

Senate Amendment 3533

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1 1 Amend Senate File 601, as amended, passed, and
1 2 reprinted by the Senate, as follows:
1 3 #1. Page 59, by inserting after line 10 the
1 4 following:

1 5 <DIVISION ____

1 6 HIGHER EDUCATION STUDENT LOANS

1 7 Sec. ____ Section 261.38, subsection 5, unnumbered
1 8 paragraph 1, Code 2007, is amended to read as follows:

1 9 The commission may enter into agreements with the
1 10 Iowa student loan liquidity corporation in order to
1 11 increase access for students to education loan
1 12 programs that the commission determines meet the
1 13 education needs of Iowa residents. The agreements
1 14 shall permit the establishment, funding, and operation
1 15 of alternative education loan programs, as described
1 16 in section 144(b)(1)(B) of the Internal Revenue Code
1 17 of 1986 as amended, as defined in section 422.3, in
1 18 addition to programs permitted under the federal
1 19 Higher Education Act of 1965. In accordance with
1 20 those agreements, the Iowa student loan liquidity
1 21 corporation may issue bonds, notes, or other
1 22 obligations to the public and others for the purpose
1 23 of funding the alternative education loan programs.
1 24 This authority to issue bonds, notes, or other
1 25 obligations shall be in addition to the authority
1 26 established in the articles of incorporation and
1 27 bylaws of the Iowa student loan liquidity corporation.
1 28 The Iowa student loan liquidity corporation and any
1 29 subsidiary of, affiliate of, or other entity that
1 30 manages or services the Iowa student loan liquidity
1 31 corporation contracts related to bonds issued under
1 32 this subsection are considered governmental bodies and
1 33 governmental bodies of the state for purposes of
1 34 chapters 21 and 22 respectively.

1 35 Sec. ____ NEW SECTION. 261E.1 DEFINITIONS.

1 36 As used in this chapter, unless otherwise
1 37 specified:

1 38 1. "Administrator" means either the attorney
1 39 general or the attorney general's designee. The
1 40 attorney general may charge the college student aid
1 41 commission or the superintendent of banking, credit
1 42 unions, or savings and loans with enforcing this
1 43 chapter against the person under investigation.

1 44 2. "Borrower" means a student attending a covered
1 45 institution in this state, or a parent or person in
1 46 parental relation to such student, who also obtains an
1 47 educational loan from a lending institution to pay for
1 48 or finance higher education expenses.

1 49 3. "Covered institution" means any educational
1 50 institution that offers a postsecondary educational
2 1 degree, certificate, or program of study and receives
2 2 state funding or assistance. "Covered institution"
2 3 includes an agent of the educational institution,
2 4 including an alumni association, booster club, or
2 5 other organization directly or indirectly associated
2 6 with the institution.

2 7 4. "Covered institution employee" means any
2 8 employee, agent, contractor, director, officer, or
2 9 trustee of a covered institution.

2 10 5. "Educational loan" means any loan that is made,
2 11 insured, or guaranteed under title IV of the federal
2 12 Higher Education Act of 1965, as amended, any high
2 13 risk loan, or any private loan issued by a lending
2 14 institution for the purposes of paying for or
2 15 financing higher education expenses.

2 16 6. "Gift" means any discount, favor, gratuity,
2 17 inducement, loan, stock, thing of value, or other item
2 18 having a monetary value of more than ten dollars.

2 19 a. The term "gift" includes but is not limited to:

2 20 (1) Any money, service, loan, entertainment,
2 21 honoraria, hospitality, lodging costs, meals,
2 22 registration fees, travel expenses, discount,
2 23 forbearance, or promise.

2 24 (2) Gifts provided in kind, by purchase of a

2 25 ticket, payment in advance, or reimbursement after
2 26 expenses have been incurred.

2 27 (3) Any computer hardware for which the recipient
2 28 pays below-market prices.

2 29 (4) Any printing costs or services.

2 30 b. The term "gift" does not include any of the
2 31 following:

2 32 (1) A lending institution's own brochure or
2 33 promotional literature.

2 34 (2) Food, refreshments, training, or informational
2 35 material furnished to a covered institution employee
2 36 as an integral part of a training session, if such
2 37 training contributes to the professional development
2 38 of the covered institution employee.

2 39 7. "High risk loans" means any agreement between a
2 40 lending institution and a covered institution that
2 41 provides for the lending institution to provide loans
2 42 to students with a poor or no credit history, who
2 43 would otherwise not be eligible for educational loans.

2 44 8. "Higher education expenses" includes all of the
2 45 following:

2 46 a. Tuition and fees.
2 47 b. Costs incurred for books, supplies,
2 48 transportation, and miscellaneous personal expenses.
2 49 c. Room and board costs.

2 50 9. "Lending institution" means any of the
3 1 following:

3 2 a. Any entity that itself or through an affiliate
3 3 makes educational loans to pay for or finance higher
3 4 education expenses or that securitizes such loans.
3 5 b. Any entity, or association of entities, that
3 6 guarantees educational loans.
3 7 c. Any industry, trade, or professional
3 8 association or other entity that receives money from
3 9 any entity described in paragraph "a" or "b".

3 10 10. "Preferred lender list" means a list of one or
3 11 more recommended or suggested lending institutions
3 12 that a covered institution makes available for use, in
3 13 print or any other medium or form, by borrowers,
3 14 prospective borrowers, or others.

3 15 11. "Revenue sharing" means any arrangement
3 16 whereby a lending institution pays a covered
3 17 institution or an affiliated entity or organization of
3 18 such covered institution a percentage of the principal
3 19 of each loan directed towards the lending institution
3 20 from a borrower at the covered institution.

3 21 Sec. _____. NEW SECTION. 261E.2 PROHIBITION OF
3 22 GIFTS BY LENDING INSTITUTIONS TO COVERED INSTITUTIONS
3 23 AND EMPLOYEES.

3 24 1. A lending institution shall not, directly or
3 25 indirectly, offer or provide any gift to a covered
3 26 institution or a covered institution employee in
3 27 exchange for any advantage or consideration provided
3 28 to such lending institution related to its educational
3 29 loan activities.

3 30 2. A lending institution shall not engage in
3 31 revenue sharing with a covered institution.

3 32 Sec. _____. NEW SECTION. 261E.3 PROHIBITION OF
3 33 RECEIPT OF GIFTS BY COVERED INSTITUTIONS.

3 34 1. A covered institution shall not, directly or
3 35 indirectly, solicit, accept, or receive any gift from
3 36 or on behalf of a lending institution in exchange for
3 37 any advantage or consideration provided to such
3 38 lending institution related to its educational loan
3 39 activities.

3 40 2. A covered institution shall not engage in
3 41 revenue sharing with a lending institution.

3 42 Sec. _____. NEW SECTION. 261E.4 PROHIBITION OF
3 43 RECEIPT OF GIFTS BY COVERED INSTITUTION EMPLOYEES.

3 44 1. A covered institution shall prohibit a covered
3 45 institution employee, on the employee's behalf or on
3 46 behalf of another, directly or indirectly, from
3 47 soliciting, accepting, or receiving any gift from or
3 48 on behalf of a lending institution. Nothing in this
3 49 subsection shall be construed as prohibiting a covered
3 50 institution employee from conducting business with a
4 1 lending institution, provided that such business is
4 2 unrelated in any manner whatsoever to a covered
4 3 institution.

4 4 2. A covered institution employee, on the
4 5 employee's behalf or on behalf of another, shall not

4 6 directly or indirectly solicit, accept, or receive any
4 7 gift from or on behalf of a lending institution.
4 8 Nothing in this subsection shall be construed as
4 9 prohibiting a covered institution employee from
4 10 conducting business with any lending institution,
4 11 provided that such business is unrelated in any manner
4 12 whatsoever with the covered institution.

4 13 3. A covered institution employee shall report to
4 14 the administrator any instance of a lending
4 15 institution attempting to give a gift to the covered
4 16 institution employee.

4 17 Sec. ____ NEW SECTION. 261E.5 COVERED
4 18 INSTITUTION EMPLOYEE PROHIBITIONS AND REPORTING
4 19 REQUIREMENTS.

4 20 1. A lending institution shall not provide any
4 21 remuneration or expense reimbursement to a covered
4 22 institution employee for serving as a member of or
4 23 participant on an advisory board of a lending
4 24 institution.

4 25 2. A covered institution shall prohibit a covered
4 26 institution employee from receiving any remuneration
4 27 for serving as a member of or participant on an
4 28 advisory board of a lending institution or receiving
4 29 any reimbursement of expenses for so serving,
4 30 notwithstanding section 261.4.

4 31 3. Nothing in this section shall be construed as
4 32 prohibiting any of the following:

4 33 a. A covered institution employee's participation
4 34 on an advisory board of a lending institution that is
4 35 unrelated in any manner whatsoever to educational
4 36 loans.

4 37 b. A covered institution employee, who does not
4 38 have a direct interest in or does not benefit from the
4 39 functions of the covered institution's financial aid
4 40 office, from serving on a board of directors of a
4 41 publicly traded or privately held company.

4 42 4. A covered institution employee who is directly
4 43 involved with or benefits from the functions of the
4 44 covered institution's financial aid office shall
4 45 report to the administrator, in a form and manner
4 46 prescribed by the administrator, all participation or
4 47 financial interests related to any lending
4 48 institution.

4 49 Sec. ____ NEW SECTION. 261E.6 MISLEADING
4 50 IDENTIFICATION OF LENDING INSTITUTIONS' EMPLOYEES.

5 1 1. A lending institution shall prohibit an
5 2 employee or agent of the lending institution from
5 3 being identified to borrowers or prospective borrowers
5 4 of a covered institution as an employee,
5 5 representative, or agent of the covered institution.

5 6 2. A covered institution shall prohibit an
5 7 employee or agent of a lending institution from being
5 8 identified as an employee, representative, or agent of
5 9 the covered institution.

5 10 3. An employee, representative, or agent of a
5 11 lending institution shall not staff a covered
5 12 institution's financial aid offices.

5 13 Sec. ____ NEW SECTION. 261E.7 LOAN DISCLOSURE
5 14 AND PROHIBITION OF QUID PRO QUO HIGH RISK LOANS.

5 15 1. A covered institution shall inform the borrower
5 16 or prospective borrower of all available state
5 17 education financing options, and financing options
5 18 under title IV of the federal Higher Education Act of
5 19 1965, as amended, including information on any terms
5 20 and conditions of available loans under such title
5 21 that are more favorable to the borrower, before a
5 22 lending institution may provide a private educational
5 23 loan to a borrower attending a covered institution
5 24 with which a lending institution has an educational
5 25 loan arrangement.

5 26 2. Neither a lending institution nor a covered
5 27 institution shall enter into an agreement or otherwise
5 28 provide any high risk loans in exchange for the
5 29 covered institution providing concessions or promises
5 30 to the lending institution that may prejudice other
5 31 borrowers or prospective borrowers.

5 32 Sec. ____ NEW SECTION. 261E.8 STANDARDS FOR
5 33 PREFERRED LENDER LISTS.

5 34 A covered institution that provides or makes
5 35 available a preferred lender list shall comply with
5 36 all of the following standards:

5 37 1. A preferred lender list shall disclose the
5 38 process by which the covered institution selected
5 39 lending institutions for such preferred lender list,
5 40 including, but not limited to, the method and criteria
5 41 used to choose the lending institutions and the
5 42 relative importance of those criteria.

5 43 2. A preferred lender list shall state in the same
5 44 font size and same manner as the predominant text on
5 45 the document that borrowers have the right and ability
5 46 to select the education loan provider of their choice,
5 47 are not required to use any of the lenders on such
5 48 preferred lender list, and will suffer no penalty for
5 49 choosing a lender that is not on such preferred lender
5 50 list.

6 1 3. The covered institution's decision to include a
6 2 lending institution on any preferred lender list and
6 3 the covered institution's decision as to where on the
6 4 preferred lender list the lending institution's name
6 5 appears shall be determined solely by consideration of
6 6 the best interests of the borrowers who may use such
6 7 preferred lender list without regard to the pecuniary
6 8 interests of the covered institution.

6 9 4. The contents of any preferred lender list shall
6 10 be reviewed and updated at least annually.

6 11 5. A lending institution shall not be placed on a
6 12 preferred lender list unless the lending institution
6 13 provides assurance to the covered institution and to
6 14 borrowers who take out loans from the lending
6 15 institution that the advertised benefits upon
6 16 repayment will continue to inure to the benefit of
6 17 borrowers regardless of whether the lending
6 18 institution's loans are sold.

6 19 6. A lending institution that, to the covered
6 20 institution's knowledge after reasonable inquiry, has
6 21 an agreement to sell its loans to another unaffiliated
6 22 lending institution shall not be included on a
6 23 preferred lender list unless such agreement is
6 24 disclosed therein in the same font size and same
6 25 manner as the predominant text on the document in
6 26 which the preferred lender list appears.

6 27 7. A lending institution shall not be placed on a
6 28 covered institution's preferred lender lists or in
6 29 favored placement on a covered institution's preferred
6 30 lender lists for a particular type of loan, in
6 31 exchange for benefits provided to the covered
6 32 institution or to the covered institution's students
6 33 in connection with a different type of loan.

6 34 Sec. ____ NEW SECTION. 261E.9 PROPER EXECUTION
6 35 OF MASTER PROMISSORY NOTES.

6 36 A covered institution participating in the Stafford
6 37 federal student loan program authorized by Title IV,
6 38 Part B, of the federal Higher Education Act of 1965,
6 39 20 U.S.C. } 1071 et seq. as amended, shall not direct
6 40 potential borrowers to any electronic master
6 41 promissory notes or other loan agreements that do not
6 42 allow the borrower to enter the lender code or name
6 43 for any lending institution offering the relevant
6 44 loan.

6 45 Sec. ____ NEW SECTION. 261E.10 DISCLOSURES AT
6 46 REQUEST OF COVERED INSTITUTIONS.

6 47 Except for educational loans made, insured, or
6 48 guaranteed by the federal government, upon the request
6 49 of any covered institution, a lending institution
6 50 shall disclose to such covered institution, in
7 1 reasonable detail and form, the historic default rates
7 2 of the borrowers from such covered institution, and
7 3 the rates of interest charged to borrowers from such
7 4 covered institution in the year preceding the
7 5 disclosures and the number of borrowers obtaining each
7 6 rate of interest.

7 7 Sec. ____ NEW SECTION. 261E.11 PENALTIES.

7 8 1. If after providing notice and an opportunity
7 9 for a hearing the administrator determines that a
7 10 covered institution or lending institution has
7 11 violated a provision of this chapter, the covered
7 12 institution or lending institution may be liable for a
7 13 civil penalty of up to fifty thousand dollars. In
7 14 taking action against a covered institution or lending
7 15 institution, consideration shall be given to the
7 16 nature and severity of a violation of this chapter.

7 17 2. If after providing notice and an opportunity

7 18 for a hearing the administrator determines that a
7 19 covered institution employee has violated a provision
7 20 of this chapter, the covered institution employee may
7 21 be liable for a civil penalty of up to seven thousand
7 22 five hundred dollars. In taking action against a
7 23 covered institution employee, consideration shall be
7 24 given to the nature and severity of a violation of
7 25 this chapter.

7 26 3. If after providing notice and an opportunity
7 27 for a hearing the administrator determines that a
7 28 lending institution has violated a provision of this
7 29 chapter, such lending institution shall not be placed
7 30 or remain on any covered institution's preferred
7 31 lender list unless notice of such violation is
7 32 provided to all potential borrowers of the covered
7 33 institution.

7 34 4. Nothing in this section shall prohibit the
7 35 administrator from reaching a settlement agreement
7 36 with a covered institution, covered institution
7 37 employee, or lending institution in order to
7 38 effectuate the purposes of this section. Provided,
7 39 however, if such settlement agreement is reached with
7 40 a covered institution or lending institution, the
7 41 administrator shall provide notice of such action to
7 42 the borrowers in a form and manner prescribed by the
7 43 administrator.

7 44 5. The administrator shall deposit the funds
7 45 generated pursuant to this section into the student
7 46 lending education fund, created in section 261E.13.
7 47 Such funds shall be given to covered institutions upon
7 48 application to the attorney general for the purposes
7 49 provided pursuant to section 261E.13.

7 50 Sec. _____. NEW SECTION. 261E.12 RULES AND
8 1 REGULATIONS.

8 2 The attorney general and any official or agency
8 3 charged by the attorney general with enforcing this
8 4 chapter against a person under investigation shall
8 5 promulgate rules and regulations necessary for the
8 6 implementation of this chapter.

8 7 Sec. _____. NEW SECTION. 261E.13 STUDENT LENDING
8 8 EDUCATION FUND.

8 9 1. There is established in the state treasury a
8 10 student lending education fund.

8 11 2. The fund shall consist of all revenues
8 12 generated pursuant to section 261E.11 and all other
8 13 moneys credited or transferred to the fund from any
8 14 other fund or source pursuant to law.

8 15 3. Moneys in the fund shall be made available to
8 16 the attorney general for the purposes of:

8 17 a. Supporting programs that educate students,
8 18 prospective students, and parents of such students on
8 19 the loan process including but not limited to
8 20 available loan options and understanding rates and
8 21 terms of student loans.

8 22 b. Reimbursing students from inflated loan prices
8 23 caused by revenue sharing agreements between such
8 24 covered institution and a lending institution.>

8 25 #2. By renumbering as necessary.

8 26

8 27

8 28

8 29 _____
8 29 RON WIECK

8 30 JEFF ANGELO

8 31 LARRY McKIBBEN

8 32 JOHN PUTNEY

8 33 NANCY J. BOETTGER

8 34 MARK ZIEMAN

8 35 DAVID L. HARTSUCH

8 36 PAT WARD

8 37 DAVID JOHNSON

8 38 DAVE MULDER

8 39 PAUL McKINLEY

8 40 LARRY NOBLE

8 41 JAMES A. SEYMOUR

8 42 JERRY BEHN

8 43 STEVE KETTERING

8 44 HUBERT HOUSER

8 45 JAMES F. HAHN

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