONFORMING AMENDMENTS

19 PART A—CONFORMING AMENDMENTS TO THE HIGHER
20 EDUCATION ACT OF 1965

21 PRESERVING LOAN ACCESS

22 SEC. 211. (a) PURPOSE.—It is the purpose of the
23 amendments made by this section to provide the Secretary
24 with flexible authority as needed to preserve access to stu-
25 dent and parent loans under part B of title IV of the Act

1 during the transition from the Federal Family Education
2 Loan Program under such part to the Federal Direct
3 Student Loan Program under part D of such title.

4 (b) ADVANCES TO GUARANTY AGENCIES FOR LEND-
5 ER-OF-LAST-RESORT SERVICES.—(1) Section 428(j) of
6 the Act is amended by adding at the end thereof the
7 following new paragraph:

8 “(4) ADVANCES TO GUARANTY AGENCIES FOR
9 LENDER-OF-LAST-RESORT SERVICES DURING TRANSI-
10 TION TO DIRECT LENDING.—(A) In order to ensure the
11 availability of loan capital during the transition from the
12 Federal Family Education Loan Program under this part
13 to the Federal Direct Student Loan Program under part
14 D of this title, the Secretary is authorized to provide a
15 guaranty agency with additional advance funds in accord-
16 ance with section 422(c)(7), with such restrictions on the
17 use of such funds as are determined appropriate by the
18 Secretary, in order to ensure that the guaranty agency will
19 make loans as the lender-of-last-resort. Such agency shall
20 make such loans in accordance with this subsection and
21 the requirements of the Secretary.

22 “(B) Notwithstanding any other provision in this
23 part, a guaranty agency serving as a lender-of-last-resort
24 under this paragraph shall be paid a fee, established by
25 the Secretary, for making such loans in lieu of interest

1 and special allowance subsidies, and shall be required to
2 assign such loans to the Secretary on demand. Upon such
3 assignment, the portion of the advance represented by the
4 loans assigned shall be considered repaid by such guaranty
5 agency.”.

6 (2) Section 422(c)(7) of the Act is amended by strik-
7 ing out “to a guaranty agency” through the end thereof
8 and inserting in lieu thereof the following: “to a guaranty
9 agency—

10 “(A) in accordance with section 428(j), in order
11 to ensure that the guaranty agency shall make loans
12 as the lender-of-last-resort during the transition
13 from the Federal Family Education Loan Program
14 under this part to the Federal Direct Student Loan
15 Program under part D of this title; or

16 “(B) if the Secretary is seeking to terminate
17 the guaranty agency’s agreement, or assuming the
18 guaranty agency’s functions, in accordance with sec-
19 tion 428(c)(10)(F)(v), in order to assist the agency
20 in meeting its immediate cash needs, ensure the un-
21 interrupted payment of claims, or ensure that the
22 guaranty agency shall make loans as described in
23 subparagraph (A);”.

24 (c) LENDER REFERRAL SERVICES.—Section 428(e)
25 of the Act is amended—

1 (1) in paragraph (1)—

2 (A) by amending the paragraph heading to
3 read as follows: “IN GENERAL; AGREEMENTS
4 WITH GUARANTY AGENCIES.—”;

5 (B) by inserting the subparagraph designa-
6 tion “(A)” immediately after the paragraph
7 designation;

8 (C) by striking out “in any State” and in-
9 serting in lieu thereof “with which the Sec-
10 retary has an agreement under subparagraph
11 (B)”;

12 (D) by adding at the end thereof the fol-
13 lowing new subparagraph:

14 “(B)(i) The Secretary may enter into
15 agreements with guaranty agencies that meet
16 standards established by the Secretary to pro-
17 vide lender referral services in geographic areas
18 specified by the Secretary. Such guaranty agen-
19 cies shall be paid in accordance with paragraph
20 (3) for such services.

21 “(ii) The Secretary shall publish in the
22 Federal Register whatever standards, criteria,
23 and procedures, consistent with the provisions
24 of this part and part D of this title, the Sec-
25 retary determines are reasonable and necessary

1 to provide lender referral services under this
2 subsection and ensure loan access to student
3 and parent borrowers during the transition
4 from the loan programs under this part to the
5 direct student loan programs under part D of
6 this title. Section 431 of the General Education
7 Provisions Act shall not apply to the publication
8 of such standards, criteria, and procedures.”;

9 (2) in paragraph (2)—

10 (A) in the matter preceding subparagraph
11 (A), by striking out “in a State” and inserting
12 in lieu thereof “with which the Secretary has an
13 agreement under paragraph (1)(B)”;

14 (B) by amending subparagraph (A) to read
15 as follows:

16 “(A)(i) such student is either a resident of,
17 or is accepted for enrollment in, or is attending,
18 an eligible institution located in a geographic
19 area for which the Secretary (I) determines
20 that loans are not available to all eligible stu-
21 dents, and (II) has entered into an agreement
22 with a guaranty agency under paragraph (1)(B)
23 to provide lender referral services; and”;

24 (3) in paragraph (3), by striking out “The” and
25 inserting in lieu thereof “From funds available for

1 costs of transition under section 459 of the Act,
2 the”;

3 (4) by striking out paragraph (5).

4 (d) STUDENT LOAN MARKETING ASSOCIATION.—
5 Section 439(q) of the Act is amended—

6 (1) in paragraph (1)(A)—

7 (A) in the first sentence, by striking out
8 “the Association or its designated agent may
9 begin making loans” and inserting in lieu there-
10 of “the Association or its designated agent
11 shall, subject to the limitations in section
12 428(j)(3), begin making loans to such eligible
13 borrowers”;

14 (B) by striking out the second sentence
15 therein;

16 (2) in paragraph (2)(A), by striking out “the
17 Association or its designated agent may” and insert-
18 ing in lieu thereof “the Association or its designated
19 agent shall, subject to the limitations in section
20 428(j)(3),”;

21 (3) in paragraph (3), by striking out “that—”
22 through the end thereof and inserting in lieu thereof
23 the following: “that the conditions that caused the
24 implementation of this subsection have ceased to
25 exist.”.

1 GUARANTY AGENCY RESERVES

2 SEC. 212. Section 422 of the Act is amended by add-
 3 ing at the end thereof the following new subsection:

4 “(g) PRESERVATION OF GUARANTY AGENCY RE-
 5 SERVES.—(1) Notwithstanding any other provision of law,
 6 the reserve funds of the guaranty agencies, and any assets
 7 purchased with such reserve funds, regardless of who
 8 holds or controls the reserves or assets, shall be considered
 9 to be the property of the United States to be used in the
 10 operation of the program authorized by this part or the
 11 program authorized by part D of this title. However, the
 12 Secretary may not require the return of all of a guaranty
 13 agency reserve funds to the Secretary unless he or she de-
 14 termines that such return is essential to the operation of
 15 the program authorized by this part or the program au-
 16 thorized by part D of this title, or to ensure the orderly
 17 termination of the guaranty agency’s operations and the
 18 liquidation of its assets. The reserves shall be maintained
 19 by each guaranty agency to pay program expenses and
 20 contingent liabilities, as authorized by the Secretary, ex-
 21 cept that the Secretary may—

22 “(A) direct a guaranty agency to return to the
 23 Secretary a portion of its reserve fund which the
 24 Secretary determines is unnecessary to pay the pro-

1 gram expenses and contingent liabilities of the guar-
2 anty agency; and

3 “(B) direct the guaranty agency to require the
4 return, to the guaranty agency or to the Secretary,
5 of any reserve funds or assets held by, or under the
6 control of, any other entity, which the Secretary de-
7 termines are necessary to pay the program expenses
8 and contingent liabilities of the guaranty agency, or
9 which are required for the orderly termination of the
10 guaranty agency’s operations and the liquidation of
11 its assets.

12 “(2) To ensure that the funds and assets of the guar-
13 anty agency are preserved, any contract with respect to
14 the administration of a guaranty agency’s reserve funds,
15 or the administration of any assets purchased or acquired
16 with the reserve funds of the guaranty agency, that is en-
17 tered into or extended by the guaranty agency, or any
18 other party on behalf of or with the concurrence of the
19 guaranty agency, after the effective date of this provision
20 shall provide that the contract is terminable by the Sec-
21 retary upon thirty days notice to the contracting parties
22 if the Secretary determines that such contract includes an
23 impermissible transfer of the reserve funds or assets, or
24 is otherwise inconsistent with the terms or purposes of this
25 section.”.

TERMS OF LOANS

1
2 SEC. 213. Section 428 of the Act is amended—

3 (1) in subsection (b)(1)—

4 (A) in subparagraph (D), by striking out
5 “be subject to” through the end thereof and in-
6 serting in lieu thereof the following: “be subject
7 to income contingent repayment in accordance
8 with subsection (m);”;

9 (B) by redesignating subparagraphs (W),
10 (X), and (Y) as subparagraphs (X), (Y), and
11 (Z), respectively; and

12 (C) by inserting immediately after sub-
13 paragraph (V) the following new subparagraph:

14 “(W)(i) provides that, upon written re-
15 quest, a lender shall grant a borrower forbear-
16 ance on such terms as are otherwise consistent
17 with the regulations of the Secretary, during
18 periods in which the borrower is serving in a
19 national service position, for which he or she re-
20 ceives a national service educational award
21 under the National Service Trust Act of 1993;

22 “(ii) provides that clauses (iii) and (iv) of
23 subparagraph (V) shall also apply to a forbear-
24 ance granted under this subparagraph; and

1 “(iii) provides that interest shall continue
2 to accrue on a loan for which a borrower re-
3 ceives forbearance under this subparagraph and
4 shall be capitalized or paid by the borrower;”;

5 (2) in subsection (c)(3)(A), by striking out
6 “subsection (b)(1)(V)” through the end thereof and
7 inserting in lieu thereof the following: “subsections
8 (b)(1)(V) and (W);”; and

9 (3) in subsection (m)—

10 (A) by amending paragraph (1) to read as
11 follows:

12 “(1) The Secretary may require any borrower
13 who has defaulted on a loan made under this part
14 that is assigned to the Secretary under subsection
15 (c)(8) to repay that loan under an income contingent
16 repayment plan, the terms and conditions of which
17 shall be established by the Secretary and the same
18 as, or similar to, the EXCEL Account established
19 for purposes of part D of this title.”;

20 (B) by striking out paragraphs (2) and
21 (4);

22 (C) by amending paragraph (3) to read as
23 follows:

24 “(3) LOANS FOR WHICH INCOME CONTINGENT
25 REPAYMENT MAY BE REQUIRED.—A loan made

1 under this part may be required to be repaid under
2 this section if the note or other evidence of the loan
3 has been assigned to the Secretary pursuant to sub-
4 section (c)(8).”; and

5 (D) by redesignating paragraph (3) as
6 paragraph (2).

7 ASSIGNMENT OF LOANS

8 SEC. 214. (a) Section 428(c)(8) of the Act is amend-
9 ed—

10 (1) by inserting the subparagraph designation
11 “(A)” immediately following the section heading;

12 (2) by striking out the second and third sen-
13 tences therein; and

14 (3) adding at the end thereof the following new
15 subparagraphs:

16 “(B) An orderly transition from the Fed-
17 eral Family Education Loan Program under
18 this part to the Federal Direct Student Loan
19 Program under part D of this title shall be
20 deemed to be in the Federal fiscal interest, and
21 a guaranty agency shall promptly assign loans
22 to the Secretary under this paragraph upon his
23 or her request.”.

1 TERMINATION OF GUARANTY AGENCY AGREEMENTS;
2 ASSUMPTION OF GUARANTY AGENCY FUNCTIONS BY THE
3 SECRETARY

4 SEC. 215. Section 428(c)(10) of the Act is amend-
5 ed—

6 (1) in subparagraph (C), by inserting a comma
7 and “as appropriate,” immediately following “the
8 Secretary shall”;

9 (2) in subparagraph (D)—

10 (A) by inserting the clause designation
11 “(i)” immediately following the subparagraph
12 designation;

13 (B) by striking out “Each” and inserting
14 in lieu thereof “If the Secretary is not seeking
15 to terminate the guaranty agency’s agreement
16 under subparagraph (E), or assuming the guar-
17 anty agency’s functions under subparagraph
18 (F), a”;

19 (C) by adding at the end thereof the fol-
20 lowing new clause:

21 “(ii) If the Secretary is seeking to ter-
22 minate the guaranty agency’s agreement
23 under subparagraph (E), or assuming the
24 guaranty agency’s functions under sub-
25 paragraph (F), a management plan de-
26 scribed in subparagraph (C) shall include

1 the means by which the Secretary and the
2 guaranty agency shall work together to en-
3 sure the orderly termination of the oper-
4 ations, and liquidation of the assets, of the
5 guaranty agency.”;

6 (3) in subparagraph (E)—

7 (A) in clause (ii), by striking out “or” at
8 the end thereof;

9 (B) in clause (iii), by striking out the pe-
10 riod at the end thereof and inserting in lieu
11 thereof a semicolon; and

12 (C) by adding at the end thereof the fol-
13 lowing new clauses:

14 “(iv) the Secretary determines that
15 such action is necessary to protect the
16 Federal fiscal interest;

17 “(v) the Secretary determines that
18 such action is necessary to ensure the con-
19 tinued availability of loans to student or
20 parent borrowers; or

21 “(vi) the Secretary determines that
22 such action is necessary to ensure an or-
23 derly transition from the loan programs
24 under this part to the direct student loan
25 programs under part D of this title.”;

1 (4) in subparagraph (F)—

2 (A) in the matter preceding clause (i), by
3 striking out “Except as provided in subpara-
4 graph (G), if” and inserting in lieu thereof
5 “If”;

6 (B) by amending clause (v) to read as
7 follows:

8 “(v) provide the guaranty agency with
9 additional advance funds in accordance
10 with section 422(c)(7), with such restric-
11 tions on the use of such funds as is deter-
12 mined appropriate by the Secretary, in
13 order to—

14 “(I) meet the immediate cash
15 needs of the guaranty agency;

16 “(II) ensure the uninterrupted
17 payment of claims; or

18 “(III) ensure that the guaranty
19 agency will make loans as the lender-
20 of-last-resort, in accordance with sub-
21 section (j)(4);”;

22 (C) in clause (vi)—

23 (i) by striking out “and to avoid” and
24 inserting in lieu thereof “to avoid”;

1 (ii) by striking out the period at the
2 end thereof and inserting in lieu thereof a
3 comma and “and to ensure an orderly
4 transition from the loan programs under
5 this part to the direct student loan pro-
6 grams under part D of this title.”; and

7 (iii) by redesignating such clause as
8 clause (vii); and

9 (D) by inserting immediately following
10 clause (v) the following new clause:

11 “(vi) use all funds and assets of the
12 guaranty agency to assist in the activities
13 undertaken in accordance with this sub-
14 paragraph and take appropriate action to
15 require the return, to the guaranty agency
16 or the Secretary, of any funds or assets
17 provided by the guaranty agency, under
18 contract or otherwise, to any person or or-
19 ganization; or”;

20 (5) by striking out subparagraph (G);

21 (6) by redesignating subparagraphs (H), (I),
22 and (J) as subparagraphs (I), (J), and (K), respec-
23 tively;

24 (7) by inserting immediately following subpara-
25 graph (F) the following new subparagraphs:

1 “(G) Notwithstanding any other provision
2 of Federal or State law, if the Secretary has
3 terminated or is seeking to terminate a guar-
4 anty agency’s agreement under subparagraph
5 (E), or has assumed a guaranty agency’s func-
6 tions under subparagraph (F)—

7 “(i) such guaranty agency may not
8 file for bankruptcy;

9 “(ii) no State court may issue any
10 order affecting the Secretary’s actions with
11 respect to such guaranty agency;

12 “(iii) any contract with respect to the
13 administration of a guaranty agency’s re-
14 serve funds, or the administration of any
15 assets purchased or acquired with the re-
16 serve funds of the guaranty agency, that is
17 entered into or extended by the guaranty
18 agency, or any other party on behalf of or
19 with the concurrence of the guaranty agen-
20 cy, after the effective date of this provision
21 shall provide that the contract is ter-
22 minable by the Secretary upon thirty days
23 notice to the contracting parties if the Sec-
24 retary determines that such contract in-
25 cludes an impermissible transfer of the re-

1 serve funds or assets, or is otherwise in-
2 consistent with the terms or purposes of
3 this section; and

4 “(iv) no provision of State law shall
5 apply to the actions of the Secretary in
6 terminating the operations of a guaranty
7 agency;

8 “(H) Notwithstanding any other provision
9 of law, the Secretary’s liability for any out-
10 standing liabilities of a guaranty agency (other
11 than outstanding student loan guarantees under
12 this part), the functions of which the Secretary
13 has assumed, shall not exceed the fair market
14 value of the reserves of the guaranty agency,
15 minus any necessary liquidation or other ad-
16 ministrative costs.”; and

17 (8) in subparagraph (K) (as redesignated by
18 paragraph (5)), by striking out “system, together”
19 through the end thereof and inserting in lieu thereof
20 the following: “system and the progress of the tran-
21 sition from the loan programs under this part to the
22 direct student loan programs under part D of this
23 title.”.

24 ADMINISTRATIVE COST ALLOWANCE

25 SEC. 216. Section 428(f)(1) of the Act is amended—

1 (1) in subparagraph (A), by striking out “The
2 Secretary” and inserting in lieu thereof “For a fiscal
3 year prior to fiscal year 1994, the Secretary”; and

4 (2) in subparagraph (B), inserting “prior to fis-
5 cal year 1994” immediately following “any fiscal
6 year”.

7 CONSOLIDATION LOANS

8 SEC. 217. Section 428C of the Act is amended—

9 (1) by amending subsection (a)(3)(A) to read as
10 follows:

11 “(A) For the purpose of this section, the
12 term ‘eligible borrower’ means a borrower who,
13 at the time of application for a consolidation
14 loan is in repayment status, or in a grace pe-
15 riod preceding repayment, or is a delinquent or
16 defaulted borrower who will reenter repayment
17 through loan consolidation.”;

18 (2) in subsection (b)—

19 (A) in paragraph (1)—

20 (i) in subparagraph (A)(ii), by insert-
21 ing “with income-sensitive repayment
22 terms” immediately following “obtain a
23 consolidation loan”;

24 (ii) by redesignating subparagraph
25 (E) as subparagraph (F); and

1 (iii) by inserting immediately following
2 subparagraph (D) the following new sub-
3 paragraph:

4 “(E) that the lender shall offer an income-
5 sensitive repayment schedule, established by the
6 lender in accordance with the regulations of the
7 Secretary, to the borrower of any consolidation
8 loan made by the lender on or after July 1,
9 1994; and”;

10 (B) in paragraph (4), by amending sub-
11 paragraph (C) to read as follows:

12 “(C)(i) provides that periodic installments
13 of principal need not be paid, but interest shall
14 accrue and be paid in accordance with clause
15 (ii), during any period for which the borrower
16 would be eligible for a deferral under section
17 428(b)(1)(M), and that any such period shall
18 not be included in determining the repayment
19 period pursuant to subsection (c)(2) of this
20 section; and

21 “(ii) provides that interest shall accrue and
22 be paid—

23 “(I) by the Secretary, in the case of
24 a consolidation loan that consolidated only
25 Federal Stafford Loans for which the stu-

1 dent borrower received an interest subsidy
2 under section 428; or

3 “(II) by the borrower, or capitalized,
4 in the case of a consolidation loan other
5 than one described in subclause (I) ;” ; and
6 (C) by adding at the end thereof the fol-
7 lowing new paragraph:

8 “(5) In the event that a borrower is unable to
9 obtain a consolidation loan with income-sensitive re-
10 payment terms acceptable to the borrower from a
11 lender with an agreement under subsection (a)(1),
12 the Secretary shall offer any such borrower who ap-
13 plies for it, a direct consolidation loan to be repaid
14 pursuant to an EXCEL Account under part D of
15 this title, except that the Secretary shall not offer
16 such loans if, in his or her judgment, the Depart-
17 ment does not yet have the necessary origination
18 and servicing arrangements in place for such
19 loans.” ; and

20 (3) in subsection (c)—

21 (A) in paragraph (1), by amending sub-
22 paragraphs (B) and (C) to read as follows:

23 “(B) A consolidation loan made before
24 July 1, 1994, shall bear interest at an annual

1 rate on the unpaid principal balance of the loan
2 that is equal to the greater of—

3 “(i) the weighted average of the inter-
4 est rates on the loans consolidated,
5 rounded to the nearest whole percent; or

6 “(ii) 9 percent.

7 “(C) a consolidation loan made on or after
8 July 1, 1994 shall interest at an annual rate on
9 the unpaid principal balance of the loan that is
10 equal to the weighted average of the interest
11 rates on the loans consolidated, rounded up-
12 ward to the nearest whole percent.”;

13 (B) in paragraph (2)—

14 (i) in subparagraph (A)—

15 (I) in the matter preceding clause
16 (i), by striking out “income sensitive
17 repayment schedules. Such repayment
18 terms” and inserting in lieu thereof
19 “income sensitive repayment sched-
20 ules, established by the lender in ac-
21 cordance with the regulations of the
22 Secretary. Except as required by such
23 income sensitive repayment schedules,
24 or by the terms of repayment pursu-
25 ant to an EXCEL Account offered by

1 the Secretary under subsection (b)(5),
2 such repayment terms”

3 (II) by redesignating clauses (i),
4 (ii), (iii), (iv), and (v) as clauses (ii),
5 (iii), (iv), (v), and (vi), respectively;
6 and

7 (III) by inserting immediately
8 preceding clause (ii) (as redesignated
9 by subclause (II)) the following new
10 clause:

11 “(i) is less than \$7,500, then such
12 consolidation loan shall be repaid in not
13 more than ten years;”;

14 (ii) by striking out subsection (B);
15 and

16 (iii) by redesignating subparagraph
17 (C) as subparagraph (B); and

18 (C) in paragraph (3)(A), by inserting im-
19 mediately following the subparagraph designa-
20 tion the following: “except as required by the
21 terms of repayment pursuant to an EXCEL
22 Account offered by the Secretary under sub-
23 section (b)(5),”.

24 STUDENT LOAN MARKETING ASSOCIATION

25 SEC. 218. Section 439 of the Act is further amended
26 by adding at the end thereof the following new subsection:

1 “(s) TRANSITION STUDY AND ACTIVITIES.—(1) The
2 Secretaries of Education and the Treasury, in consultation
3 with the Association, shall prepare a study, to be com-
4 pleted within six months of the enactment of this provi-
5 sion, which shall examine alternatives concerning the sta-
6 tus, operations, and purposes of the Association during
7 and after the transition from the Federal Family Edu-
8 cation Loan Program to the Federal Direct Student Loan
9 Program. Such alternatives shall include providing for an
10 orderly transition of the Association from a Government-
11 Sponsored Enterprise to a private corporation when the
12 Federal Direct Student Loan Program is fully imple-
13 mented. Such study shall—

14 “(A) consider how best to meet the needs of
15 students and taxpayers;

16 “(B) reflect the need for the Association to
17 maintain liquidity and perform other functions for
18 the Federal Family Education Loan Program during
19 the transition from such program to the Federal Di-
20 rect Student Loan Program under part D of this
21 title, including additional duties as specified by the
22 Secretary of Education or the Secretary of the
23 Treasury;

1 “(C) consider any appropriate changes to part
2 D of title VII, relating to the College Construction
3 Loan Insurance Association; and

4 “(D) be considered by the Secretaries of Edu-
5 cation and the Treasury in developing any legislative
6 proposals concerning any changes to the status of
7 the Association as a Government-Sponsored Enter-
8 prise or its duties under the Federal Family
9 Education Loan Program.

10 “(2) The Secretaries of Education and the Treasury
11 are directed to work with the Association to ensure that
12 any changes in the Association’s status, operations, or
13 purposes are carried out efficiently and effectively.”.

14 AUTHORITY TO USE OPTICALLY IMAGED DOCUMENTS

15 SEC. 219. (a) Section 484A of the Act is amended—

16 (1) in the heading, by adding a semicolon and
17 “OPTICALLY IMAGED DOCUMENTS” after “LIMITA-
18 TIONS”; and

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

21 “(c)(1) IN GENERAL.—It is the purpose of this sub-
22 section to—

23 “(A) allow the Secretary to use optical imaging
24 technology to store and retrieve documents and
25 records, including promissory notes and repayment
26 agreements, required for the administration of the

1 programs authorized under part D of this title, or
2 for the administration of loans made under part B
3 of this title that have been assigned to the Secretary;

4 “(B) permit the Secretary to destroy originals
5 of such documents and records, including promissory
6 notes and repayment agreements, after they have
7 been optically imaged, thereby achieving significant
8 savings in storage and retrieval costs; and

9 “(C) ensure that the Secretary may introduce
10 as evidence in any proceeding with respect to the
11 programs or loans described in subparagraph (A)
12 optically imaged documents and records, including
13 promissory notes and repayment agreements.

14 “(2) Notwithstanding any other provision of Federal
15 or State law, an optically imaged copy of any document
16 or record, including a promissory note or repayment
17 agreement, may be introduced as evidence in any proceed-
18 ing with respect to the programs or loans described in
19 paragraph (1)(A) in any Federal or State court, or other
20 tribunal, and such optically imaged copy shall be admissi-
21 ble in any court or tribunal of the United States or any
22 State as if it were the original document or record and
23 have the same force and effect as the original.

24 “(3) Nothing in this subsection shall be interpreted
25 to preclude the admissibility of a duplicate of a document

1 or record required for the administration of the programs
2 or loans described in paragraph (1)(A) made by a tech-
3 nology other than optical imaging consistent with the Fed-
4 eral Rules of Evidence and section 1732 of title 28 of the
5 United States Code, or applicable State law.

6 “(4) Nothing in this subsection shall be interpreted
7 to preclude the admissibility of an optically imaged copy
8 of any document or record in a proceeding outside the
9 scope of this subsection consistent with the Federal Rules
10 of Evidence and section 1732 of title 28 of the United
11 States Code, or applicable State law.”.

12 (b) Section 432 of the Act is amended by adding at
13 the end thereof the following new subsection:

14 “(q) OPTICALLY IMAGED DOCUMENTS.—Records
15 maintained in accordance with section 484A(c) may be
16 used in any proceeding, as permitted by section 484A(c),
17 with respect to a loan that was made under this part and
18 has been assigned to the Secretary.”.

19 (c) Section 487 of the Act is amended by adding at
20 the end thereof the following new subsection:

21 “(f) USE OF OPTICALLY IMAGED DOCUMENTS.—In
22 any proceeding with respect to a program or activity under
23 part D of this title, or with respect to a loan made under
24 part B of this title that has been assigned to the Sec-

1 retary, records maintained in accordance with section
2 484A may be used as provided in that section.”.

3 PART B—AMENDMENTS TO OTHER LAWS

4 DISCLOSURE OF TAX RETURN INFORMATION

5 SEC. 221. (a) Section 6103(a)(3) of the Internal Rev-
6 enue Code of 1986 (26 U.S.C. 6103(a)(3); relating to con-
7 fidentiality and disclosure of returns and return informa-
8 tion; hereinafter referred to as “the Code”) is amended
9 by striking out “(l)(12)” and inserting in lieu thereof “(l)
10 (10), (12), or (13)”.

11 (b) Section 6103(l) of the Code is amended—

12 (1) in paragraph (10)(B), by striking out “offi-
13 cers and employees of an agency receiving return in-
14 formation under subparagraph (A) shall use such in-
15 formation” and inserting in lieu thereof “return in-
16 formation disclosed under subparagraph (A) may be
17 used by officers and employees of an agency, and by
18 officers, employees, and agents of the Department of
19 Education,”; and

20 (2) at the end thereof, by adding a new para-
21 graph to read as follows:

22 “(13) DISCLOSURE OF RETURN INFORMATION
23 TO CARRY OUT INCOME CONTINGENT REPAYMENT
24 OF STUDENT LOANS.—

1 “(A) IN GENERAL.—The Secretary may,
2 upon written request from the Secretary of
3 Education, disclose to officers and employees of
4 the Department of Education return informa-
5 tion with respect to a taxpayer who has received
6 a Federal loan under a student loan program
7 and whose loan repayment amounts are based
8 in whole or in part on the taxpayer’s income.
9 Such return information shall be limited to—

10 “(i) taxpayer identity information
11 with respect to such taxpayer;

12 “(ii) the filing status of such tax-
13 payer; and

14 “(iii) the adjusted gross income of
15 such taxpayer (as defined in section 62).

16 “(B) RESTRICTION ON USE OF DISCLOSED
17 INFORMATION.—Return information disclosed
18 under subparagraph (A) may be used by offi-
19 cers, employees, and agents of the Department
20 of Education only for the purposes of, and to
21 the extent necessary in, establishing an appro-
22 priate income contingent repayment level under
23 a student loan program.

24 “(C) DEFINITIONS.—For purposes of this
25 paragraph, the term ‘student loan program’

1 means the program authorized under part D of
2 title IV of the Higher Education Act of 1965
3 and includes loans under parts B and E of title
4 IV the Higher Education Act of 1965 that are
5 in default and have been assigned to the De-
6 partment of Education.”.

7 (c) Section 6103(m)(4) of the Code is amended—

8 (1) in the heading, by inserting “**OWE AN**
9 **OVERPAYMENT ON FEDERAL PELL GRANTS**
10 **OR**” immediately after “**INDIVIDUALS WHO**”;

11 (2) in subparagraph (A)—

12 (A) by redesignating clauses (i) and (ii) as
13 subclauses (I) and (II); and

14 (B) by striking out “of any taxpayer who”
15 and inserting in lieu thereof “of any taxpayer—

16 “(i) who owes an overpayment of a
17 grant awarded to that taxpayer under sub-
18 part 1 of part A of title IV of the Higher
19 Education Act of 1965, or

20 “(ii) who”;

21 (3) in subparagraph (B)—

22 (A) in clause (i), by striking out “under
23 part B” and inserting in lieu thereof “under
24 part B or D”; and

1 (B) in clause (ii), by striking out “under
2 part E” and inserting in lieu thereof “under
3 subpart 1 of part A, part D, or E”;

4 (d) Section 6103(p) of the Code is amended—

5 (1) in paragraph (3)(A), by striking out “(11),
6 or (12), (m)” and inserting in lieu thereof “(11),
7 (12), or (13), (m)”;

8 (2) in paragraph (4)—

9 (A) in the matter preceding subparagraph
10 (A), by striking out “(10), or (11),” and insert-
11 ing in lieu thereof “(10), (11), or (13),”;

12 (B) in subparagraph (F)(ii), by striking
13 out “(11), or (12),” and inserting in lieu there-
14 of “(11), (12), or (13),”; and

15 (C) in the flush left material after sub-
16 paragraph (F), by striking out “under sub-
17 section (1)(12)(B)” and inserting in lieu thereof
18 “under paragraph (10), (12)(B), or (13) of sub-
19 section (1)”.

20 (e) Subchapter A of chapter 64 of the Code is further
21 amended by adding at the end thereof the following new
22 section:

1 **“SEC. 6306. COLLECTION OF PAYMENTS ON FEDERAL DI-**
2 **RECT STUDENT LOANS.**

3 “Upon a determination by the President under sec-
4 tion 457(c)(2) of the Higher Education Act of 1965 con-
5 cerning the implementation of a plan for the repayment
6 of Federal Direct Student Loans through wage withhold-
7 ing or other means by the Internal Revenue Service, the
8 Secretary of the Treasury may enter into an agreement
9 with the Secretary of Education to provide for the collec-
10 tion of payments on loans made pursuant to part D of
11 title IV of such Act. Notwithstanding any other provision
12 of law, the Secretary of the Treasury may assess and col-
13 lect such payments as though they were additional income
14 taxes due, and may establish such procedures and conven-
15 tions as are necessary under such agreement, including
16 those related to withholding, payment of estimated tax,
17 allocation of payments, and dispute resolution.”.

18 (f) Section 7213(a)(2) of the Code is amended by
19 striking out “(10) or (12)” and inserting in lieu thereof
20 “(10), (12), or (13),”.

21 AMENDMENT TO THE BALANCED BUDGET AND
22 EMERGENCY DEFICIT CONTROL ACT OF 1985

23 SEC. 222. The Balanced Budget and Emergency Def-
24 icit Control Act of 1985 is amended—

25 (1) in section 252(c)(1)(B), by striking out
26 “guaranteed”;

1 (2) in section 256(b)—

2 (A) by striking out the subsection heading
3 and inserting in lieu thereof the following: “EF-
4 FECT OF ORDERS ON STUDENT LOAN PRO-
5 GRAMS.—”;

6 (B) by inserting immediately after the
7 paragraph heading the following: “FEDERAL
8 FAMILY EDUCATION LOAN PROGRAM.—(A)”;

9 (C) by redesignating paragraphs (2) and
10 (3) as subparagraphs (A) and (B), respectively;

11 (D) in paragraph (1)(A) (as redesignated
12 in subparagraph (B)), by striking out “de-
13 scribed in paragraphs (2) and (3)” and insert-
14 ing in lieu thereof “described in subparagraphs
15 (B) and (C)”;

16 (E) in paragraph (1)(B) (as redesignated
17 in subparagraph (C)), by redesignating sub-
18 paragraphs (A) and (B) as clauses (i) and (ii),
19 respectively; and

20 (F) by adding at the end thereof the fol-
21 lowing new paragraph:

22 “(1) FEDERAL DIRECT STUDENT LOAN PRO-
23 GRAM.—(A) Any reductions that are required to be
24 achieved from the Federal Direct Student Loan pro-
25 gram operated under part D of title IV of the

1 Higher Education Act of 1965 as a consequence of
2 an order issued pursuant to section 254, shall be
3 achieved only by the application of the measures de-
4 scribed in subparagraph (B).

5 “(B) For any loan made during the period be-
6 ginning on the date that an order issued under sec-
7 tion 254 takes effect with respect to a fiscal year,
8 and ending at the close of such fiscal year, the loan
9 fee that is authorized to be collected pursuant to
10 section 456(c) of such Act shall be increased by 0.50
11 percent.”.

12 TITLE III—EFFECTIVE DATES

13 SEC. 301. (a) Except as otherwise provided in this
14 section, the amendments made by this title shall be effec-
15 tive upon enactment.

16 (b) The amendments made by section 213 of this Act
17 shall be effective for loans made in accordance with section
18 428 for periods of instruction beginning on or after July
19 1, 1993, or made on or after July 1, 1993, in the case
20 of loans made in accordance with section 428A, 428B, or
21 428C of the Act.

22 (c) The amendments made by section 216 of this Act
23 shall be effective on October 1, 1994.

24 (d) The amendments made by section 217 of this Act
25 shall be effective for loans made on or after July 1, 1994.



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