

110TH CONGRESS  
1ST SESSION

# S. 1262

To protect students receiving student loans, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MAY 2, 2007

Mr. ENZI (for himself, Mr. ALEXANDER, Mr. ALLARD, Mr. BURR, Mr. ISAKSON, Ms. MURKOWSKI, and Mr. ROBERTS) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To protect students receiving student loans, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Student Loan Account-  
5 ability and Disclosure Reform Act”.

6 **SEC. 2. INSURANCE PROGRAM AGREEMENTS.**

7 Paragraph (3) of section 428(b) of the Higher Edu-  
8 cation Act of 1965 (20 U.S.C. 1078(b)(3)) is amended  
9 to read as follows:

1           “(3) RESTRICTIONS ON INDUCEMENTS, PAY-  
2           MENTS, MAILINGS, AND ADVERTISING.—A guaranty  
3           agency shall not—

4                   “(A) offer, directly or indirectly, premiums,  
5                   payments, stock or other securities, prizes, trav-  
6                   el, entertainment expenses, tuition repayment,  
7                   or other inducements to—

8                           “(i) any institution of higher edu-  
9                           cation or the employees of an institution of  
10                           higher education in order to secure appli-  
11                           cants for loans made under this part; or

12                           “(ii) any lender, or any agent, em-  
13                           ployee, or independent contractor of any  
14                           lender or guaranty agency, in order to ad-  
15                           minister or market loans made under this  
16                           part (other than a loan made under section  
17                           428H or a loan made as part of the guar-  
18                           anty agency’s lender-of-last-resort program  
19                           pursuant to section 439(q)) for the pur-  
20                           pose of securing the designation of the  
21                           guaranty agency as the insurer of such  
22                           loans;

23                           “(B) conduct unsolicited mailings, by post-  
24                           al or electronic means, of student loan applica-  
25                           tion forms to students enrolled in secondary

1 school or postsecondary educational institutions,  
2 or to the parents of such students, except that  
3 applications may be mailed, by postal or elec-  
4 tronic means, to students or borrowers who  
5 have previously received loans guaranteed under  
6 this part by the guaranty agency;

7 “(C) perform, for an institution of higher  
8 education participating in a program under this  
9 title and without appropriate compensation by  
10 such institution, any function that the institu-  
11 tion is required to perform under part B, D, or  
12 G (except for the exit counseling described in  
13 section 485(b));

14 “(D) pay, on behalf of the institution of  
15 higher education, another person to perform  
16 any function that the institution of higher edu-  
17 cation is required to perform under part B, D,  
18 or G (except for the exit counseling described in  
19 section 485(b)); or

20 “(E) conduct fraudulent or misleading ad-  
21 vertising concerning loan availability, terms, or  
22 conditions.

23 It shall not be a violation of this paragraph for a  
24 guaranty agency to provide assistance to institutions  
25 of higher education comparable to the kinds of as-

1       sistance provided to institutions of higher education  
2       by the Department.”.

3 **SEC. 3. DISCLOSURE RULES FOR EDUCATIONAL LOANS.**

4       Title I of the Higher Education Act of 1965 (20  
5 U.S.C. 1001 et seq.) is amended by adding at the end  
6 the following:

7                   **“PART E—DISCLOSURE RULES FOR**  
8                               **EDUCATIONAL LOANS**

9 **“SEC. 151. DISCLOSURE RULES RELATING TO EDU-**  
10                               **CATIONAL LOANS.**

11       “(a) DEFINITIONS.—In this part:

12                   “(1) COST OF ATTENDANCE.—The term ‘cost of  
13 attendance’ has the meaning given the term in sec-  
14 tion 472.

15                   “(2) INSTITUTION OF HIGHER EDUCATION.—  
16 The term ‘institution of higher education’—

17                               “(A) has the meaning given the term in  
18 section 102; and

19                               “(B) includes an employee or agent of the  
20 institution of higher education or any organiza-  
21 tion or entity directly or indirectly controlled by  
22 such institution.

23                   “(3) LENDER.—The term ‘lender’ means—

1           “(A) any lender of a loan made, insured,  
2           or guaranteed under title IV, including a con-  
3           solidation loan under section 428C;

4           “(B) any lender that is a financial institu-  
5           tion, as such term is defined in section 509 of  
6           the Gramm-Leach-Bliley Act (15 U.S.C. 6809);  
7           and

8           “(C) for any loan issued or provided to a  
9           student under part D of title IV, the Secretary.

10          “(4) PRIVATE EDUCATIONAL LOAN.—The term  
11          ‘private educational loan’ means a private loan  
12          that—

13                 “(A) is not made, insured, or guaranteed  
14                 under title IV; and

15                 “(B) is offered to a borrower by an institu-  
16                 tion of higher education through an award let-  
17                 ter or other notification.

18          “(b) DISCLOSURES.—

19                 “(1) DISCLOSURES BY LENDERS.—Before a  
20                 lender issues or otherwise provides a loan under title  
21                 IV or a private educational loan to a student, the  
22                 lender shall provide the student, in writing, with the  
23                 disclosures described in paragraph (2).

1           “(2) DISCLOSURES.—The disclosures required  
2           by this paragraph shall include a clear and promi-  
3           nent statement—

4                   “(A) that the borrower may qualify for  
5           Federal financial assistance through a program  
6           under title IV, in lieu of or in addition to a loan  
7           from a non-Federal source;

8                   “(B) of the interest rates available with re-  
9           spect to such Federal financial assistance;

10                   “(C) showing sample educational loan  
11           costs, disaggregated by type;

12                   “(D) that describes, with respect to each  
13           loan being provided to the student by the lend-  
14           er—

15                           “(i) how the applicable interest rate is  
16           determined, including whether the rate is  
17           based on the credit score of the borrower;

18                           “(ii) the types of repayment plans  
19           that are available;

20                           “(iii) whether, and under what condi-  
21           tions, early repayment may be made with-  
22           out penalty;

23                           “(iv) when and how often the loan  
24           would be recapitalized;

1                   “(v) all fees, deferments, or forbear-  
2                   ance;

3                   “(vi) all available repayment benefits,  
4                   and the percentage of all borrowers who  
5                   qualify for such benefits;

6                   “(vii) the collection practices in the  
7                   case of default;

8                   “(viii) the late payment penalties and  
9                   associated fees; and

10                  “(ix) whether the amount of all loans  
11                  issued by the lender to the borrower ex-  
12                  ceeds the student’s cost of attendance; and

13                  “(E) such other information as the Sec-  
14                  retary may require.”.

15 **SEC. 4. REVIEW OF PRIVATE EDUCATIONAL LOAN MARKET.**

16                  Section 495 of the Higher Education Act of 1965 (20  
17 U.S.C. 1099a) is amended by adding at the end the fol-  
18                  lowing:

19                  “(c) REVIEW OF PRIVATE EDUCATION LOAN MAR-  
20                  KETS.—The Secretary and the Secretary of the Treasury  
21                  shall conduct an evaluation of markets for educational  
22                  loans to—

23                         “(1) evaluate any variations in availability,  
24                         terms, and conditions of educational loans provided  
25                         to students who qualify for a simplified needs test

1 under section 479 or any income-contingent sim-  
2 plified version of the Free Application for Federal  
3 Student Aid;

4 “(2) identify possible discriminatory lending  
5 patterns affecting students described in paragraph  
6 (1); and

7 “(3) report, not later than 1 year after the date  
8 of enactment of the Student Loan Accountability  
9 and Disclosure Reform Act to the Committee on  
10 Health, Education, Labor, and Pensions and the  
11 Committee on Banking, Housing, and Urban Affairs  
12 of the Senate, and the Committee on Education and  
13 Labor and the Committee on Financial Services of  
14 the House of Representatives, on findings and rec-  
15 ommendations for the need to afford protections  
16 from predatory lending practices to such students.”.

17 **SEC. 5. DISQUALIFICATION OF ELIGIBLE LENDER.**

18 Section 435(d)(5) of the Higher Education Act of  
19 1965 (20 U.S.C. 1085(d)(5)) is amended—

20 (1) by redesignating subparagraphs (C) and  
21 (D) as subparagraphs (H) and (I), respectively; and

22 (2) by striking subparagraphs (A) and (B) and  
23 inserting the following:

24 “(A) offered, directly or indirectly, points,  
25 premiums, payments (including payments for

1 referrals and for processing or finder fees),  
2 prizes, stock or other securities, travel, enter-  
3 tainment expenses, tuition repayment, the pro-  
4 vision of information technology equipment at  
5 below-market value, additional financial aid  
6 funds, or other inducements to any institution  
7 of higher education or any employee of an insti-  
8 tution of higher education in order to secure  
9 applicants for loans under this part;

10 “(B) conducted unsolicited mailings, by  
11 postal or electronic means, of student loan ap-  
12 plication forms to students enrolled in sec-  
13 ondary school or postsecondary institutions, or  
14 to parents of such students, except that applica-  
15 tions may be mailed, by postal or electronic  
16 means, to students or borrowers who have pre-  
17 viously received loans under this part from such  
18 lender;

19 “(C) entered into any type of consulting  
20 arrangement, or other contract to provide serv-  
21 ices to a lender, with an employee who is em-  
22 ployed in the financial aid office of an institu-  
23 tion of higher education, or who otherwise has  
24 responsibilities with respect to student loans or  
25 other financial aid of the institution;

1           “(D) compensated an employee who is em-  
2           ployed in the financial aid office of an institu-  
3           tion of higher education, or who otherwise has  
4           responsibilities with respect to student loans or  
5           other financial aid of the institution, and who  
6           is serving on an advisory board, commission, or  
7           group established by a lender or group of lend-  
8           ers for providing such service, except that the  
9           eligible lender may reimburse such employee for  
10          reasonable expenses incurred in providing such  
11          service;

12          “(E) performed for an institution of higher  
13          education, without compensation from the insti-  
14          tution, any function that the institution of high-  
15          er education is required to carry out under part  
16          B, D, or G (except for general debt counseling,  
17          such as the exit counseling described in section  
18          485(b));

19          “(F) paid, on behalf of an institution of  
20          higher education, another person to perform  
21          any function that the institution of higher edu-  
22          cation is required to perform under part B, D,  
23          or G (except for general debt counseling, such  
24          as the exit counseling described in section  
25          485(b));

1           “(G) provided payments or other benefits  
2           to a student at an institution of higher edu-  
3           cation to act as the lender’s representative to  
4           secure applications under this title from indi-  
5           vidual prospective borrowers, unless such stu-  
6           dent—

7                       “(i) is also employed by the lender for  
8                       other purposes; and

9                       “(ii) made all appropriate disclosures  
10                      regarding such employment;”.

11 **SEC. 6. CERTIFICATIONS; CODE OF CONDUCT REGARDING**  
12 **STUDENT LOANS.**

13           Section 487 of the Higher Education Act of 1965 (20  
14 U.S.C. 1094) is amended—

15                      (1) in subsection (a)—

16                              (A) by striking paragraph (6) and insert-  
17                              ing the following:

18                              “(6) The institution will not provide any stu-  
19                              dent with any statement or certification to a lender  
20                              that qualifies the student for a loan or loans in ex-  
21                              cess of the amount that student is eligible to borrow  
22                              in accordance with sections 425(a), 428(a)(2), and  
23                              subparagraphs (A) and (B) of section 428(b)(1) un-  
24                              less—

1           “(A) the loan in question is a private edu-  
2           cational loan as defined under section 151(a);  
3           and

4           “(B) the student does not qualify for the  
5           simplified needs test under section 479 or any  
6           income-contingent simplified version of the Free  
7           Application for Federal Student Aid.”;

8           (B) by redesignating paragraphs (21),  
9           (22), and (23) as (22), (23), and (24), respec-  
10          tively; and

11          (C) by inserting after paragraph (20) the  
12          following:

13          “(21)(A) The institution will establish, follow,  
14          and enforce a code of conduct regarding student  
15          loans that includes not less than the following:

16               “(i) REVENUE SHARING PROHIBITION.—  
17               The institution is prohibited from receiving any-  
18               thing of value from any lender in exchange for  
19               any advantage sought by the lender.

20               “(ii) GIFT AND TRIP PROHIBITION.—Any  
21               employee who is employed in the financial aid  
22               office of the institution, or who otherwise has  
23               responsibilities with respect to student loans or  
24               other financial aid of the institution, is prohib-  
25               ited from taking from any lender any gift or

1 trip worth more than nominal value, except for  
2 reasonable expenses for professional develop-  
3 ment that will improve the efficiency and effec-  
4 tiveness of programs under this title and for do-  
5 mestic travel to such professional development.

6 “(iii) CONTRACTING ARRANGEMENTS.—

7 Any employee who is employed in the financial  
8 aid office of the institution, or who otherwise  
9 has responsibilities with respect to student  
10 loans or other financial aid of the institution,  
11 shall be prohibited from entering into any type  
12 of consulting arrangement or other contract to  
13 provide services to a lender.

14 “(iv) ADVISORY BOARD COMPENSATION.—

15 Any employee who is employed in the financial  
16 aid office of the institution, or who otherwise  
17 has responsibilities with respect to student  
18 loans or other financial aid of the institution,  
19 and who serves on an advisory board, commis-  
20 sion, or group established by a lender or group  
21 of lenders shall be prohibited from receiving  
22 anything of value as compensation from the  
23 lender or group of lenders for serving on such  
24 advisory board, commission, or group, except  
25 that the employee may be reimbursed for rea-

1           sonable expenses incurred in providing such  
2           service.

3                   “(v) LENDER INFORMATION REQUIRE-  
4           MENTS.—The institution—

5                   “(I) will not designate any lender as  
6           a preferred lender for loans under this title  
7           or private educational loans;

8                   “(II) may invite a lender of such  
9           loans to submit to the institution a stand-  
10          ard electronic template that specifies the  
11          rates, services, discounts, and terms and  
12          conditions of the loans, and the lender’s  
13          contact information;

14                   “(III) upon request of a lender inter-  
15          ested in offering loans under this title or  
16          private educational loans to students at the  
17          institution, will provide the lender with the  
18          ability to submit the standard electronic  
19          template described in subclause (II) to the  
20          institution;

21                   “(IV) will make all submitted stand-  
22          ard electronic templates available to cur-  
23          rent and prospective students of the insti-  
24          tution, and the parents of such students;

1           “(V) if such student, or a parent of  
2           such student, requests information on the  
3           lenders that have submitted standard elec-  
4           tronic templates to the institution, will pro-  
5           vide the student or parent with a guide  
6           that—

7                       “(aa) enables students and par-  
8                       ents to do their own evaluation of the  
9                       loan products, benefits, and services  
10                      offered by such lenders; and

11                     “(bb) includes the disclosures re-  
12                     quired under clause (vi).

13                   “(vi) DISCLOSURES.—An institution re-  
14                   quired to make the disclosures under this clause  
15                   will—

16                    “(I) disclose the criteria and process  
17                    used to develop the guide described in  
18                    clause (v)(V) regarding the products of-  
19                    fered by each lender that submitted a  
20                    standard electronic template, as described  
21                    in clause (v)(II);

22                    “(II) disclose which lenders listed in  
23                    the guide have an agreement in place to  
24                    sell the loans of the lender to another lend-  
25                    er; and

1           “(III) provide a notice to the student  
2           that the student has the right to select a  
3           lender of the student’s choosing, regardless  
4           of any information regarding the lender in  
5           the institution’s guide under clause (v) or  
6           whether the lender submitted a standard  
7           electronic template to the institution.

8           “(vii) LENDER SERVICES TO INSTITUTIONS  
9           OF HIGHER EDUCATION.—

10           “(I) Any agent, employee, or inde-  
11           pendent contractor of a lender who is per-  
12           forming any service for the institution shall  
13           disclose the individual’s relationship with  
14           the lender to any students and parents for  
15           whom the individual provides such service.

16           “(II) Any agreement for the perform-  
17           ance of a service by a lender for the insti-  
18           tution shall comply with all applicable  
19           State and institution ethics laws and codes  
20           of ethics.

21           “(viii) INTERACTION WITH BORROWERS.—  
22           The institution will not—

23           “(I) for any first-time borrower, as-  
24           sign, through award packaging or other

1 methods, the borrower's loan to a par-  
2 ticular lender; and

3 “(II) refuse to certify, or, delay cer-  
4 tification of, any loan in accordance with  
5 paragraph (6) based on the borrower's se-  
6 lection of a particular lender or guaranty  
7 agency.

8 “(B) The institution will designate an indi-  
9 vidual who shall be responsible for signing an annual  
10 attestation on behalf of the institution that the insti-  
11 tution agrees to, and is in compliance with, the re-  
12 quirements of the code of conduct described in this  
13 paragraph. Such individual shall be the chief execu-  
14 tive officer, chief operating officer, chief financial of-  
15 ficer, or comparable official, of the institution, and  
16 shall annually submit the signed attestation to the  
17 Secretary.

18 “(C) The institution will make the code of con-  
19 duct widely available to the institution's faculty  
20 members, students, and parents through a variety of  
21 means, including the institution's website.”;

22 (2) by redesignating subsections (d) and (e) as  
23 subsections (e) and (f), respectively; and

24 (3) by inserting after subsection (c) the fol-  
25 lowing:

1       “(d) VIOLATION OF CODE OF CONDUCT REGARDING  
2 STUDENT LOANS.—

3           “(1) IN GENERAL.—Upon a finding by the Sec-  
4 retary, after reasonable notice and an opportunity  
5 for a hearing, that an institution of higher education  
6 that has entered into a program participation agree-  
7 ment with the Secretary under subsection (a) will-  
8 fully contravened the institution’s attestation of  
9 compliance with the provisions of subsection (a)(21),  
10 the Secretary may impose a penalty described in  
11 paragraph (2).

12           “(2) PENALTIES.—A violation of paragraph (1)  
13 shall result in the limitation, suspension, or termi-  
14 nation of the eligibility of the institution for the loan  
15 programs under this title.”.

16 **SEC. 7. TERMINATION OF SCHOOL-AS-LENDER PROGRAM.**

17       Section 435(d) of the Higher Education Act of 1965  
18 (20 U.S.C. 1085(d)) (as amended by section 5) is further  
19 amended—

20           (1) in paragraph (1)(E), by inserting “subject  
21 to paragraph (8),” before “an eligible institution”;  
22 and

23           (2) by adding at the end the following:

24           “(8) SUNSET OF AUTHORITY FOR SCHOOL AS  
25 LENDER PROGRAM.—

1           “(A) SUNSET.—The authority provided  
2           under subsection (d)(1)(E) for an institution to  
3           serve as an eligible lender, and under paragraph  
4           (7) for an eligible lender to serve as a trustee  
5           for an institution of higher education or an or-  
6           ganization affiliated with an institution of high-  
7           er education, shall expire on June 30, 2008.

8           “(B) APPLICATION TO EXISTING INSTITU-  
9           TIONAL LENDERS.—An institution that was an  
10          eligible lender under this subsection, or an eligi-  
11          ble lender that served as a trustee for an insti-  
12          tution of higher education or an organization  
13          affiliated with an institution of higher education  
14          under paragraph (7), before June 30, 2008,  
15          shall—

16               “(i) not issue any new loans in such  
17               a capacity under part B after June 30,  
18               2008; and

19               “(ii) shall continue to carry out the  
20               institution’s responsibilities for any loans  
21               issued by the institution under part B on  
22               or before June 30, 2008, except that, be-  
23               ginning on June 30, 2010, the eligible in-  
24               stitution or trustee may, notwithstanding  
25               any other provision of this Act, sell or oth-

1                   erwise dispose of such loans if all profits  
2                   from the divestiture are used for need-  
3                   based grant programs at the institution.”.

○