

103^D CONGRESS
1ST SESSION

S. 920

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 SENATE OF THE UNITED STATES

MAY 6 (legislative day, APRIL 19), 1993

Mr. KENNEDY (for himself, Mr. SIMON, Mr. DURENBERGER, Mr. WELLSTONE, Mr. LIEBERMAN, Mr. BRADLEY, and Mr. RIEGLE) (by request) introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

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 bor-

rowers; 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;

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

12 “(B) When the program authorized under this part
13 is fully implemented, the Secretary shall enter into agree-
14 ments under section 454(a) with institutions that submit
15 applications in accordance with subparagraph (A).

16 “(C) Until such full implementation, the Secretary
17 shall select institutions for participation in the direct stu-
18 dent loan program under this part, and shall enter into
19 agreements with them under section 454(a), from among
20 those institutions that submit the applications described
21 in subparagraph (A), and meet such other eligibility re-
22 quirements as the Secretary may prescribe, by—

23 “(i)(I) categorizing such institutions according
24 to anticipated loan volume, length of academic pro-
25 gram, and control of the institution; and

1 “(II) selecting institutions that are reasonably
2 representative of the respective categories; and

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

5 “(2) ORIGINATION.—(A) The Secretary may enter
6 into a supplemental agreement with an institution (or a
7 consortium of such institutions) that—

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

9 “(ii) desires to originate loans under this part;

10 and

11 “(iii) meets the criteria specified in subpara-
12 graph (B).

13 “(B)(i) For academic year 1994–1995, the Secretary
14 may approve an institution to originate loans only if such
15 institution—

16 “(I) made loans under part E of this title in
17 academic year 1993–1994 and did not exceed the
18 applicable maximum default rate under section
19 462(g) for the most recent fiscal year for which data
20 are available;

21 “(II) is not on the reimbursement system of
22 payment for any of the programs under subpart 1
23 or 3 of part A, part C, or part E;

24 “(III) is not overdue on program or financial
25 reports or audits required under this title;

1 “(IV) is not subject to an emergency action, or
2 a limitation, suspension, or termination under sec-
3 tion 428(b)(1)(T), 432(h), or 487(c);

4 “(V) in the opinion of the Secretary, has not
5 had significant deficiencies identified by the State
6 postsecondary review entity under subpart 1 of part
7 H of this title;

8 “(VI) in the opinion of the Secretary, has not
9 had severe performance deficiencies for any of the
10 programs under this title, including those dem-
11 onstrated by audits or program reviews submitted or
12 conducted during the five calendar years imme-
13 diately preceding the date of application; and

14 “(VII) provides an assurance that it has no de-
15 linquent outstanding debts to the United States, un-
16 less such debts are being repaid under or in accord-
17 ance with a repayment arrangement satisfactory to
18 the United States, or the Secretary in his or her dis-
19 cretion determines that the existence or amount of
20 such debts has not been finally determined by the
21 cognizant Federal agency or agencies.

22 “(ii) For academic year 1995–1996 and subsequent
23 academic years, the Secretary shall publish regulations
24 governing the approval of institutions to originate loans.”;

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

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

5 “(g) CONSORTIA.—Subject to such requirements as
6 the Secretary may prescribe, eligible institutions of higher
7 education with agreements under section 454(a) may
8 apply to originate loans under this part for students in
9 attendance at such institutions, as consortia. Such institu-
10 tions shall be required to meet the requirements to partici-
11 pate in the program under this part individually.”; and

12 (4) by redesignating subsection (g) as sub-
13 section (c).

14 AGREEMENTS WITH INSTITUTIONS

15 SEC. 115. Section 454 of the Act is amended to read
16 as follows:

17 “AGREEMENTS WITH INSTITUTIONS

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

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

24 “(A) the institution will—

1 “(i) identify eligible students who seek
2 student financial assistance at such institu-
3 tion in accordance with section 484;

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

18 “(iii) provide a statement that cer-
19 tifies the eligibility of any student to re-
20 ceive a loan under this part that is not in
21 excess of the maximum amount applicable
22 to such loan, except that the institution
23 may, in exceptional circumstances specified
24 by the Secretary, refuse to certify a state-
25 ment that permits a student to receive a

1 loan under this part, or certify a loan
2 amount that is less than the student's de-
3 termination of need (as determined under
4 part F of this title), if the reason for such
5 action is documented and provided in writ-
6 ten form to such student;

7 “(B) the institution will set forth a sched-
8 ule for disbursement of the proceeds of the loan
9 in installments, consistent with the require-
10 ments of section 428G; and

11 “(C) the institution will provide timely and
12 accurate information—

13 “(i) concerning the status of student
14 borrowers (and students on whose behalf
15 parents borrow under this part) while such
16 students are in attendance at the institu-
17 tion and concerning any new information
18 of which the institution becomes aware for
19 such students (or their parents) after they
20 leave the institution, to the Secretary for
21 the servicing and collecting of loans made
22 under this part; and

23 “(ii) if the institution does not have
24 an agreement with the Secretary under
25 subsection (b), concerning student eligi-

1 bility and need, as determined under sub-
2 paragraph (A), to the Secretary as needed
3 for the alternative origination of loans to
4 eligible students and parents in accordance
5 with this part;

6 “(2) provide assurances that the institution will
7 comply with requirements established by the Sec-
8 retary relating to student loan information with re-
9 spect to loans made under this part;

10 “(3) provide that the institution accepts respon-
11 sibility and financial liability stemming from its fail-
12 ure to perform its functions pursuant to the agree-
13 ment;

14 “(4) provide that students at the institution
15 and their parents (with respect to such students)
16 will not be eligible to participate in the programs
17 under part B of this title for the period during
18 which such instituion participates in the direct stu-
19 dent loan program under this part;

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

24 “(6) provide that the institution will not charge
25 any fees of any kind, however described, to student

1 or parent borrowers for origination activities or the
2 provision of any information necessary for a student
3 or parent to receive a loan under this part, or any
4 benefits associated with such loan; and

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

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

12 “(1) supplement the agreement entered into in
13 accordance with subsection (a);

14 “(2) include provisions established by the Sec-
15 retary that are similar to the participation agree-
16 ment provisions described in paragraphs (1)(G), (2),
17 (3), (4), (5), (6), and (7) of subsection (a), as modi-
18 fied to relate to the origination of loans by the insti-
19 tution;

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

23 “(4) provide that the note or evidence of obliga-
24 tion on the loan shall be the property of the Sec-
25 retary.

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

3 “(2)(A) For Federal Direct Stafford Loans and Fed-
4 eral Direct Unsubsidized Stafford Loans made before July
5 1, 1997, the applicable rate of interest shall, during any
6 twelve-month period beginning on July 1 and ending on
7 June 30, be determined on the preceding June 1 and be
8 equal to—

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

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

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

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

22 “(ii) 1 percent,
23 except that such rate shall not exceed 9 percent.

24 “(3)(A) For Federal Direct Supplemental Loans for
25 Students made before July 1, 1997, the applicable rate

1 of interest shall, during any twelve-month period begin-
2 ning on July 1 and ending on June 30, be determined
3 on the preceding June 1 and be equal to—

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

7 “(ii) 3.1 percent,
8 except that such rate shall not exceed 11 percent.

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

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

17 “(ii) 1.5 percent,
18 except that such rate shall not exceed 11 percent.

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

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

4 “(ii) 3.1 percent,
5 except that such rate shall not exceed 10 percent.

6 “(B) For Federal PLUS Loans made on or after July
7 1, 1997, the applicable rate of interest shall, during any
8 twelve-month period beginning on July 1 and ending on
9 June 30, be determined on the preceding June 1 for all
10 such loans and be equal to—

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

13 “(ii) 2.1 percent,
14 except that such rate shall not exceed 10 percent.

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

19 “(d) REPAYMENT PLANS.—(1)(A) The Secretary
20 shall design each repayment plan under this subsection so
21 that, to the extent possible, the cost to the Federal Gov-
22 ernment for each cohort of borrowers does not exceed what
23 such cost would be if all borrowers in the cohort selected
24 the standard repayment plan described in clause (i). Con-
25 sistent with criteria established by the Secretary, the Sec-

1 retary shall offer a borrower of a loan made under this
2 part a variety of plans for repayment of such loan, includ-
3 ing principal and interest on the loan. The borrower may
4 choose—

5 “(i) a standard repayment plan, with a fixed
6 annual repayment amount paid over a fixed period
7 of time;

8 “(ii) an extended repayment plan, with a fixed
9 annual repayment amount paid over an extended pe-
10 riod of time: *Provided*, That, the borrower annually
11 repays a minimum amount determined by the
12 Secretary;

13 “(iii) a graduated repayment plan, with annual
14 repayment amounts established at two or more grad-
15 uated levels and paid over a fixed or extended period
16 of time: *Provided*, That, any of the borrower’s sched-
17 uled payments shall not be less than 50 percent, nor
18 more than 150 percent, of what the amortized pay-
19 ment on the amount owed would be if the loan were
20 repaid under the standard repayment plan; and

21 “(iv) except for the borrower of a Federal Di-
22 rect PLUS Loan, an income contingent repayment
23 plan known as an ‘EXCEL account,’ with varying
24 annual repayment amounts based on the income of
25 the borrower, paid over an extended period of time,

1 not to exceed a maximum length of time determined
2 by the Secretary.

3 “(B) If a borrower of a loan made under this part
4 does not select a repayment plan described in subpara-
5 graph (A), the Secretary may provide the borrower with
6 a repayment plan described in clause (i), (ii), or (iii) of
7 subparagraph (A).

8 “(C) The borrower of a loan made under this part
9 may change his or her selection of a repayment plan under
10 subparagraph (A), or the Secretary’s selection of a plan
11 for the borrower under subparagraph (B), as the case may
12 be, under such terms and conditions as may be established
13 by the Secretary.

14 “(D) The Secretary may provide an alternative repay-
15 ment plan to a borrower of a loan made under this part
16 who demonstrates to the satisfaction of the Secretary that
17 the terms and conditions of the repayment plans available
18 under subparagraph (A) are not adequate to accommodate
19 the borrower’s exceptional circumstances.

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

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

24 “(ii) repay the loan pursuant to an EXCEL
25 account.

1 “(2)(A) The Secretary may obtain such information
2 as is reasonably necessary regarding the income of a bor-
3 rower (and the borrower’s spouse, if applicable) of a loan
4 made under this part that is, or may be, repaid pursuant
5 to an EXCEL account for the purpose of determining the
6 annual repayment obligation of the borrower. The Sec-
7 retary shall establish procedures for determining the bor-
8 rower’s repayment obligation on that loan for such year,
9 and such other procedures as are necessary to implement
10 effectively repayment pursuant to an EXCEL account.

11 “(B)(i) A repayment schedule for a loan made under
12 this part and repaid pursuant to an EXCEL account shall
13 be based on the adjusted gross income (as defined in sec-
14 tion 62 of the Internal Revenue Code of 1986, 26 U.S.C.
15 62) of the borrower or, if the borrower is married and
16 files a Federal income tax return jointly with his or her
17 spouse, on the adjusted gross income of the borrower and
18 his or her spouse.

19 “(ii) A borrower who chooses, or is required, to repay
20 a loan made under this part pursuant to an EXCEL ac-
21 count, and for whom adjusted gross income is unavailable
22 or does not reasonably reflect his or her current income,
23 shall provide to the Secretary other documentation of in-
24 come satisfactory to the Secretary, which documentation

1 the Secretary may use to determine an appropriate repay-
2 ment schedule.

3 “(iii) EXCEL account repayment schedules shall be
4 established by the Secretary through regulations and shall
5 require payments measured as a percentage of the appro-
6 priate portion of the annual income of the borrower (and
7 the borrower’s spouse, if applicable) as determined by the
8 Secretary.

9 “(iv) The balance due on a loan made under this part
10 that is repaid pursuant to an EXCEL account shall equal
11 the unpaid principal amount of the loan, any accrued in-
12 terest, and any fees, such as late charges, assessed on such
13 loan. The Secretary may limit by regulation the amount
14 of interest that may be capitalized on such loan, and the
15 timing of any such capitalization.

16 “(C) The Secretary shall establish procedures under
17 which a borrower of a loan made under this part who
18 chooses or is required to repay such loan pursuant to an
19 EXCEL account is notified of the terms and conditions
20 of such plan, including notification of such borrower—

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

24 “(ii) that if a borrower considers that special
25 circumstances, such as a loss of employment by the

1 borrower or his or her spouse, warrant an adjust-
2 ment in the borrower's loan repayment as deter-
3 mined using the information described in clause (i),
4 or the alternative documentation described in sub-
5 paragraph (B)(ii), the borrower may contact the
6 Secretary, who shall determine whether such adjust-
7 ment is appropriate, in accordance with criteria es-
8 tablished by the Secretary.

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

14 “(A) shall not accrue, in the case of a Federal
15 Direct Stafford Loan or a Federal Direct Consolida-
16 tion Loan that consolidated only Federal Direct
17 Stafford Loans, or a combination of such loans and
18 Federal Stafford Loans for which the student bor-
19 rower received an interest subsidy under section
20 428; or

21 “(B) shall accrue and be capitalized or paid by
22 the borrower, in the case of a Federal Direct Supple-
23 mental Loan for Students loan, a Federal Direct
24 PLUS Loan, a Federal Direct Unsubsidized Staf-

1 ford Loan, or a Federal Direct Consolidation Loan
2 other than those described in subparagraph (A).

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

5 “(A) during which the borrower—

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

9 “(ii) is pursuing a course of study pursu-
10 ant to a graduate fellowship program approved
11 by the Secretary, or pursuant to a rehabilitation
12 training program for individuals with disabil-
13 ities approved by the Secretary.

14 except that no borrower shall be eligible for a deferment
15 under this subparagraph, or a loan made this part (other
16 than a Federal Direct PLUS Loan, or a Federal Direct
17 Consolidation Loan), while serving in a medical internship
18 or residency program;

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

22 “(C) not in excess of three years during which
23 the Secretary determines, in accordance with regula-
24 tions prescribed under section 345(o), that the bor-

1 rower has experienced or will experience an economic
2 hardship, regardless of the reason for such hardship.

3 “(f) FORBEARANCE.—(1)(A) A borrower of a loan
4 made under this part shall be eligible for forbearance, as
5 defined in subparagraph (B), which shall be granted by
6 the Secretary if the Secretary determines that the bor-
7 rower is willing but unable to make schedule loan pay-
8 ments.

9 “(B) The term ‘forbearance’ means permitting the
10 temporary cessation of payments, allowing an extension of
11 time for making payments, or temporarily accepting small-
12 er payments than previously scheduled. Interest shall con-
13 tinue to accrue on a loan for which a borrower receives
14 forbearance and shall be capitalized or paid by the bor-
15 rower.

16 “(2)(A) A borrower of a loan made under this part
17 who is serving in a national service position, for which he
18 or she receives a national service educational award under
19 the National Service Trust Act of 1993, shall be eligible
20 for forbearance granted by the Secretary during periods
21 in which the borrower is serving in such position.

22 “(B) For purposes of this paragraph, ‘forbearance’
23 shall mean the temporary cessation of payments unless the
24 borrower selects another option described in paragraph
25 (1)(B).

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

8 “(h) BORROWER DEFENSES.—Notwithstanding any
9 other provision of State or Federal law, the Secretary shall
10 specify in regulations (except as authorized under section
11 458(a)), which acts or omissions of an institution of higher
12 education a borrower may assert as a defense to repay-
13 ment of a loan made under this part, except that in no
14 event may a borrower recover from the Secretary, in any
15 action arising from or relating to a loan made under this
16 part, an amount in excess of the amount such borrower
17 has repaid on such loan.

18 “(i) OPTICALLY IMAGED DOCUMENTS.—Records
19 maintained in accordance with section 484A(c) may be
20 used in any proceeding, as permitted by section 484A(c),
21 with respect to a loan made under this part.

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

1 CONTRACTS

2 SEC. 117. Section 457 of the Act is amended to read
3 as follows:

4 “CONTRACTS

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

13 “(2) The Secretary may, through June 30, 1998,
14 award contracts under this section without regard to the
15 requirements in 41 U.S.C. 253, 41 U.S.C. 416, and 15
16 U.S.C. 637(e) and the corresponding requirements of the
17 Federal Acquisition Regulations if he or she determines,
18 on a case-by-case basis, that exemption from such require-
19 ments is in the public interest and necessary for the or-
20 derly transition from the loan programs under part B to
21 the direct student loan programs under this part.

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

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

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

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

10 “(A) provides for repayment for loans made
11 under this part through wage withholding by the In-
12 ternal Revenue Service; and

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

15 “(2) If the President determines that the implemen-
16 tation of one or more repayment options contained in the
17 plan described in paragraph (1) would further the pur-
18 poses of this part, the Secretaries of Education and the
19 Treasury shall be authorized to take such actions as are
20 reasonable and necessary to implement such repayment
21 options, including entering into an agreement pursuant to
22 section 6306 of the Internal Revenue Code of 1986.

23 “(3) The Secretary of Education may use such
24 amounts as may be necessary for the funds available
25 under section 459 to implement the repayment options se-

1 lected by the President under paragraph (2) and shall
2 make available to the Secretary of the Treasury such
3 amounts under section 459 as the Secretaries determine
4 to be necessary to implement those repayment options car-
5 ried out by the Internal Revenue Service.”.

6 SECRETARIAL ACTIVITIES

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

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

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

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

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

23 (4) in subsection (c)—

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

1 (B) by striking out “participate” through
2 the end thereof and inserting in lieu thereof the
3 following: “participate in the first year of the
4 direct student loan program under this part.”;

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

9 (6) by redesignating subsections (c) and (d) as
10 subsections (b) and (c), respectively.

11 REPEALS AND REDESIGNATIONS

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

13 (b) Sections 456, 457, 458, 459, and 459A are redес-
14 igned as sections 455, 456, 457, 458, and 459, respec-
15 tively.

16 FUNDS FOR ADMINISTRATIVE EXPENSES

17 SEC. 121. Section 459 of the Act (as redesignated
18 by section 120) is amended by striking out “administra-
19 tive costs under this part,” through the end thereof and
20 inserting in lieu thereof the following: “administrative
21 costs under this part, including the costs of the transition
22 from the loan programs under part B to the direct student
23 loan programs under this part and transition support for
24 the expenses of guaranty agencies in servicing outstanding
25 loans in their portfolios and in guaranteeing new loans,
26 not to exceed \$261,000,000 in fiscal year 1994,

1 \$346,000,000 in fiscal year 1995, \$552,000,000 in fiscal
2 year 1996, \$596,000,000 in fiscal year 1997, and
3 \$749,000,000 in fiscal year 1998. If in any fiscal year,
4 the Secretary determines that additional funds for admin-
5 istrative expenses are needed as a result of such transi-
6 tion, or the expansion of the direct student loan programs
7 under this part, the Secretary is authorized to use funds
8 available under this section for a subsequent fiscal year
9 for such expenses. The Secretary is also authorized to
10 carry over funds available under this section to a subse-
11 quent fiscal year.”.

12 TITLE II—CONFORMING AMENDMENTS

13 PART A—CONFORMING AMENDMENTS TO THE HIGHER

14 EDUCATION ACT OF 1965

15 PRESERVING LOAN ACCESS

16 SEC. 211. (a) PURPOSE.—It is the purpose of the
17 amendments made by this section to provide the Secretary
18 with flexible authority as needed to preserve access to stu-
19 dent and parent loans under part B of title IV of the Act
20 during the transition from the Federal Family Education
21 Loan Program under such part to the Federal Direct Stu-
22 dent Loan Program under part D of such title.

23 (b) ADVANCES TO GUARANTY AGENCIES FOR LEND-
24 ER-OF-LAST-RESORT SERVICES.—(1) Section 428(j) of

1 the Act is amended by adding at the end thereof the fol-
2 lowing new paragraph:

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

17 “(B) Notwithstanding any other provision in this
18 part, a guaranty agency serving as a lender-of-last-resort
19 under this paragraph shall be paid a fee, established by
20 the Secretary, for making such loans in lieu of interest
21 and special allowance subsidies, and shall be required to
22 assign such loans to the Secretary on demand. Upon such
23 assignment, the portion of the advance represented by the
24 loans assigned shall be considered repaid by such guaranty
25 agency.”.

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

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

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

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

21 (1) in paragraph (1)—

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

1 (B) by inserting the subparagraph designa-
2 tion “(A)” immediately after the paragraph
3 designation;

4 (C) by striking out “in any State” and in-
5 serting in lieu thereof “with which the Sec-
6 retary has an agreement under subparagraph
7 (B)’”; and

8 (D) by adding at the end thereof the fol-
9 lowing new subparagraph:

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

17 “(ii) The Secretary shall publish in the
18 Federal Register whatever standards, criteria,
19 and procedures, consistent with the provisions
20 of this part and part D of this title, the Sec-
21 retary determines are reasonable and necessary
22 to provide lender referral services under this
23 subsection and ensure loan access to student
24 and parent borrowers during the transition
25 from the loan programs under this part to the

1 direct student loan programs under part D of
2 this title. Section 431 of the General Education
3 Provisions Act shall not apply to the publication
4 of such standards, criteria, and procedures.”;

5 (2) in paragraph (2)—

6 (A) in the matter preceding subparagraph
7 (A), by striking out “in a State” and inserting
8 in lieu thereof “with which the Secretary has an
9 agreement under paragraph (1)(B)”;

10 (B) by amending subparagraph (A) to read
11 as follows:

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

20 (3) in paragraph (3), by striking out “The” and
21 inserting in lieu thereof “From funds available for
22 costs of transition under section 459 of the Act,
23 the”;

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

1 (d) STUDENT LOAN MARKETING ASSOCIATION.—

2 Section 439(q) of the Act is amended—

3 (1) in paragraph (1)(A)—

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

11 (B) by striking out the second sentence
12 therein;

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

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

23 GUARANTY AGENCY RESERVES

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

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

19 “(A) direct a guaranty agency to return to the
20 Secretary a portion of its reserve fund which the
21 Secretary determines is unnecessary to pay the pro-
22 gram expenses and contingent liabilities of the guar-
23 anty agency; and

24 “(B) direct the guaranty agency to require the
25 return, to the guaranty agency or to the Secretary,

1 of any reserve funds or assets held by, or under the
2 control of, any other entity, which the Secretary de-
3 termines are necessary to pay the program expenses
4 and contingent liabilities of the guaranty agency, or
5 which are required for the orderly termination of the
6 guaranty agency's operations and the liquidation of
7 its assets.

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

22 TERMS OF LOANS

23 SEC. 213. Section 428 of the Act is amended—

24 (1) in subsection (b)(1)—

25 (A) in subparagraph (D), by striking out

26 “be subject to” through the end thereof and in-

1 serting in lieu thereof the following: “be subject
2 to income contingent repayment in accordance
3 with subsection (m);”;

4 (B) by redesignating subparagraphs (W),
5 (X), and (Y) as subparagraphs (X), (Y), and
6 (Z), respectively; and

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

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

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

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

24 (2) in subsection (c)(3)(A), by striking out
25 “subsection (b)(1)(V)” through the end thereof and

1 inserting in lieu thereof the following: “subsections
2 (b)(1)(V) and (W);” and

3 (3) in subsection (m)—

4 (A) by amending paragraph (1) to read as
5 follows:

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

14 (B) by striking out paragraphs (2) and
15 (4);

16 (C) by amending paragraph (3) to read as
17 follows:

18 “(3) LOANS FOR WHICH INCOME CONTINGENT
19 REPAYMENT MAY BE REQUIRED.—A loan made
20 under this part may be required to be repaid under
21 this section if the note or other evidence of the loan
22 has been assigned to the Secretary pursuant to sub-
23 section (c)(8).”;

24 (D) by redesignating paragraph (3) as
25 paragraph (2).

1 ASSIGNMENT OF LOANS

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

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

6 (2) by striking out the second and third sen-
7 tences therein; and

8 (3) adding at the end thereof the following new
9 subparagraphs:

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

18 TERMINATION OF GUARANTY AGENCY AGREEMENTS;
19 ASSUMPTION OF GUARANTY AGENCY FUNCTIONS BY THE
20 SECRETARY

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

23 (1) in subparagraph (C), by inserting a comma
24 and “as appropriate,” immediately following “the
25 Secretary shall”;

26 (2) in subparagraph (D)—

1 (A) by inserting the clause designation
2 “(i)” immediately following the subparagraph
3 designation;

4 (B) by striking out “Each” and inserting
5 in lieu thereof “If the Secretary is not seeking
6 to terminate the guaranty agency’s agreement
7 under subparagraph (E), or assuming the guar-
8 anty agency’s functions under subparagraph
9 (F), a”;

10 (C) by adding at the end thereof the fol-
11 lowing new clause:

12 “(ii) If the Secretary is seeking to ter-
13 minate the guaranty agency’s agreement
14 under subparagraph (E), or assuming the
15 guaranty agency’s functions under sub-
16 paragraph (F), a management plan de-
17 scribed in subparagraph (C) shall include
18 the means by which the Secretary and the
19 guaranty agency shall work together to en-
20 sure the orderly termination of the oper-
21 ations, and liquidation of the assets, of the
22 guaranty agency.”;

23 (3) in subparagraph (E)—

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

1 (B) in clause (iii), by striking out the pe-
2 riod at the end thereof and inserting in lieu
3 thereof a semicolon; and

4 (C) by adding at the end thereof the fol-
5 lowing new clauses:

6 “(iv) the Secretary determines that
7 such action is necessary to protect the
8 Federal fiscal interest;

9 “(v) the Secretary determines that
10 such action is necessary to ensure the con-
11 tinued availability of loans to student or
12 parent borrowers; or

13 “(vi) the Secretary determines that
14 such action is necessary to ensure an or-
15 derly transition from the loan programs
16 under this part to the direct student loan
17 programs under part D of this title.”;

18 (4) in subparagraph (F)—

19 (A) in the matter preceding clause (i), by
20 striking out “Except as provided in subpara-
21 graph (G), if” and inserting in lieu thereof
22 “If”;

23 (B) by amending clause (v) to read as fol-
24 lows:

1 “(v) provide the guaranty agency with
2 additional advance funds in accordance
3 with section 422(c)(7), with such restric-
4 tions on the use of such funds as is deter-
5 mined appropriate by the Secretary, in
6 order to—

7 “(I) meet the immediate cash
8 needs of the guaranty agency;

9 “(II) ensure the uninterrupted
10 payment of claims; or

11 “(III) ensure that the guaranty
12 agency will make loans as the lender-
13 of-last-resort, in accordance with sub-
14 section (j)(4);”;

15 (C) in clause (vi)—

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

18 (ii) by striking out the period at the
19 end thereof and inserting in lieu thereof a
20 comma and “and to ensure an orderly
21 transition from the loan programs under
22 this part to the direct student loan pro-
23 grams under part D of this title.”; and

24 (iii) by redesignating such clause as
25 clause (vii); and

1 (D) by inserting immediately following
2 clause (v) the following new clause:

3 “(vi) use all funds and assets of the
4 guaranty agency to assist in the activities
5 undertaken in accordance with this sub-
6 paragraph and take appropriate action to
7 require the return, to the guaranty agency
8 or the Secretary, of any funds or assets
9 provided by the guaranty agency, under
10 contract or otherwise, to any person or or-
11 ganization; or”;

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

13 (6) by redesignating subparagraphs (H), (I),
14 and (J) as subparagraphs (I), (J), and (K), respec-
15 tively;

16 (7) by inserting immediately following subpara-
17 graph (F) the following new subparagraphs:

18 “(G) Notwithstanding any other provision
19 of Federal or State law, if the Secretary has
20 terminated or is seeking to terminate a guar-
21 anty agency’s agreement under subparagraph
22 (E), or has assumed a guaranty agency’s func-
23 tions under subparagraph (F)—

24 “(i) such guaranty agency may not
25 file for bankruptcy;

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

4 “(iii) any contract with respect to the
5 administration of a guaranty agency’s re-
6 serve funds, or the administration of any
7 assets purchased or acquired with the re-
8 serve funds of the guaranty agency, that is
9 entered into or extended by the guaranty
10 agency, or any other party on behalf of or
11 with the concurrence of the guaranty agen-
12 cy, after the effective date of this provision
13 shall provide that the contract is ter-
14 minable by the Secretary upon thirty days
15 notice to the contracting parties if the Sec-
16 retary determines that such contract in-
17 cludes an impermissible transfer of the re-
18 serve funds or assets, or is otherwise in-
19 consistent with the terms or purposes of
20 this section; and

21 “(iv) no provision of State law shall
22 apply to the actions of the Secretary in
23 terminating the operations of a guaranty
24 agency;

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

10 (8) in subparagraph (K) (as redesignated by
 11 paragraph (5)), by striking out “system, together”
 12 through the end thereof and inserting in lieu thereof
 13 the following: “system and the progress of the tran-
 14 sition from the loan programs under this part to the
 15 direct student loan programs under part D of this
 16 title.”.

17 ADMINISTRATIVE COST ALLOWANCE

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

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

22 (2) in subparagraph (B), inserting “prior to fis-
 23 cal year 1994” immediately following “any fiscal
 24 year”.

25 CONSOLIDATION LOANS

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

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

3 “(A) For the purpose of this section, the
4 term ‘eligible borrower’ means a borrower who,
5 at the time of application for a consolidation
6 loan is in repayment status, or in a grace pe-
7 riod preceding repayment, or is a delinquent or
8 defaulted borrower who will reenter repayment
9 through loan consolidation.”;

10 (2) in subsection (b)—

11 (A) in paragraph (1)—

12 (i) in subparagraph (A)(ii), by insert-
13 ing “with income-sensitive repayment
14 terms” immediately following “obtain a
15 consolidation loan”;

16 (ii) by redesignating subparagraph
17 (E) as subparagraph (F); and

18 (iii) by inserting immediately following
19 subparagraph (D) the following new sub-
20 paragraph:

21 “(E) that the lender shall offer an income-
22 sensitive repayment schedule, established by the
23 lender in accordance with the regulations of the
24 Secretary, to the borrower of any consolidation

1 loan made by the lender on or after July 1,
2 1994; and”;

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

5 “(C)(i) provides that periodic installments
6 of principal need not be paid, but interest shall
7 accrue and be paid in accordance with clause
8 (ii), during any period for which the borrower
9 would be eligible for a deferral under section
10 428(b)(1)(M), and that any such period shall
11 not be included in determining the repayment
12 period pursuant to subsection (c)(2) of this sec-
13 tion; and

14 “(ii) provides that interest shall accrue and
15 be paid—

16 “(I) by the Secretary, in the case of
17 a consolidation loan that consolidated only
18 Federal Stafford Loans for which the stu-
19 dent borrower received an interest subsidy
20 under section 428; or

21 “(II) by the borrower, or capitalized,
22 in the case of a consolidation loan other
23 than one described in subclause (I) ;”;

24 (C) by adding at the end thereof the fol-
25 lowing new paragraph:

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

13 (3) in subsection (c)—

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

16 “(B) A consolidation loan made before
17 July 1, 1994, shall bear interest at an annual
18 rate on the unpaid principal balance of the loan
19 that is equal to the greater of—

20 “(i) the weighted average of the inter-
21 est rates on the loans consolidated, round-
22 ed to the nearest whole percent; or

23 “(ii) 9 percent.

24 “(C) a consolidation loan made on or after
25 July 1, 1994 shall interest at an annual rate on

1 the unpaid principal balance of the loan that is
2 equal to the weighted average of the interest
3 rates on the loans consolidated, rounded up-
4 ward to the nearest whole percent.”;

5 (B) in paragraph (2)—

6 (i) in subparagraph (A)—

7 (I) in the matter preceding clause
8 (i), by striking out “income sensitive
9 repayment schedules. Such repayment
10 terms” and inserting in lieu thereof
11 “income sensitive repayment sched-
12 ules, established by the lender in ac-
13 cordance with the regulations of the
14 Secretary. Except as required by such
15 income sensitive repayment schedules,
16 or by the terms of repayment pursu-
17 ant to an EXCEL account offered by
18 the Secretary under subsection (b)(5),
19 such repayment terms”

20 (II) by redesignating clauses (i),
21 (ii), (iii), (iv), and (v) as clauses (ii),
22 (iii), (iv), (v), and (vi), respectively;
23 and

24 (III) by inserting immediately
25 preceding clause (ii) (as redesignated

1 by subclause (II)) the following new
2 clause:

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

6 (ii) by striking out subsection (B);

7 and

8 (iii) by redesignating subparagraph
9 (C) as subparagraph (B); and

10 (C) in paragraph (3)(A), by inserting im-
11 mediately following the subparagraph designa-
12 tion the following: “except as required by the
13 terms of repayment pursuant to an EXCEL ac-
14 count offered by the Secretary under subsection
15 (b)(5),”.

16 STUDENT LOAN MARKETING ASSOCIATION

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

19 “(s) TRANSITION STUDY AND ACTIVITIES.—(1) The
20 Secretaries of Education and the Treasury, in consultation
21 with the Association, shall prepare a study, to be com-
22 pleted within six months of the enactment of this provi-
23 sion, which shall examine alternatives concerning the sta-
24 tus, operations, and purposes of the Association during
25 and after the transition from the Federal Family Edu-
26 cation Loan program to the Federal Direct Student Loan

1 Program. Such alternatives shall include providing for an
2 orderly transition of the Association from a Government-
3 Sponsored Enterprise to a private corporation when the
4 Federal Direct Student Loan Program is fully imple-
5 mented. Such study shall—

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

8 “(B) reflect the need for the Association to
9 maintain liquidity and perform other functions for
10 the Federal Family Education Loan Program during
11 the transition from such program to the Federal Di-
12 rect Student Loan Program under part D of this
13 title, including additional duties as specified by the
14 Secretary of Education or the Secretary of the
15 Treasury;

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

19 “(D) be considered by the Secretaries of Edu-
20 cation and the Treasury in developing any legislative
21 proposals concerning any changes to the status of
22 the Association as a Government-Sponsored Enter-
23 prise or its duties under the Federal Family Edu-
24 cation Loan Program.

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

5 AUTHORITY TO USE OPTICALLY IMAGED DOCUMENTS

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

7 (1) in the heading, by adding a semicolon and
8 “OPTICALLY IMAGED DOCUMENTS” after “LIMITA-
9 TIONS”; and

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

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

14 “(A) allow the Secretary to use optical imaging
15 technology to store and retrieve documents and
16 records, including promissory notes and repayment
17 agreements, required for the administration of the
18 programs authorized under part D of this title, or
19 for the administration of loans made under part B
20 of this title that have been assigned to the Secretary;

21 “(B) permit the Secretary to destroy originals
22 of such documents and records, including promissory
23 notes and repayment agreements, after they have
24 been optically imaged, thereby achieving significant
25 savings in storage and retrieval costs; and

1 “(C) ensure that the Secretary may introduce
2 as evidence in any proceeding with respect to the
3 programs or loans described in subparagraph (A)
4 optically imaged documents and records, including
5 promissory notes and repayment agreements.

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

16 “(3) Nothing in this subsection shall be interpreted
17 to preclude the admissibility of a duplicate of a document
18 or record required for the administration of the programs
19 or loans described in paragraph (1)(A) made by a tech-
20 nology other than optical imaging consistent with the Fed-
21 eral Rules of Evidence and section 1732 of title 28 of the
22 United States Code, or applicable State law.

23 “(4) Nothing in this subsection shall be interpreted
24 to preclude the admissibility of an optically imaged copy
25 of any document or record in a proceeding outside the

1 scope of this subsection consistent with the Federal Rules
2 of Evidence and section 1732 of title 28 of the United
3 States Code, or applicable State law.”.

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

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

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

13 “(f) USE OF OPTICALLY IMAGED DOCUMENTS.—In
14 any proceeding with respect to a program or activity under
15 part D of this title, or with respect to a loan made under
16 part B of this title that has been assigned to the Sec-
17 retary, records maintained in accordance with section
18 484A may be used as provided in that section.”.

19 PART B—AMENDMENTS TO OTHER LAWS

20 DISCLOSURE OF TAX RETURN INFORMATION

21 SEC. 221. (a) Section 6103(a)(3) of the Internal Rev-
22 enue Code of 1986 (26 U.S.C. 6103(a)(3); relating to con-
23 fidentiality and disclosure of returns and return informa-
24 tion; hereinafter referred to as “the Code”) is amended

1 by striking out “(l)(12)” and inserting in lieu there “(l)
2 (10), (12), or (13)”.

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

4 (1) in paragraph (10)(B), by striking out “offi-
5 cers and employees of an agency receiving return in-
6 formation under subparagraph (A) shall use such in-
7 formation” and inserting in lieu thereof “return in-
8 formation disclosed under subparagraph (A) may be
9 used by officers and employees of an agency, and by
10 officers, employees, and agents of the Department of
11 Education,”; and

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

14 “(13) DISCLOSURE OF RETURN INFORMATION
15 TO CARRY OUT INCOME CONTINGENT REPAYMENT
16 OF STUDENT LOANS.—

17 “(A) IN GENERAL.—The Secretary may,
18 upon written request from the Secretary of
19 Education, disclose to officers and employees of
20 the Department of Education return informa-
21 tion with respect to a taxpayer who has received
22 a Federal loan under a student loan program
23 and whose loan repayment amounts are based
24 in whole or in part on the taxpayer’s income.
25 Such return information shall be limited to—

1 “(i) taxpayer identity information
2 with respect to such taxpayer;

3 “(ii) the filing status of such tax-
4 payer; and

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

7 “(B) RESTRICTION ON USE OF DISCLOSED
8 INFORMATION.—Return information disclosed
9 under subparagraph (A) may be used by offi-
10 cers, employees, and agents of the Department
11 of Education only for the purposes of, and to
12 the extent necessary in, establishing an appro-
13 priate income contingent repayment level under
14 a student loan program.

15 “(C) DEFINITIONS.—For purposes of this
16 paragraph, the term ‘student loan program’
17 means the program authorized under part D of
18 title IV of the Higher Education Act of 1965
19 and includes loans under parts B and E of title
20 IV the Higher Education Act of 1965 that are
21 in default and have been assigned to the De-
22 partment of Education.”.

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

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

4 (2) in subparagraph (A)—

5 (A) by redesignating clauses (i) and (ii) as
6 subclauses (I) and (II); and

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

9 “(i) who owes an overpayment of a
10 grant awarded to that taxpayer under sub-
11 part 1 of part A of title IV of the Higher
12 Education Act of 1965, or

13 “(ii) who”;

14 (3) in subparagraph (B)—

15 (A) in clause (i), by striking out “under
16 part B” and inserting in lieu thereof “under
17 part B or D”; and

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

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

22 (1) in paragraph (3)(A), by striking out “(11),
23 or (12), (m)” and inserting in lieu thereof “(11),
24 (12), or (13), (m)”;

25 (2) in paragraph (4)—

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

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

7 (C) in the flush left material after sub-
8 paragraph (F), by striking out “under sub-
9 section (1)(12)(B)” and inserting in lieu thereof
10 “under paragraph (10), (12)(B), or (13) of sub-
11 section (1)”.

12 (e) Subchapter A of chapter 64 of the Code is further
13 amended by adding at the end thereof the following new
14 section:

15 **“SEC. 6306. COLLECTION OF PAYMENTS ON FEDERAL DI-**
16 **RECT STUDENT LOANS.**

17 “Upon a determination by the President under sec-
18 tion 457(c)(2) of the Higher Education Act of 1965 con-
19 cerning the implementation of a plan for the repayment
20 of Federal Direct Student Loans through wage withhold-
21 ing or other means by the Internal Revenue Service, the
22 Secretary of the Treasury may enter into an agreement
23 with the Secretary of Education to provide for the collec-
24 tion of payments on loans made pursuant to part D of
25 title IV of such Act. Notwithstanding any other provision

1 of law, the Secretary of the Treasury may assess and col-
2 lect such payments as though they were additional income
3 taxes due, and may establish such procedures and conven-
4 tions as are necessary under such agreement, including
5 those related to withholding, payment of estimated tax,
6 allocation of payments, and dispute resolution.”.

7 (f) Section 7213(a)(2) of the Code is amended by
8 striking out “(10) or (12)” and inserting in lieu thereof
9 “(10), (12), or (13),”.

10 AMENDMENT TO THE BALANCED BUDGET AND
11 EMERGENCY DEFICIT CONTROL ACT OF 1985

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

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

16 (2) in section 256(b)—

17 (A) by striking out the subsection heading
18 and inserting in lieu thereof the following: “EF-
19 FECT OF ORDERS ON STUDENT LOAN PRO-
20 GRAMS.—”;

21 (B) by inserting immediately after the
22 paragraph heading the following: “FEDERAL
23 FAMILY EDUCATION LOAN PROGRAM.—(A)”;

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

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

6 (E) in paragraph (1)(B) (as redesignated
7 in subparagraph (C)), by redesignating sub-
8 paragraphs (A) and (B) as clauses (i) and (ii),
9 respectively; and

10 (F) by adding at the end thereof the fol-
11 lowing new paragraph:

12 “(1) FEDERAL DIRECT STUDENT LOAN PRO-
13 GRAM.—(A) Any reductions that are required to be
14 achieved from the Federal Direct Student Loan pro-
15 gram operated under part D of title IV of the
16 Higher Education Act of 1965 as a consequence of
17 an order issued pursuant to section 254, shall be
18 achieved only by the application of the measures de-
19 scribed in subparagraph (B).

20 “(B) For any loan made during the period be-
21 ginning on the date that an order issued under sec-
22 tion 254 takes effect with respect to a fiscal year,
23 and ending at the close of such fiscal year, the loan
24 fee that is authorized to be collected pursuant to

1 section 456(c) of such Act shall be increased by 0.50
2 percent.”.

3 TITLE III—EFFECTIVE DATES

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

7 (b) The amendments made by section 213 of this Act
8 shall be effective for loans made in accordance with section
9 428 for periods of instruction beginning on or after July
10 1, 1993, or made on or after July 1, 1993, in the case
11 of loans made in accordance with section 428A, 428B, or
12 428C of the Act.

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

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

○

S 920 IS—2

S 920 IS—3

S 920 IS—4