

House Study Bill 788

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
GOVERNMENT OVERSIGHT BILL
BY CHAIRPERSON LENSING)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to student loans, including the protection of
2 students and parents from certain lenders and institutions of
3 higher education with conflicts of interest, establishing a
4 student lending education fund, establishing penalties, and
5 providing for related matters.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
7 TLSB 5962YC 82
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1 1 Section 1. NEW SECTION. 261.7 CODE OF CONDUCT.
1 2 The commission shall adopt by rule a financial aid code of
1 3 conduct. Each financial aid office established by, and each
1 4 financial aid officer employed by, a community college,
1 5 regents university, or accredited private institution shall
1 6 adhere to the code of conduct adopted pursuant to this
1 7 section. The rules shall, at a minimum, provide:
1 8 1. An institutional financial aid professional is expected
1 9 to always maintain exemplary standards of professional conduct
1 10 in all aspects of carrying out the professional's
1 11 responsibilities, specifically including all dealings with any
1 12 entities involved in any manner in student financial aid,
1 13 regardless of whether such entities are involved in a
1 14 government sponsored, subsidized, or regulated activity.
1 15 2. A financial aid professional shall refrain from the
1 16 following:
1 17 a. Taking any action for personal benefit.
1 18 b. Taking any action contrary to law, regulation, rule, or
1 19 the best interests of the borrowers served.
1 20 c. Soliciting or accepting anything of other than nominal
1 21 value from any entity, other than an institution of higher
1 22 education or a governmental entity such as the United States
1 23 department of education, involved in the making, holding,
1 24 consolidating, or processing of any student loans, including
1 25 anything of value such as reimbursement of expenses for
1 26 serving on an advisory body or as part of a training activity
1 27 of or sponsored by any such entity.
1 28 3. A financial aid professional shall do the following:
1 29 a. Strive to provide information that is accurate,
1 30 unbiased, and does not reflect any preference arising from
1 31 actual or potential personal gain.
1 32 b. Be objective in making decisions and advising the
1 33 financial aid office and the postsecondary education
1 34 institution of employment regarding relationships with any
1 35 entity involved in any aspect of student financial aid.
2 1 c. Disclose to the financial aid office and postsecondary
2 2 education institution of employment, in such manner as
2 3 prescribed by the office or institution, any involvement with
2 4 or interest in any entity involved in any aspect of student
2 5 financial aid.
2 6 Sec. 2. NEW SECTION. 261.38A IOWA STUDENT LOAN LIQUIDITY
2 7 CORPORATION == OPEN RECORDS AND MEETINGS == LEGISLATIVE
2 8 REVIEW.
2 9 1. The Iowa student loan liquidity corporation shall
2 10 comply with chapters 21 and 22. Chapter 17A does not apply to
2 11 the corporation.
2 12 2. The Iowa student loan liquidity corporation shall
2 13 submit an annual report to the governor, general assembly, and
2 14 the auditor of state by January 15 setting forth the
2 15 corporation's operations and activities conducted and newly

2 16 implemented in the previous fiscal year and the outlook for
2 17 the future. The report shall describe how the Iowa student
2 18 loan liquidity corporation's activities serve its nonprofit
2 19 mission to help students and parents obtain the financial
2 20 resources necessary for a postsecondary education. The annual
2 21 audit of the corporation shall be filed with the office of
2 22 auditor.

2 23 3. The designation of the student loan secondary market
2 24 and the operations of the Iowa student loan liquidity
2 25 corporation shall be subject to annual legislative review.
2 26 The review shall at a minimum consider the reports submitted
2 27 by the corporation.

2 28 Sec. 3. NEW SECTION. 261E.1 DEFINITIONS.

2 29 As used in this chapter, unless otherwise specified:

2 30 1. "Administrator" means either the attorney general or
2 31 the attorney general's designee. The attorney general may
2 32 charge the college student aid commission or the
2 33 superintendent of banking, credit unions, or savings and loans
2 34 with enforcing this chapter against the person under
2 35 investigation.

3 1 2. "Borrower" means a student attending a covered
3 2 institution in this state, or a parent or person in parental
3 3 relation to such student, who also obtains an educational loan
3 4 from a lending institution to pay for or finance higher
3 5 education expenses.

3 6 3. "Covered institution" means any educational institution
3 7 that offers a postsecondary educational degree, certificate,
3 8 or program of study and receives state funding or assistance.
3 9 "Covered institution" includes an agent of the educational
3 10 institution, including an alumni association, booster club, or
3 11 other organization directly or indirectly associated with the
3 12 institution.

3 13 4. "Covered institution employee" means any employee,
3 14 agent, contractor, director, officer, or trustee of a covered
3 15 institution.

3 16 5. "Educational loan" means any loan that is made,
3 17 insured, or guaranteed under title IV of the federal Higher
3 18 Education Act of 1965, as amended, any high-risk loan, or any
3 19 private loan issued by a lending institution for the purposes
3 20 of paying for or financing higher education expenses.

3 21 6. "Gift" means any discount, favor, gratuity, inducement,
3 22 loan, stock, thing of value, or other item having a monetary
3 23 value of more than ten dollars.

3 24 a. The term "gift" includes but is not limited to:

3 25 (1) Any money, service, loan, entertainment, honoraria,
3 26 hospitality, lodging costs, meals, registration fees, travel
3 27 expenses, discount, forbearance, or promise.

3 28 (2) Gifts provided in kind, by purchase of a ticket,
3 29 payment in advance, or reimbursement after expenses have been
3 30 incurred.

3 31 (3) Any computer hardware for which the recipient pays
3 32 below-market prices.

3 33 (4) Any printing costs or services.

3 34 b. The term "gift" does not include any of the following:

3 35 (1) A lending institution's own brochure or promotional
4 1 literature.

4 2 (2) Food, refreshments, training, or informational
4 3 material furnished to a covered institution employee as an
4 4 integral part of a training session, if such training
4 5 contributes to the professional development of the covered
4 6 institution employee.

4 7 7. "High-risk loans" means any agreement between a lending
4 8 institution and a covered institution that provides for the
4 9 lending institution to provide loans to students with a poor
4 10 or no credit history, who would otherwise not be eligible for
4 11 educational loans.

4 12 8. "Higher education expenses" includes all of the
4 13 following:

4 14 a. Tuition and fees.

4 15 b. Costs incurred for books, supplies, transportation, and
4 16 miscellaneous personal expenses.

4 17 c. Room and board costs.

4 18 9. "Lending institution" means any of the following:

4 19 a. Any entity that itself or through an affiliate makes
4 20 educational loans to pay for or finance higher education
4 21 expenses or that securitizes such loans.

4 22 b. Any entity, or association of entities, that guarantees
4 23 educational loans.

4 24 c. Any industry, trade, or professional association or
4 25 other entity that receives money from any entity described in
4 26 paragraph "a" or "b".

4 27 10. "Preferred lender list" means a list of one or more
4 28 recommended or suggested lending institutions that a covered
4 29 institution makes available for use, in print or any other
4 30 medium or form, by borrowers, prospective borrowers, or
4 31 others.

4 32 11. "Revenue sharing" means any arrangement whereby a
4 33 lending institution pays a covered institution or an
4 34 affiliated entity or organization of such covered institution
4 35 a percentage of the principal of each loan directed towards
5 1 the lending institution from a borrower at the covered
5 2 institution.

5 3 Sec. 4. NEW SECTION. 261E.2 PROHIBITION OF GIFTS BY
5 4 LENDING INSTITUTIONS TO COVERED INSTITUTIONS AND EMPLOYEES.

5 5 1. A lending institution shall not, directly or
5 6 indirectly, offer or provide any gift to a covered institution
5 7 or a covered institution employee in exchange for any
5 8 advantage or consideration provided to such lending
5 9 institution related to its educational loan activities.

5 10 2. A lending institution shall not engage in revenue
5 11 sharing with a covered institution.

5 12 Sec. 5. NEW SECTION. 261E.3 COVERED INSTITUTION
5 13 PROHIBITIONS.

5 14 1. A covered institution shall not, directly or
5 15 indirectly, solicit, accept, or receive any gift from or on
5 16 behalf of a lending institution in exchange for any advantage
5 17 or consideration provided to such lending institution related
5 18 to its educational loan activities.

5 19 2. A covered institution shall not engage in revenue
5 20 sharing with a lending institution.

5 21 3. A covered institution shall not provide any advantage
5 22 or consideration to a lending institution related in any
5 23 manner to any gift from the lending institution to the covered
5 24 institution.

5 25 Sec. 6. NEW SECTION. 261E.4 PROHIBITION OF RECEIPT OF
5 26 GIFTS BY COVERED INSTITUTION EMPLOYEES.

5 27 1. A covered institution shall prohibit a covered
5 28 institution employee, on the employee's behalf or on behalf of
5 29 another, directly or indirectly, from soliciting, accepting,
5 30 or receiving any gift from or on behalf of a lending
5 31 institution. Nothing in this subsection shall be construed as
5 32 prohibiting a covered institution employee from conducting
5 33 business with a lending institution, provided that such
5 34 business is unrelated in any manner whatsoever to a covered
5 35 institution.

6 1 2. A covered institution employee, on the employee's
6 2 behalf or on behalf of another, shall not directly or
6 3 indirectly solicit, accept, or receive any gift from or on
6 4 behalf of a lending institution. Nothing in this subsection
6 5 shall be construed as prohibiting a covered institution
6 6 employee from conducting business with any lending
6 7 institution, provided that such business is unrelated in any
6 8 manner whatsoever with the covered institution.

6 9 3. A covered institution employee shall report to the
6 10 administrator any instance of a lending institution attempting
6 11 to give a gift to the covered institution employee.

6 12 Sec. 7. NEW SECTION. 261E.5 COVERED INSTITUTION EMPLOYEE
6 13 PROHIBITIONS AND REPORTING REQUIREMENTS.

6 14 1. A lending institution shall not provide any
6 15 remuneration or expense reimbursement to a covered institution
6 16 employee for serving as a member of or participant on an
6 17 advisory board of a lending institution.

6 18 2. A covered institution shall prohibit a covered
6 19 institution employee from receiving any remuneration for
6 20 serving as a member of or participant on an advisory board of
6 21 a lending institution or receiving any reimbursement of
6 22 expenses for so serving, notwithstanding section 261.4.

6 23 3. Nothing in this section shall be construed as
6 24 prohibiting any of the following:

6 25 a. A covered institution employee's participation on an
6 26 advisory board of a lending institution that is unrelated in
6 27 any manner whatsoever to educational loans.

6 28 b. A covered institution employee, who does not have a
6 29 direct interest in or does not benefit from the functions of
6 30 the covered institution's financial aid office, from serving
6 31 on a board of directors of a publicly traded or privately held
6 32 company.

6 33 4. A covered institution employee who is directly involved
6 34 with or benefits from the functions of the covered
6 35 institution's financial aid office shall report to the
7 1 administrator, in a form and manner prescribed by the
7 2 administrator, all participation or financial interests

7 3 related to any lending institution.
7 4 5. A covered institution employee shall report to the
7 5 institution's administration any instance of a lending
7 6 institution attempting to give a gift to the employee.
7 7 However, this subsection shall not apply to a gift the
7 8 employee may receive from a lending institution if the gift is
7 9 available or distributed free of charge to members of the
7 10 general public without regard to the employment status of the
7 11 individual.

7 12 Sec. 8. NEW SECTION. 261E.6 MISLEADING IDENTIFICATION ==
7 13 COVERED INSTITUTION == LENDING INSTITUTIONS' EMPLOYEES.

7 14 1. A lending institution shall prohibit an employee or
7 15 agent of the lending institution from being identified to
7 16 borrowers or prospective borrowers of a covered institution as
7 17 an employee, representative, or agent of the covered
7 18 institution.

7 19 2. A covered institution shall prohibit an employee or
7 20 agent of a lending institution from being identified as an
7 21 employee, representative, or agent of the covered institution.

7 22 3. An employee, representative, or agent of a lending
7 23 institution shall not staff a covered institution's financial
7 24 aid offices.

7 25 4. A covered institution shall prohibit the use of the
7 26 institution's name or insignia by lending institutions.

7 27 Sec. 9. NEW SECTION. 261E.7 LOAN DISCLOSURE == LOAN
7 28 PACKAGING == PROHIBITION OF QUID PRO QUO HIGH=RISK LOANS.

7 29 1. A covered institution shall inform the borrower or
7 30 prospective borrower of all available state education
7 31 financing options, and financing options under title IV of the
7 32 federal Higher Education Act of 1965, as amended, including
7 33 information on any terms and conditions of available loans
7 34 under such title that are more favorable to the borrower, and
7 35 the borrower shall exhaust all opportunities for state and
8 1 federal education financing options before a lending
8 2 institution may provide a private educational loan to a
8 3 borrower attending a covered institution with which a lending
8 4 institution has an educational loan arrangement.

8 5 2. Neither a lending institution nor a covered institution
8 6 shall enter into an agreement or otherwise provide any
8 7 high-risk loans in exchange for the covered institution
8 8 providing concessions or promises to the lending institution
8 9 that may prejudice other borrowers or prospective borrowers.

8 10 3. A covered institution shall not include a private loan
8 11 in a financial aid package presented to a borrower unless the
8 12 borrower is ineligible for federal assistance under Title IV
8 13 of the federal Higher Education Act of 1965, as amended, and
8 14 the inclusion of the private loan in the financial aid package
8 15 is clearly and conspicuously disclosed to the borrower prior
8 16 to the acceptance of the offer of the financial aid package by
8 17 the borrower.

8 18 4. A covered institution shall prohibit the bundling of
8 19 private loans in financial aid packages, unless the borrower
8 20 is ineligible for financing under Title IV of the federal
8 21 Higher Education Act of 1965, as amended, and the bundling of
8 22 the private loans is clearly and conspicuously disclosed to
8 23 the borrower prior to acceptance of the package by the
8 24 borrower.

8 25 Sec. 10. NEW SECTION. 261E.8 STANDARDS FOR PREFERRED
8 26 LENDER LISTS.

8 27 A covered institution that provides or makes available a
8 28 preferred lender list shall comply with all of the following
8 29 standards:

8 30 1. A preferred lender list shall disclose the process by
8 31 which the covered institution selected lending institutions
8 32 for such preferred lender list, including, but not limited to,
8 33 the method and criteria used to choose the lending
8 34 institutions and the relative importance of those criteria.

8 35 2. A preferred lender list shall state in the same font
9 1 size and same manner as the predominant text on the document
9 2 that borrowers have the right and ability to select the
9 3 education loan provider of their choice, are not required to
9 4 use any of the lenders on such preferred lender list, and will
9 5 suffer no penalty for choosing a lender that is not on such
9 6 preferred lender list.

9 7 3. The covered institution's decision to include a lending
9 8 institution on any preferred lender list and the covered
9 9 institution's decision as to where on the preferred lender
9 10 list the lending institution's name appears shall be
9 11 determined solely by consideration of the best interests of
9 12 the borrowers who may use such preferred lender list without
9 13 regard to the pecuniary interests of the covered institution.

9 14 4. The contents of any preferred lender list shall be
9 15 reviewed and updated at least annually.

9 16 5. A lending institution shall not be placed on a
9 17 preferred lender list unless the lending institution does the
9 18 following:

9 19 a. Provides assurance to the covered institution and to
9 20 borrowers who take out loans from the lending institution that
9 21 the advertised benefits upon repayment will continue to inure
9 22 to the benefit of borrowers regardless of whether the lending
9 23 institution's loans are sold.

9 24 b. Discloses, clearly and conspicuously, in any
9 25 application for a private student loan or solicitation for a
9 26 private student loan the following:

9 27 (1) That federal education loans are less costly than
9 28 private education loans.

9 29 (2) The average rate of interest for federal education
9 30 loans.

9 31 (3) All rates and terms of the loan, including but not
9 32 limited to deferral options.

9 33 (4) The loan is not made, insured, or guaranteed under any
9 34 federal, state, or local government unit.

9 35 (5) Any material differences between loans authorized
10 1 under Title IV of the federal Higher Education Act of 1965, as
10 2 amended, and the private student loans offered by the lending
10 3 institution.

10 4 6. A lending institution that, to the covered
10 5 institution's knowledge after reasonable inquiry, has an
10 6 agreement to sell its loans to another unaffiliated lending
10 7 institution shall not be included on a preferred lender list
10 8 unless such agreement is disclosed therein in the same font
10 9 size and same manner as the predominant text on the document
10 10 in which the preferred lender list appears.

10 11 7. A lending institution shall not be placed on a covered
10 12 institution's preferred lender lists or in favored placement
10 13 on a covered institution's preferred lender lists for a
10 14 particular type of loan, in exchange for benefits provided to
10 15 the covered institution or to the covered institution's
10 16 students in connection with a different type of loan.

10 17 Sec. 11. NEW SECTION. 261E.9 PROPER EXECUTION OF MASTER
10 18 PROMISSORY NOTES.

10 19 A covered institution shall not direct potential borrowers
10 20 to any electronic master promissory notes or other loan
10 21 agreements that do not allow the borrower to enter the lender
10 22 code or name for any lending institution offering the relevant
10 23 loan.

10 24 Sec. 12. NEW SECTION. 261E.10 DISCLOSURES AT REQUEST OF
10 25 COVERED INSTITUTIONS.

10 26 Except for educational loans made, insured, or guaranteed
10 27 by the federal government, upon the request of any covered
10 28 institution, a lending institution shall disclose to such
10 29 covered institution, in reasonable detail and form, the
10 30 historic default rates of the borrowers from such covered
10 31 institution, and the rates of interest charged to borrowers
10 32 from such covered institution in the year preceding the
10 33 disclosures and the number of borrowers obtaining each rate of
10 34 interest.

10 35 Sec. 13. NEW SECTION. 261E.11 PENALTIES.

11 1 1. If after providing notice and an opportunity for a
11 2 hearing the administrator determines that a covered
11 3 institution or lending institution has violated a provision of
11 4 this chapter, the covered institution or lending institution
11 5 may be liable for a civil penalty of up to fifty thousand
11 6 dollars. In taking action against a covered institution or
11 7 lending institution, consideration shall be given to the
11 8 nature and severity of a violation of this chapter.

11 9 2. If after providing notice and an opportunity for a
11 10 hearing the administrator determines that a covered
11 11 institution employee has violated a provision of this chapter,
11 12 the covered institution employee may be liable for a civil
11 13 penalty of up to seven thousand five hundred dollars. In
11 14 taking action against a covered institution employee,
11 15 consideration shall be given to the nature and severity of a
11 16 violation of this chapter.

11 17 3. If after providing notice and an opportunity for a
11 18 hearing the administrator determines that a lending
11 19 institution has violated a provision of this chapter, such
11 20 lending institution shall not be placed or remain on any
11 21 covered institution's preferred lender list unless notice of
11 22 such violation is provided to all potential borrowers of the
11 23 covered institution.

11 24 4. Nothing in this section shall prohibit the

11 25 administrator from reaching a settlement agreement with a
11 26 covered institution, covered institution employee, or lending
11 27 institution in order to effectuate the purposes of this
11 28 section. Provided, however, if such settlement agreement is
11 29 reached with a covered institution or lending institution, the
11 30 administrator shall provide notice of such action to the
11 31 borrowers in a form and manner prescribed by the
11 32 administrator.

11 33 5. The administrator shall deposit the funds generated
11 34 pursuant to this section into the student lending education
11 35 fund, created in section 261E.13. Such funds shall be given
12 1 to covered institutions upon application to the attorney
12 2 general for the purposes provided pursuant to section 261E.13.

12 3 6. In addition to the requirements of this chapter, a
12 4 lending institution that provides an educational loan to a
12 5 borrower under this chapter shall comply with the requirements
12 6 of chapter 537, the Iowa consumer credit code, and is subject
12 7 to the remedies and penalties provided in chapter 537 for
12 8 noncompliance.

12 9 Sec. 14. NEW SECTION. 261E.12 RULES AND REGULATIONS.

12 10 The attorney general and any official or agency charged by
12 11 the attorney general with enforcing this chapter or the
12 12 consumer fraud Act, section 714.16, against a person under
12 13 investigation who is regulated by this chapter shall
12 14 promulgate rules and regulations necessary for the
12 15 implementation of this chapter.

12 16 Sec. 15. NEW SECTION. 261E.13 STUDENT LENDING EDUCATION
12 17 FUND.

12 18 1. There is established in the state treasury a student
12 19 lending education fund.

12 20 2. The fund shall consist of all revenues generated
12 21 pursuant to section 261E.11 and all other moneys credited or
12 22 transferred to the fund from any other fund or source pursuant
12 23 to law.

12 24 3. Moneys in the fund shall be made available to the
12 25 attorney general for the purposes of:

12 26 a. Supporting programs that educate students, prospective
12 27 students, and parents of such students on the loan process
12 28 including but not limited to available loan options and
12 29 understanding rates and terms of student loans.

12 30 b. Reimbursing students from inflated loan prices caused
12 31 by revenue sharing agreements between such covered institution
12 32 and a lending institution.

12 33 Sec. 16. NEW SECTION. 261E.14 EFFECT ON OTHER LAWS OR
12 34 REGULATIONS.

12 35 This chapter shall not be interpreted to affect the
13 1 liability of any person, covered institution, or lending
13 2 institution under any other state statute or rule.

13 3 Sec. 17. ATTORNEY GENERAL SECONDARY MARKET INVESTIGATION
13 4 REPORT.

13 5 1. The attorney general shall submit the findings and
13 6 recommendations resulting from the investigation of the
13 7 student loan secondary market and the Iowa student loan
13 8 liquidity corporation to the general assembly by January 15,
13 9 2009.

13 10 2. The attorney general shall present the findings and
13 11 recommendations resulting from the investigation of the
13 12 student loan secondary market and the Iowa student loan
13 13 liquidity corporation to the legislative government oversight
13 14 committee at the committee's October 2008 meeting.

13 15 EXPLANATION

13 16 This bill relates to protection of students and parents
13 17 from certain lenders and institutions of higher education with
13 18 conflicts of interest, requires the Iowa student loan
13 19 liquidity corporation to comply with the open meetings and
13 20 open records laws and to report to the general assembly,
13 21 requires the college student aid commission to adopt a
13 22 financial aid code of conduct, establishes penalties, and
13 23 establishes a student lending education fund under the control
13 24 of the attorney general. The bill includes the following:

13 25 IOWA STUDENT LOAN LIQUIDITY CORPORATION. The corporation
13 26 is directed to comply with the open meetings and records laws;
13 27 submit a report to the governor, general assembly, and the
13 28 auditor of state setting forth the corporation's operations
13 29 and activities, the outlook for the future, and a description
13 30 of how the corporation's activities serve its nonprofit
13 31 mission; and file its annual audit with the office of auditor
13 32 of state; and the designation of the student loan secondary
13 33 market and the operations of the corporation shall be subject
13 34 to annual legislative review.

13 35 FINANCIAL AID OFFICE CODE OF CONDUCT. The bill requires

14 1 the college student aid commission to adopt by rule a
14 2 specified financial aid code of conduct that each financial
14 3 aid office established by, and each financial aid officer
14 4 employed by, a community college, regents university, or
14 5 accredited private institution must adhere to.
14 6 STUDENT LOAN PROTECTIONS. New Code chapter 261E includes
14 7 the following components:
14 8 DEFINITIONS. The bill defines "covered institution" as any
14 9 educational institution that offers a postsecondary
14 10 educational degree, certificate, or program of study and
14 11 receives state funding or assistance. The term includes an
14 12 agent of the educational institution, including an alumni
14 13 association, booster club, or other organization directly or
14 14 indirectly associated with the institution. The bill defines
14 15 "borrower" to include a student or the student's parent or a
14 16 person in a parental relation to the student.
14 17 GIFTS AND REMUNERATION PROHIBITED. The bill prohibits a
14 18 lending institution from providing a covered institution with
14 19 a gift in exchange for any advantage or consideration relating
14 20 to the lending institution's educational loan activities.
14 21 Likewise, the bill prohibits a covered institution and its
14 22 employees from accepting or soliciting a gift from a lending
14 23 institution for any advantage or consideration relating to the
14 24 lending institution's educational loan activities and from
14 25 revenue sharing with the lending institution. However,
14 26 nothing in the bill prohibits a covered institution employee
14 27 from conducting business with a lending institution unrelated
14 28 to a covered institution.
14 29 GIFT REPORTING. Covered institution employees are required
14 30 to report to the administrator any instance of a lending
14 31 institution attempting to give a gift to such covered
14 32 institution employees.
14 33 ADMINISTRATOR. The administrator of the Code chapter is
14 34 the attorney general or the attorney general's designee.
14 35 However, the bill authorizes the attorney general to charge
15 1 the college student aid commission or the superintendent of
15 2 banking, credit unions, or savings and loans with enforcing
15 3 the chapter, and those entities are permitted to adopt rules
15 4 to implement the Code chapter.
15 5 PROHIBITIONS. An employee of a covered institution is
15 6 prohibited from receiving remuneration or expense
15 7 reimbursement for serving as a member or participant of an
15 8 advisory board of a lending institution. Covered institutions
15 9 are prohibited from including a private loan in a borrower's
15 10 financial aid package unless the borrower is ineligible for
15 11 federal student loans and the private loan is conspicuously
15 12 disclosed. Lending institutions are prohibited from providing
15 13 remuneration or expense reimbursement to a covered institution
15 14 employee for serving as a member or participant of an advisory
15 15 board of a lending institution.
15 16 EMPLOYEE DISCLOSURE OF BENEFIT. Covered institution
15 17 employees who are directly involved with or benefit from the
15 18 functions of the covered institution's financial aid office
15 19 are required to report to the administrator all participation
15 20 or financial interests related to any lending institution.
15 21 MISREPRESENTATION PROHIBITED. A lending institution is
15 22 prohibited from representing its employees or agents to
15 23 borrowers or prospective borrowers of a covered institution as
15 24 employees, representatives, or agents of a covered
15 25 institution. Employees or agents of a covered institution are
15 26 also prohibited from identifying themselves as employees or
15 27 agents of a lending institution to borrowers or prospective
15 28 borrowers of the covered institution. The covered institution
15 29 must prohibit the use of its name or insignia by a lending
15 30 institution.
15 31 FINANCIAL AID STAFFING PROHIBITION. An employee,
15 32 representative, or agent of a lending institution is
15 33 prohibited from staffing a covered institution's financial aid
15 34 offices.
15 35 DISCLOSURE OF FAVORABLE LOAN OPTIONS. A covered
16 1 institution must inform the borrower or prospective borrower
16 2 of all available federal financing options that are more
16 3 favorable to the borrower and the borrower must exhaust all
16 4 state and federal options before a lending institution may
16 5 provide a private educational loan to a borrower attending a
16 6 covered institution with which a lending institution has an
16 7 educational loan arrangement. A covered institution's
16 8 financial aid office is prohibited from including a private
16 9 loan or bundling private loans in a financial aid package,
16 10 unless the borrower is ineligible for federal assistance.
16 11 HIGH=RISK LOAN PROHIBITION. Lending institutions and

16 12 covered institutions are prohibited from entering into an
16 13 agreement, or otherwise providing any high-risk loans, in
16 14 exchange for the covered institution providing concessions or
16 15 promises to the lending institution that may prejudice other
16 16 borrowers or prospective borrowers.

16 17 PREFERRED LENDER LIST STANDARDS. The bill establishes a
16 18 number of standards with which a covered institution that
16 19 provides or makes available a preferred lender list must
16 20 comply. A lending institution that violates a provision of
16 21 the bill shall not be placed or remain on any covered
16 22 institution's preferred lender list unless notice of the
16 23 violation is provided to all potential borrowers.

16 24 ELECTRONIC MASTER PROMISSORY NOTE PROHIBITION. A covered
16 25 institution is prohibited from directing potential borrowers
16 26 to any electronic master promissory notes or other loan
16 27 agreements that do not allow the borrower to enter the lender
16 28 code or name for any lending institution offering the relevant
16 29 loan.

16 30 DEFAULT RATE DISCLOSURE. Lending institutions must
16 31 disclose to covered institutions the historic default rates of
16 32 the borrowers and the rates of interest charged to borrowers
16 33 from such covered institution in the year preceding the
16 34 disclosures and the number of borrowers obtaining each rate of
16 35 interest.

17 1 CIVIL PENALTY. An institution that violates a provision of
17 2 the bill may be liable for a civil penalty of up to \$50,000.
17 3 A covered institution employee who violates a provision of the
17 4 bill may be liable for a civil penalty of up to \$7,500.

17 5 FUND USE. Funds collected which result from the imposition
17 6 of penalties are to be deposited in the student lending
17 7 education account, which is established in the state treasury
17 8 and is available to the attorney general. Moneys in the fund
17 9 may be given to covered institutions to educate borrowers and
17 10 prospective borrowers on the loan process and to reimburse
17 11 borrowers from inflated loan prices caused by revenue sharing
17 12 agreements between covered institutions and lending
17 13 institutions.

17 14 ATTORNEY GENERAL REPORT AND PRESENTATION. The attorney
17 15 general is directed to submit the findings and recommendations
17 16 from its investigation of the student loan secondary market
17 17 and Iowa student loan liquidity corporation to the general
17 18 assembly by January 15, 2009, and to present the findings and
17 19 recommendations at the legislative oversight committee's
17 20 October 2008 meeting.

17 21 LSB 5962YC 82

17 22 kh/nh/8.2