

# Senate File 2431 - Introduced

SENATE FILE \_\_\_\_\_  
BY COMMITTEE ON GOVERNMENT  
OVERSIGHT

(SUCCESSOR TO SSB 3293)

Passed Senate, Date \_\_\_\_\_ Passed House, 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 properly related matters, and including an  
6 effective date.  
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
8 TLSB 6635SV 82  
9 kh/rj/5

PAG LIN

1 1 Section 1. Section 7C.12, subsection 2, Code 2007, is  
1 2 amended by adding the following new paragraph:  
1 3 NEW PARAGRAPH. c. Shall report quarterly any reallocation  
1 4 of the amount of the state ceiling by the governor's designee  
1 5 in accordance with this chapter to the legislative government  
1 6 oversight committee and the auditor of state no later than the  
1 7 tenth day of the month following any reallocation. The report  
1 8 shall contain, at a minimum, the amount of each reallocation,  
1 9 the date of each reallocation, the name of the political  
1 10 subdivision and a description of all bonds issued pursuant to  
1 11 a reallocation, a brief explanation of the reason for the  
1 12 reallocation, and such other information as may be required by  
1 13 the committee.  
1 14 Sec. 2. NEW SECTION. 7C.13 QUALIFIED STUDENT LOAN BOND  
1 15 ISSUER == OPEN RECORDS AND MEETINGS == OVERSIGHT.  
1 16 1. CONDITION OF ALLOCATION. As a condition of receiving  
1 17 the allocation of the state ceiling as provided in section  
1 18 7C.4A, subsection 3, the qualified student loan bond issuer  
1 19 shall comply with the provisions of this section.  
1 20 2. ANNUAL REPORT AND AUDIT. The qualified student loan  
1 21 bond issuer shall submit an annual report to the governor,  
1 22 general assembly, and the auditor of state by January 15  
1 23 setting forth its operations and activities conducted and  
1 24 newly implemented in the previous fiscal year related to use  
1 25 of the allocation of the state ceiling in accordance with this  
1 26 chapter and the outlook for the future. The report shall  
1 27 describe how the operations and activities serve students and  
1 28 parents. The annual audit of the qualified student loan bond  
1 29 issuer shall be filed with the office of auditor.  
1 30 3. OPEN MEETINGS FOR CONSIDERATION OF TAX-EXEMPT ISSUANCE.  
1 31 The deliberations or meetings of the board of directors of the  
1 32 qualified student loan bond issuer that relate to the issuance  
1 33 of bonds in accordance with this chapter shall be conducted in  
1 34 accordance with chapter 21.  
1 35 4. PUBLIC HEARING PRIOR TO ISSUANCE OF TAX-EXEMPT BONDS.  
2 1 Prior to the issuance of tax-exempt bonds in accordance with  
2 2 this chapter, the board of directors of the qualified student  
2 3 loan bond issuer shall hold a public meeting after reasonable  
2 4 notice. The board shall give notice of the time, date, and  
2 5 place of the meeting, and its tentative agenda, in a manner  
2 6 reasonably calculated to apprise the public of that  
2 7 information and provide interested parties with an opportunity  
2 8 to submit or present data, views, or arguments related to the  
2 9 issuance of the bonds.  
2 10 5. OPEN RECORDS FOR CONSIDERATION OF TAX-EXEMPT BONDS.  
2 11 All of the following shall be subject to chapter 22:  
2 12 a. Minutes of the meetings conducted in accordance with  
2 13 subsection 3.

2 14 b. The data and written views or arguments submitted in  
2 15 accordance with subsection 4.  
2 16 c. Letters seeking approval from the governor for issuance  
2 17 of tax-exempt bonds in accordance with this chapter.  
2 18 d. The published official statement of each tax-exempt  
2 19 bond issue authorized in accordance with this chapter.

2 20 6. STATE SUPERINTENDENT OF BANKING REVIEW. The  
2 21 superintendent of banking shall annually review the qualified  
2 22 student loan bond issuer's total assets, loan volume, and  
2 23 reserves. Additionally, the superintendent shall review the  
2 24 qualified student loan bond issuer's procedures to inform  
2 25 students, prior to the submission of an application to the  
2 26 qualified student loan bond issuer for a loan made by the  
2 27 qualified student loan bond issuer, about the advantages of  
2 28 loans available under Title IV of the federal Higher Education  
2 29 Act of 1965, as amended, for which the students may be  
2 30 eligible. The review shall verify that the qualified student  
2 31 loan bond issuer issued bonds in accordance with this chapter  
2 32 in conformance to the letter requesting approval of the  
2 33 governor as set forth in subsection 5. The superintendent  
2 34 shall submit the review to the general assembly by January 15.

2 35 7. NO STATE OBLIGATION FOR BONDS. The obligations of the  
3 1 qualified student loan bond issuer are not the obligations of  
3 2 the state or any political subdivision of the state within the  
3 3 meaning of any constitutional or statutory debt limitations,  
3 4 but are obligations of the qualified student loan bond issuer  
3 5 payable solely and only from the qualified student loan bond  
3 6 issuer's funds. The qualified student loan bond issuer shall  
3 7 not and cannot pledge the credit or taxing power of this state  
3 8 or any political subdivision of this state or make its debts  
3 9 payable out of any moneys except those of the qualified  
3 10 student loan bond issuer.

3 11 Sec. 3. NEW SECTION. 261E.1 DEFINITIONS.

3 12 As used in this chapter, unless otherwise specified:

3 13 1. "Borrower" means a student attending a covered  
3 14 institution in this state, or a parent or person in parental  
3 15 relation to such student, who obtains an educational loan from  
3 16 a lending institution to pay for or finance a student's higher  
3 17 education expenses.

3 18 2. "Covered institution" means any educational institution  
3 19 that offers a postsecondary educational degree, certificate,  
3 20 or program of study and receives any Title IV funds under the  
3 21 federal Higher Education Act of 1965, as amended, or state  
3 22 funding or assistance. "Covered institution" includes an  
3 23 authorized agent of the educational institution, including an  
3 24 alumni association, booster club, or other organization  
3 25 directly or indirectly associated with or authorized by the  
3 26 institution or an employee of the institution.

3 27 3. "Covered institution employee" means any employee,  
3 28 agent, contract employee, director, officer, or trustee of a  
3 29 covered institution.

3 30 4. "Educational loan" means any loan that is made,  
3 31 insured, or guaranteed under Title IV of the federal Higher  
3 32 Education Act of 1965, as amended, directly to a borrower  
3 33 solely for educational purposes, or any private educational  
3 34 loan.

3 35 5. "Gift" means any gratuity, favor, discount,  
4 1 entertainment, hospitality, loan, or other item having a  
4 2 monetary value of more than a de minimus amount. "Gift"  
4 3 includes a gift of services, transportation, lodging, or  
4 4 meals, whether provided in kind, by purchase of a ticket,  
4 5 payment in advance, or reimbursement after the expense has  
4 6 been incurred. "Gift" does not include any of the following:

4 7 a. Standard material, activities, or programs on issues  
4 8 related to a loan, default aversion, default prevention, or  
4 9 financial literacy.

4 10 b. Food or refreshments furnished to an officer, employee,  
4 11 or agent of an institution as an integral part of a training  
4 12 session or conference that is designed to contribute to the  
4 13 professional development of the officer, employee, or agent of  
4 14 the institution.

4 15 c. Favorable terms, conditions, and borrower benefits on  
4 16 an educational loan provided to a borrower employed by the  
4 17 covered institution if such terms, conditions, or benefits are  
4 18 comparable to those provided to all students of the  
4 19 institution.

4 20 d. Philanthropic contributions to a covered institution  
4 21 from a lender, guarantor, or servicer of educational loans  
4 22 that are unrelated to educational loans provided, as  
4 23 applicable, that the contributions are disclosed pursuant to  
4 24 section 261E.4, subsection 6.

4 25 e. State education grants, scholarships, or financial aid  
4 26 funds administered under chapter 261.

4 27 f. Toll-free telephone numbers for use by covered  
4 28 institutions or other toll-free telephone numbers open to the  
4 29 public to obtain information about loans available under Title  
4 30 IV of the federal Higher Education Act of 1965, as amended, or  
4 31 private educational loans, or free data transmission service  
4 32 for use by a covered institution to electronically submit  
4 33 applicant loan processing information or student status  
4 34 confirmation data for loans available under Title IV of the  
4 35 federal Higher Education Act of 1965.

5 1 g. A reduced origination fee.

5 2 h. A reduced interest rate.

5 3 i. Payment of federal default fees.

5 4 j. Purchase of a loan made by another lender at a premium.

5 5 k. Other benefits to a borrower under a repayment  
5 6 incentive program that requires, at a minimum, one or more  
5 7 scheduled payments to receive or retain the benefit or under a  
5 8 loan forgiveness program for public service or other targeted  
5 9 purposes approved by the attorney general, provided these  
5 10 benefits are not marketed to secure loan applications or loan  
5 11 guarantees.

5 12 l. Items of nominal value to a covered institution,  
5 13 covered institution employee, covered institution-affiliated  
5 14 organization, or borrower that are offered as a form of  
5 15 generalized marketing or advertising, or to create goodwill.

5 16 m. Items of value which are offered to a borrower or to a  
5 17 covered institution employee that are also offered to the  
5 18 general public.

5 19 n. Other services as identified and approved by the  
5 20 attorney general through a public announcement, such as a  
5 21 notice on the attorney general's web site.

5 22 6. "Lender" or "lending institution" means a creditor as  
5 23 defined in section 103 of the federal Truth in Lending Act, 15  
5 24 U.S.C. } 1602.

5 25 7. "Postsecondary educational expenses" means any of the  
5 26 expenses that are included as part of a student's cost of  
5 27 attendance as defined in Title IV, part F, of the federal  
5 28 Higher Education Act of 1965, as amended.

5 29 8. "Preferred lender arrangement" means an arrangement or  
5 30 agreement between a lender and a covered institution under  
5 31 which the lender provides or otherwise issues educational  
5 32 loans to borrowers and which relates to the covered  
5 33 institution recommending, promoting, or endorsing the  
5 34 educational loan product of the lender. "Preferred lender  
5 35 arrangement" does not include arrangements or agreements with  
6 1 respect to loans under part D or E of Title IV of the federal  
6 2 Higher Education Act of 1965, as amended.

6 3 9. "Preferred lender list" means a list of at least three  
6 4 recommended or suggested, unaffiliated lending institutions  
6 5 that a covered institution makes available for use, in print  
6 6 or any other medium or form, by borrowers, prospective  
6 7 borrowers, or others.

6 8 10. "Private educational loan" means a private loan  
6 9 provided by a lender that is not made, insured, or guaranteed  
6 10 under Title IV of the federal Higher Education Act of 1965, as  
6 11 amended, and is issued by a lender solely for postsecondary  
6 12 educational expenses to a borrower, regardless of whether the  
6 13 loan involves enrollment certification by the educational  
6 14 institution that the student for which the loan is made  
6 15 attends. "Private educational loan" does not include a  
6 16 private educational loan secured by a dwelling or under an  
6 17 open-end credit plan. For purposes of this subsection,  
6 18 "dwelling" and "open-end credit plan" have the meanings given  
6 19 such terms in section 103 of the federal Truth in Lending Act,  
6 20 15 U.S.C. } 1602.

6 21 11. "Revenue sharing arrangement" means an arrangement  
6 22 between a covered institution and a lender in which the lender  
6 23 provides or issues educational loans to persons attending the  
6 24 institution or on behalf of persons attending the institution  
6 25 and the covered institution recommends the lender or the  
6 26 educational loan products of the lender, in exchange for which  
6 27 the lender pays a fee or provides other material benefits,  
6 28 including revenue or profit sharing, to the institution or  
6 29 officers, employees, or agents of the institution. "Revenue  
6 30 sharing arrangement" does not include arrangements related  
6 31 solely to products which are not educational loans.

6 32 Sec. 4. NEW SECTION. 261E.2 CODE OF CONDUCT.

6 33 1. A covered institution shall do the following:

6 34 a. Develop, in consultation with the college student aid  
6 35 commission, a code of conduct governing educational loan

7 1 activities with which the covered institution's officers,  
7 2 employees, and agents shall comply.

7 3 b. Publish the code of conduct developed in accordance  
7 4 with paragraph "a" prominently on its internet site.

7 5 c. Administer and enforce the code of conduct developed in  
7 6 accordance with paragraph "a".

7 7 2. The college student aid commission shall provide to  
7 8 covered institutions assistance and guidance relating to the  
7 9 development, administration, and monitoring of a code of  
7 10 conduct governing educational loan activities.

7 11 3. Except as provided in this section, the college student  
7 12 aid commission is not subject to the duties, restrictions,  
7 13 prohibitions, and penalties of this chapter.

7 14 Sec. 5. NEW SECTION. 261E.3 PROHIBITIONS == REPORT.

7 15 1. GIFT BAN. No officer, employee, or agent of a covered  
7 16 institution who is employed in the financial aid office of the  
7 17 institution, or who otherwise has direct responsibilities with  
7 18 respect to educational loans, shall solicit or accept any gift  
7 19 from a lender, guarantor, or servicer of educational loans.  
7 20 The attorney general shall investigate any reported violation  
7 21 of this subsection and shall annually submit a report to the  
7 22 general assembly by January 15 identifying all substantiated  
7 23 violations of this subsection, including the lenders and  
7 24 covered institutions involved in each such violation, for the  
7 25 preceding year.

7 26 2. GIFTS TO FAMILY MEMBERS OR OTHERS. For purposes of  
7 27 this section, a gift to a family member of an officer,  
7 28 employee, or agent of a covered institution, or a gift to any  
7 29 other individual based on that individual's relationship with  
7 30 the officer, employee, or agent, shall be considered a gift to  
7 31 the officer, employee, or agent if either of the following  
7 32 applies:

7 33 a. The gift is given with the knowledge and acquiescence  
7 34 of the officer, employee, or agent.

7 35 b. The officer, employee, or agent has reason to believe  
8 1 the gift was given because of the official position of the  
8 2 officer, employee, or agent.

8 3 3. CONTRACTING ARRANGEMENTS. An officer, employee, or  
8 4 agent who is employed in the financial aid office of a covered  
8 5 institution, or who otherwise has direct responsibilities with  
8 6 respect to educational loans, shall not accept from any lender  
8 7 or affiliate of any lender any fee, payment, or other  
8 8 financial benefit including but not limited to the opportunity  
8 9 to purchase stock on other than free market terms, as  
8 10 compensation for any type of consulting arrangement or other  
8 11 contract to provide services to a lender or on behalf of a  
8 12 lender.

8 13 4. REVENUE SHARING ARRANGEMENTS. A covered institution  
8 14 shall not enter into any revenue sharing arrangement with any  
8 15 lender.

8 16 5. PROHIBITION ON OFFERS OF FUNDS FOR PRIVATE LOANS. A  
8 17 covered institution shall not request or accept from any  
8 18 lender any offer of funds, including any opportunity pool, to  
8 19 be used for private educational loans to borrowers in exchange  
8 20 for the covered institution providing concessions or promises  
8 21 to the lender with respect to such institution providing the  
8 22 lender with a specified number of loans, a specified loan  
8 23 volume, or a preferred lender arrangement for any loan made,  
8 24 insured, or guaranteed under Title IV of the federal Higher  
8 25 Education Act of 1965, as amended, and a lender shall not make  
8 26 any such offer. For purposes of this subsection, "opportunity  
8 27 pool" means an educational loan made by a private lender to a  
8 28 borrower that is in any manner guaranteed by a covered  
8 29 institution, or that involves a payment, directly or  
8 30 indirectly, by such an institution of points, premiums,  
8 31 payments, additional interest, or other financial support to  
8 32 the lender for the purpose of that lender extending credit to  
8 33 the borrower.

8 34 6. PARTICIPATION ON ADVISORY COUNCILS. An officer,  
8 35 employee, or agent who is employed in the financial aid office  
9 1 of a covered institution, or who otherwise has direct  
9 2 responsibilities with respect to educational loans, shall not  
9 3 serve on or otherwise participate with advisory councils of  
9 4 lenders or affiliates of lenders. Nothing in this subsection  
9 5 shall prohibit lenders from seeking advice from covered  
9 6 institutions or groups of covered institutions, including  
9 7 through telephonic or electronic means, or a meeting, in order  
9 8 to improve products and services for borrowers, provided there  
9 9 are no gifts or compensation including but not limited to  
9 10 transportation, lodging, or related expenses, provided by  
9 11 lenders in connection with seeking such advice from the

9 12 institutions. Nothing in this subsection shall prohibit an  
9 13 officer, employee, or agent of a covered institution from  
9 14 serving on the board of directors of a lender if required by  
9 15 law.

9 16 7. EXCEPTIONS.

9 17 a. Nothing in this section shall be construed as  
9 18 prohibiting any of the following:

9 19 (1) An officer, employee, or agent of a covered  
9 20 institution who is not employed in the institution's financial  
9 21 aid office, or who does not otherwise have direct  
9 22 responsibilities with respect to educational loans, from paid  
9 23 or unpaid service on a board of directors of a lender,  
9 24 guarantor, or servicer of educational loans.

9 25 (2) An officer, employee, or agent of a covered  
9 26 institution who is not employed in the financial aid office  
9 27 but who has direct responsibility with respect to educational  
9 28 loans as a result of a position held at the covered  
9 29 institution, from paid or unpaid service on a board of  
9 30 directors of a lender, guarantor, or servicer of educational  
9 31 loans, provided that the covered institution has a written  
9 32 conflict of interest policy that clearly sets forth that such  
9 33 an officer, employee, or agent must be recused from  
9 34 participating in any decision of the board with respect to any  
9 35 transaction regarding educational loans.

10 1 (3) An officer, employee, or agent of a lender, guarantor,  
10 2 or servicer of educational loans from serving on a board of  
10 3 directors or serving as a trustee of a covered institution,  
10 4 provided that the covered institution has a written conflict  
10 5 of interest policy that clearly sets forth the procedures to  
10 6 be followed in instances where such a board member's or  
10 7 trustee's personal or business interests with respect to  
10 8 educational loans may be advanced by an action of the board of  
10 9 directors or trustees, including a provision that such a board  
10 10 member or trustee may not participate in any decision to  
10 11 approve any transaction where such conflicting interests may  
10 12 be advanced.

10 13 b. Nothing in this chapter shall be construed to prohibit  
10 14 a covered institution from lowering educational loan costs for  
10 15 borrowers, including payments made by the covered institution  
10 16 to lending institutions on behalf of borrowers.

10 17 Sec. 6. NEW SECTION. 261E.4 MISLEADING IDENTIFICATION ==  
10 18 COVERED INSTITUTION == LENDING INSTITUTIONS' EMPLOYEES.

10 19 1. A lending institution shall prohibit an employee or  
10 20 agent of the lending institution from being identified to  
10 21 borrowers or prospective borrowers of a covered institution as  
10 22 an employee, representative, or agent of the covered  
10 23 institution.

10 24 2. A covered institution shall prohibit an employee or  
10 25 agent of a lending institution from being identified as an  
10 26 employee, representative, or agent of the covered institution.

10 27 3. An employee, representative, or agent of a lending  
10 28 institution included on a covered institution's preferred  
10 29 lending list shall not staff a covered institution's financial  
10 30 aid offices or call center and shall not prepare any of the  
10 31 covered institution's materials related to educational loans.

10 32 4. A covered institution that has entered into a preferred  
10 33 lender arrangement with a lender regarding private educational  
10 34 loans shall not agree to the lender's use of the name, emblem,  
10 35 mascot, or logo of the institution, or other words, pictures,  
11 1 or symbols readily identified with the institution, in the  
11 2 marketing of private educational loans to the students  
11 3 attending the institution in any way that implies that the  
11 4 institution endorses the private educational loans offered by  
11 5 the lender. However, the covered institution may allow the  
11 6 use of its name if it is part of the lending institution's  
11 7 legal name.

11 8 5. Nothing in this section shall prohibit a covered  
11 9 institution from requesting or accepting the following  
11 10 assistance from a lender related to any of the following:

11 11 a. Providing educational counseling materials, financial  
11 12 literacy materials, or debt management materials to borrowers,  
11 13 provided that such materials disclose to borrowers the  
11 14 identification of any lender that assisted in preparing or  
11 15 providing such materials.

11 16 b. Staffing services on a short-term, nonrecurring basis  
11 17 to assist the institution with financial aid-related functions  
11 18 during emergencies, including state-declared or federally  
11 19 declared natural disasters, federally declared national  
11 20 disasters, and other localized disasters and emergencies  
11 21 identified by the attorney general.

11 22 6. The attorney general shall adopt rules providing for

11 23 the disclosure, for lenders with a preferred lender  
11 24 arrangement, of philanthropic contributions made as specified  
11 25 in section 261E.1, subsection 5, paragraph "d".  
11 26 Sec. 7. NEW SECTION. 261E.5 LOAN DISCLOSURE == LOAN  
11 27 BUNDLING == PROHIBITIONS.  
11 28 1. A covered institution that has entered into a preferred  
11 29 lender arrangement with a lender regarding private educational  
11 30 loans shall inform the borrower or prospective borrower of all  
11 31 available state education financing options, and financing  
11 32 options under Title IV of the federal Higher Education Act of  
11 33 1965, as amended, including information on any terms and  
11 34 conditions of available loans under such title that are more  
11 35 favorable to the borrower.  
12 1 2. A covered institution shall prohibit the bundling of  
12 2 private educational loans in financial aid packages, unless  
12 3 the borrower is ineligible for financing, is not eligible for  
12 4 any additional funding, or has exhausted the limits of loan  
12 5 eligibility, under Title IV of the federal Higher Education  
12 6 Act of 1965, as amended, or has not filled out a free  
12 7 application for federal student aid, and the bundling of the  
12 8 private educational loans is clearly and conspicuously  
12 9 disclosed to the borrower prior to acceptance of the package  
12 10 by the borrower. The provisions of this subsection shall not  
12 11 apply if the borrower does not desire or refuses to apply for  
12 12 a loan under Title IV of the federal Higher Education Act of  
12 13 1965.  
12 14 3. A lending institution included on a covered  
12 15 institution's preferred lender list shall disclose, clearly  
12 16 and conspicuously, in any application for a private  
12 17 educational loan, all of the following:  
12 18 a. The rate of interest or the potential range of rates of  
12 19 interest applicable to the loan and whether such rates are  
12 20 fixed or variable.  
12 21 b. Limitations, if any, on interest rate adjustments, both  
12 22 in terms of frequency and amount, or lack thereof.  
12 23 c. Coborrower requirements, including changes in interest  
12 24 rates.  
12 25 d. Any fees associated with the loan.  
12 26 e. The repayment terms available on the loan.  
12 27 f. The opportunity for deferment or forbearance in  
12 28 repayment of the loan, including whether the loan payments can  
12 29 be deferred if the borrower is in school.  
12 30 g. Any additional terms and conditions applied to the  
12 31 loan, including any benefits that are contingent on the  
12 32 repayment behavior of the borrower.  
12 33 h. Information comparing federal and private educational  
12 34 loans.  
12 35 i. An example of the total cost of the educational loan  
13 1 over the life of the loan which shall be calculated using the  
13 2 following:  
13 3 (1) A principal amount and the maximum rate of interest  
13 4 actually offered by the lender, or, if there is no maximum  
13 5 rate provided under the terms of the loan agreement or  
13 6 applicable state or federal law, a statement to that effect.  
13 7 (2) Both with and without capitalization of interest, if  
13 8 that is an option for postponing interest payments.  
13 9 j. The consequences for the borrower of defaulting on a  
13 10 loan, including any limitations on the discharge of an  
13 11 educational loan in bankruptcy.  
13 12 k. Contact information for the lender.  
13 13 4. Not later than January 31, 2009, the attorney general  
13 14 shall develop and make available to lenders a model disclosure  
13 15 form that is based on the requirements of subsection 3. Use  
13 16 of the model disclosure form by a lending institution in a  
13 17 manner consistent with this chapter shall constitute  
13 18 compliance with subsection 3.  
13 19 Sec. 8. NEW SECTION. 261E.6 STANDARDS FOR PREFERRED  
13 20 LENDER LISTS.  
13 21 1. A covered institution may make available a list of  
13 22 preferred lenders, in print or any other medium or form, for  
13 23 use by the covered institution's students or their parents,  
13 24 provided the list meets the following conditions:  
13 25 a. The list is not used to deny or otherwise impede a  
13 26 borrower's choice of lender.  
13 27 b. The list contains at least three lenders that are not  
13 28 affiliated and will make loans to borrowers or students  
13 29 attending the school. For the purposes of this paragraph, a  
13 30 lender is affiliated with another lender if any of the  
13 31 following applies:  
13 32 (1) The lenders are under the ownership or control of the  
13 33 same entity or individuals.

13 34 (2) The lenders are wholly or partly owned subsidiaries of  
13 35 the same parent company.

14 1 (3) The directors, trustees, or general partners, or  
14 2 individuals exercising similar functions, of one of the  
14 3 lenders constitute a majority of the persons holding similar  
14 4 positions with the other lender.

14 5 c. The list does not include lenders that have offered, or  
14 6 have offered in response to a solicitation by the covered  
14 7 institution, financial or other benefits to the covered  
14 8 institution in exchange for inclusion on the list or any  
14 9 promise that a certain number of loan applications will be  
14 10 sent to the lender by the covered institution or its students.

14 11 2. A covered institution that provides or makes available  
14 12 a preferred lender list shall do the following:

14 13 a. Disclose to prospective borrowers, as part of the list,  
14 14 the method and criteria used by the covered institution in  
14 15 selecting any lender that it recommends or suggests.

14 16 b. Provide comparative information to prospective  
14 17 borrowers about interest rates and other benefits offered by  
14 18 the lenders.

14 19 c. Include a prominent statement in any information  
14 20 related to its preferred lender list advising prospective  
14 21 borrowers that the borrowers are not required to use one of  
14 22 the covered institution's recommended or suggested lenders.

14 23 d. For first-time borrowers, refrain from assigning,  
14 24 through award packaging or other methods, a borrower's loan to  
14 25 a particular lender.

14 26 e. Not cause unnecessary certification delays for  
14 27 borrowers who use a lender that is not included on the covered  
14 28 institution's preferred lender list.

14 29 f. Update the preferred lender list and any information  
14 30 accompanying the list at least annually.

14 31 3. If the servicer of a private educational loan is  
14 32 changed by a lending institution, the lending institution  
14 33 shall disclose the change to the affected borrower.

14 34 4. A lending institution shall not be placed on a covered  
14 35 institution's preferred lender list or in favored placement on  
15 1 a covered institution's preferred lender list for a particular  
15 2 type of loan, in exchange for benefits provided to the covered  
15 3 institution or to the covered institution's students in  
15 4 connection with a different type of loan.

15 5 Sec. 9. NEW SECTION. 261E.7 DISCLOSURE REQUIREMENTS.

15 6 Except for educational loans made, insured, or guaranteed  
15 7 by the federal government, a lending institution included on a  
15 8 covered institution's preferred lender list shall, upon  
15 9 receiving a request from a borrower, covered institution, or  
15 10 government entity, disclose to the requester in reasonable  
15 11 detail and form, the terms of private educational loans made  
15 12 to borrowers by that lending institution and the rates of  
15 13 interest charged to borrowers for private educational loans in  
15 14 the year preceding the disclosures.

15 15 Sec. 10. NEW SECTION. 261E.8 PENALTIES.

15 16 1. If after providing notice and an opportunity for a  
15 17 hearing the attorney general determines that a covered  
15 18 institution or lending institution has violated a provision of  
15 19 this chapter, the covered institution or lending institution  
15 20 may be liable for a civil penalty of up to five thousand  
15 21 dollars per violation. In taking action against a covered  
15 22 institution or lending institution, consideration shall be  
15 23 given to the nature and severity of a violation of this  
15 24 chapter.

15 25 2. If after providing notice and an opportunity for a  
15 26 hearing the attorney general determines that a covered  
15 27 institution employee has violated a provision of this chapter,  
15 28 the covered institution employee may be liable for a civil  
15 29 penalty of up to two thousand five hundred dollars per  
15 30 violation. In taking action against a covered institution  
15 31 employee, consideration shall be given to the nature and  
15 32 severity of a violation of this chapter.

15 33 3. If after providing notice and an opportunity for a  
15 34 hearing the attorney general determines that a lending  
15 35 institution has violated a provision of this chapter, such  
16 1 lending institution shall not be placed or remain on any  
16 2 covered institution's preferred lender list unless notice of  
16 3 such violation is provided to all potential borrowers of the  
16 4 covered institution. However, consideration shall be given to  
16 5 the nature and severity of a violation of this chapter in  
16 6 determining whether and for how long to ban a lender from a  
16 7 preferred lender list.

16 8 4. Nothing in this section shall prohibit the attorney  
16 9 general from reaching a settlement agreement with a covered

16 10 institution, covered institution employee, or lending  
16 11 institution in order to effectuate the purposes of this  
16 12 section. Provided, however, if such settlement agreement is  
16 13 reached with a covered institution or lending institution, the  
16 14 attorney general shall provide notice of such action to the  
16 15 borrowers in a form and manner prescribed by the attorney  
16 16 general.

16 17 5. The attorney general shall deposit the funds generated  
16 18 pursuant to this section into the student lending education  
16 19 fund, created in section 261E.10.

16 20 6. Each individual incident of a violation of this chapter  
16 21 shall be considered a separate violation for the purpose of  
16 22 imposing civil penalties.

16 23 Sec. 11. NEW SECTION. 261E.9 RULES == INVESTIGATION  
16 24 AUTHORITY == ENFORCEMENT.

16 25 1. The attorney general shall administer this chapter and  
16 26 promulgate rules, pursuant to chapter 17A, necessary for the  
16 27 implementation of this chapter. Unless otherwise provided,  
16 28 all actions by the attorney general pursuant to this chapter  
16 29 shall be subject to the provisions of chapter 17A.

16 30 2. The attorney general is authorized to conduct an  
16 31 investigation to determine whether to initiate proceedings  
16 32 pursuant to this chapter to the same extent as the  
16 33 investigation authority granted the attorney general under  
16 34 section 714.16.

16 35 Sec. 12. NEW SECTION. 261E.10 STUDENT LENDING EDUCATION  
17 1 FUND.

17 2 1. There is established in the state treasury a student  
17 3 lending education fund.

17 4 2. The fund shall consist of all revenues generated  
17 5 pursuant to section 261E.8 and all other moneys credited or  
17 6 transferred to the fund from any other fund or source pursuant  
17 7 to law.

17 8 3. Moneys in the fund shall be made available to the  
17 9 attorney general for the purpose of enforcing this chapter.

17 10 Sec. 13. NEW SECTION. 261E.11 EFFECT ON OTHER LAWS OR  
17 11 REGULATIONS.

17 12 This chapter shall not be interpreted to affect the  
17 13 liability of any person, covered institution, or lending  
17 14 institution under any other state statute or rule.

17 15 Sec. 14. STUDENT LOAN SECONDARY MARKET INVESTIGATION  
17 16 REPORT.

17 17 1. The attorney general shall submit the findings and  
17 18 recommendations resulting from the investigation of the  
17 19 student loan secondary market and the Iowa student loan  
17 20 liquidity corporation to the general assembly by January 15,  
17 21 2009.

17 22 2. The attorney general shall present the findings and  
17 23 recommendations resulting from the investigation of the  
17 24 student loan secondary market and the Iowa student loan  
17 25 liquidity corporation to the legislative government oversight  
17 26 committee at the committee's October 2008 meeting.

17 27 Sec. 15. EFFECTIVE DATE. The sections of this Act  
17 28 enacting sections 261E.3, 261E.5, 261E.6, and 261E.7, take  
17 29 effect January 31, 2009.

#### 17 30 EXPLANATION

17 31 This bill relates to student loans by establishing new  
17 32 requirements for the qualified student loan bond issuer. The  
17 33 bill also creates a new Code chapter under the authority of  
17 34 the attorney general which establishes measures designed to  
17 35 protect students and parents from certain lending practices,  
18 1 penalties for violation of the chapter, and a student lending  
18 2 education fund. The bill requires accredited postsecondary  
18 3 institutions to develop a code of conduct governing  
18 4 educational loan activities.

18 5 STATE CEILING REALLOCATION REPORT. The bill requires the  
18 6 governor's designee, the director of the Iowa finance  
18 7 authority, to report quarterly any reallocation of the amount  
18 8 of the state ceiling under the private activity bond  
18 9 allocation Act to the legislative government oversight  
18 10 committee and the auditor of state.

18 11 QUALIFIED STUDENT LOAN BOND ISSUER. The bill requires the  
18 12 qualified student loan bond issuer to submit an annual report  
18 13 to the governor, general assembly, and the auditor of state by  
18 14 January 15 setting forth its operations and activities. The  
18 15 issuer must also comply with the open meetings and open  
18 16 records law when its board of directors conducts meetings and  
18 17 maintains records relating to the issuance of bonds. The bill  
18 18 requires the state superintendent of banking to annually  
18 19 review the issuer's total assets, loan volume, and reserves,  
18 20 to review the issuer's procedures to inform students about the

18 21 advantages of federal educational loans, and to verify that  
18 22 the issuer issued bonds in conformance to the letter  
18 23 requesting approval of the governor required in the bill. The  
18 24 bill provides that the obligations of the issuer are not the  
18 25 obligations of the state or any political subdivision of the  
18 26 state.

18 27 DEFINITIONS. The bill includes a number of definitions,  
18 28 including but not limited to a definition for borrower, which  
18 29 under the bill means a student attending a covered institution  
18 30 in this state, or a parent or person in parental relation to  
18 31 such student, who obtains an educational loan from a lending  
18 32 institution to pay for or finance a student's higher education  
18 33 expenses. "Covered institution" includes any educational  
18 34 institution that offers a postsecondary educational degree,  
18 35 certificate, or program of study and receives federal student  
19 1 aid funds, as well as an authorized agent of the educational  
19 2 institution. The bill specifies what is included in the  
19 3 definition of "gift", as well as what is not included in the  
19 4 term.

19 5 CODE OF CONDUCT. Covered institutions must develop, in  
19 6 consultation with the college student aid commission, a code  
19 7 of conduct governing educational loan activities with which  
19 8 the institution's officers, employees, and agents must comply.  
19 9 The institution must also publish the code of conduct  
19 10 prominently on its internet site and administer and enforce  
19 11 the code of conduct. The college student aid commission is  
19 12 directed to provide institutions assistance and guidance  
19 13 relating to the development, administration, and monitoring of  
19 14 a code of conduct governing educational loan activities. The  
19 15 commission is otherwise exempted from the duties,  
19 16 restrictions, prohibitions, and penalties of this chapter.

19 17 GIFT BAN. The bill prohibits any officer, employee, or  
19 18 agent of a covered institution employed in the financial aid  
19 19 office of the institution, or who otherwise has direct  
19 20 responsibilities with respect to educational loans, from  
19 21 soliciting or accepting any gift from a lender, guarantor, or  
19 22 servicer of educational loans. A gift to a family member of  
19 23 such a person or to any other individual based on that  
19 24 individual's relationship with the person is considered a gift  
19 25 to the person if the gift is given with the knowledge and  
19 26 acquiescence of the person or the person has reason to believe  
19 27 the gift was given because of the person's official position.  
19 28 This provision takes effect January 31, 2009.

19 29 REVENUE SHARING ARRANGEMENTS. The bill prohibits a covered  
19 30 institution from entering into any revenue sharing arrangement  
19 31 with any lender. This provision takes effect January 31,  
19 32 2009.

19 33 OTHER PROHIBITIONS. The bill prohibits a covered  
19 34 institution from requesting or accepting from any lender any  
19 35 offer of funds, including any opportunity pool, to be used for  
20 1 private educational loans to borrowers in exchange for  
20 2 concessions or promises of providing the lender with a  
20 3 specified number of loans, a specified loan volume, or a  
20 4 preferred lender arrangement for any loan made, insured, or  
20 5 guaranteed under the federal Higher Education Act of 1965, as  
20 6 amended, and a lender is prohibited from making such an offer.

20 7 The bill also prohibits an officer, employee, or agent who  
20 8 is employed in the financial aid office of a covered  
20 9 institution, or who otherwise has direct responsibilities with  
20 10 respect to educational loans, from serving on or otherwise  
20 11 participating with advisory councils of lenders or affiliates  
20 12 of lenders, though the bill provides for limited exceptions.  
20 13 This provision takes effect January 31, 2009.

20 14 EXCEPTIONS. Nothing in the bill shall be construed as  
20 15 prohibiting an officer, employee, or agent of a covered  
20 16 institution who is not employed in the institution's financial  
20 17 aid office, or who does not otherwise have direct  
20 18 responsibilities with respect to educational loans, from paid  
20 19 or unpaid service on a board of directors of a lender,  
20 20 guarantor, or servicer of educational loans; prohibiting such  
20 21 a person, who is not employed in the financial aid office but  
20 22 who has direct responsibility with respect to educational  
20 23 loans as a result of a position held at the covered  
20 24 institution, from paid or unpaid service on such a board  
20 25 provided that the covered institution has a written conflict  
20 26 of interest policy that provides that the person must be  
20 27 recused from participating in any decision of the board with  
20 28 respect to any transaction regarding educational loans; or  
20 29 prohibiting an officer, employee, or agent of a lender,  
20 30 guarantor, or servicer of educational loans from serving on a  
20 31 board of directors or serving as a trustee of a covered

20 32 institution, provided that the covered institution has a  
20 33 written conflict of interest policy that clearly sets forth  
20 34 procedures to be followed. This provision takes effect  
20 35 January 31, 2009.

21 1 Persons employed by or representing a lending institution  
21 2 are prohibited from being identified to borrowers or  
21 3 prospective borrowers of a covered institution as an employee,  
21 4 representative, or agent of the covered institution. Persons  
21 5 employed or representing a lending institution included on a  
21 6 preferred lending list are prohibited from staffing a covered  
21 7 institution's financial aid office or call center and cannot  
21 8 prepare any of the covered institution's materials related to  
21 9 educational loans.

21 10 A covered institution that has entered into a preferred  
21 11 lender arrangement with a lender regarding private educational  
21 12 loans shall not agree to the lender's use of the name, emblem,  
21 13 mascot, or logo of the institution, or other words, pictures,  
21 14 or symbols readily identified with the institution in any way  
21 15 that implies that the institution endorses the private  
21 16 educational loans offered by the lender.

21 17 LOAN DISCLOSURE AND LOAN BUNDLING. The bill provides for a  
21 18 number of disclosure requirements. A covered institution that  
21 19 has entered into a preferred lender arrangement with a lender  
21 20 regarding private educational loans shall inform the borrower  
21 21 or prospective borrower of all available state and federal  
21 22 education financing options.

21 23 A covered institution must prohibit the bundling of private  
21 24 educational loans in financial aid packages except under  
21 25 circumstances specified in the bill. The bill provides a list  
21 26 of disclosures a lending institution included on a covered  
21 27 institution's preferred lender list must disclose, clearly and  
21 28 conspicuously, in any application for a private educational  
21 29 loan. However, the bill directs the attorney general to  
21 30 develop and make available to lenders a model disclosure form  
21 31 that is based on the list, and provides that use of the model  
21 32 disclosure form by a lending institution constitutes  
21 33 compliance with the disclosure requirements. The provisions  
21 34 establishing the loan disclosure and loan bundling  
21 35 prohibitions take effect January 31, 2009.

22 1 STANDARDS FOR PREFERRED LENDER LISTS. The bill authorizes  
22 2 a covered institution to make available a list of preferred  
22 3 lenders for use by the covered institution's students or their  
22 4 parents, provided the list meets the conditions specified in  
22 5 the bill. A covered institution that makes available a  
22 6 preferred lender list must also meet conditions which are  
22 7 specified in the bill. If the servicer of a private  
22 8 educational loan is changed by a lending institution, the  
22 9 lending institution must disclose the change to the affected  
22 10 borrower. A lending institution shall not be placed on a  
22 11 preferred lender list in exchange for benefits provided to the  
22 12 covered institution or to the covered institution's students  
22 13 in connection with a different type of loan. These provisions  
22 14 take effect January 31, 2009.

22 15 DISCLOSURE REQUIREMENTS. Except for educational loans  
22 16 made, insured, or guaranteed by the federal government, a  
22 17 lending institution included on a preferred lender list shall,  
22 18 upon receiving a request from a borrower, covered institution,  
22 19 or government entity, disclose to the requester in reasonable  
22 20 detail and form, the terms of private educational loans made  
22 21 to borrowers by that lending institution and the rates of  
22 22 interest charged to borrowers for private educational loans in  
22 23 the year preceding the disclosures. This provision takes  
22 24 effect January 31, 2009.

22 25 PENALTIES. If after providing notice and an opportunity  
22 26 for a hearing the attorney general determines that a covered  
22 27 institution or lending institution is in violation of the new  
22 28 Code chapter, the covered institution or lending institution  
22 29 may be liable for a civil penalty of up to \$5,000 per  
22 30 violation. Similarly, an employee found to be in violation of  
22 31 the new Code chapter may be liable for a civil penalty of up  
22 32 to \$2,500 per violation. A lending institution found to have  
22 33 violated the chapter shall not be placed or remain on any  
22 34 covered institution's preferred lender list unless notice of  
22 35 the violation is provided to all potential borrowers of the  
23 1 covered institution.

23 2 RULES == INVESTIGATION AUTHORITY == ENFORCEMENT. The  
23 3 attorney general is directed to administer the Code chapter  
23 4 and is authorized to conduct an investigation to determine  
23 5 whether to initiate proceedings under the Code chapter.

23 6 STUDENT LENDING EDUCATION FUND. The bill establishes in  
23 7 the state treasury a student lending education fund consisting

23 8 of all revenues generated by the penalties established under  
23 9 the bill. Moneys in the fund are available to the attorney  
23 10 general for the purpose of enforcing the new Code chapter.

23 11 EFFECT ON OTHER LAWS OR REGULATIONS. The bill provides  
23 12 that the new Code chapter shall not be interpreted to affect  
23 13 the liability of any person, covered institution, or lending  
23 14 institution under any other state statute or rule.

23 15 STUDENT LOAN SECONDARY MARKET INVESTIGATION REPORT. The  
23 16 attorney general is directed to submit the findings and  
23 17 recommendations resulting from the investigation of the  
23 18 student loan secondary market and the Iowa student loan  
23 19 liquidity corporation to the general assembly by January 15,  
23 20 2009, and to present the findings and recommendations  
23 21 resulting from the investigation of the student loan secondary  
23 22 market and the Iowa student loan liquidity corporation to the  
23 23 legislative government oversight committee at the committee's  
23 24 October 2008 meeting.

23 25 LSB 6635SV 82

23 26 kh/rj/5