

## Calendar No. 113

109TH CONGRESS  
1ST SESSION

# S. 1098

To prevent abuse of the special allowance subsidies under the Federal Family  
Education Loan Program.

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### IN THE SENATE OF THE UNITED STATES

MAY 23, 2005

Mr. KENNEDY (for himself, Mrs. MURRAY, Ms. MIKULSKI, Mrs. CLINTON, Mr. DORGAN, and Mr. DURBIN) introduced the following bill; which was read the first time

MAY 24, 2005

Read the second time and placed on the calendar

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## A BILL

To prevent abuse of the special allowance subsidies under  
the Federal Family Education Loan Program.

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 Abuse  
5       Prevention Act of 2005”.

**1 SEC. 2. PURPOSE.**

2 It is the purpose of this Act to stop ensuring that  
3 lenders in the Federal Family Education Loan Program  
4 continue to receive extraordinary and unnecessary tax-  
5 payer subsidies, to make public college tuition free for fu-  
6 ture mathematics, science, and special education teachers,  
7 and to provide additional assistance to students eligible  
8 to receive a Federal Pell Grant under subpart 1 of part  
9 A of title IV of the Higher Education Act of 1965 (20  
10 U.S.C. 1070a et seq.).

**11 SEC. 3. ENDING THE 9.5 PERCENT GUARANTEED RATE OF  
12 RETURN ON FEDERAL FAMILY EDUCATION  
13 LOANS.**

14 (a) TECHNICAL CORRECTION.—Section 2 of the Tax-  
15 payer-Teacher Protection Act of 2004 (Public Law 108-  
16 409; 118 Stat. 2299) is amended in the matter preceding  
17 paragraph (1) by inserting “of the Higher Education Act  
18 of 1965” after “Section 438(b)(2)(B)”.

19 (b) PROSPECTIVE SPECIAL ALLOWANCES.—

20 (1) IN GENERAL.—Section 438(b)(2)(B) of the  
21 Higher Education Act of 1965 (20 U.S.C. 1087-  
22 1(b)(2)(B)), as amended by the Taxpayer-Teacher  
23 Protection Act of 2004, is amended—

24 (A) in clause (iv), by striking “1993, or re-  
25 funded after September 30, 2004, and before  
26 January 1, 2006, the” and inserting “1993, or

1           refunded on or after the date of enactment of  
2           the Taxpayer-Teacher Protection Act of 2004,  
3           the”; and

4 (B) by striking clause (v) and inserting the  
5 following:

1 of the Taxpayer-Teacher Protection  
2 Act of 2004;

18 (c) PREPAYMENT OF CURRENT LOANS.—

1       438(b)(2)(B) of such Act (20 U.S.C. 1087–  
2       1(b)(2)(B)) that ensures the holder a minimum 9.5  
3       percent rate of return on such loan, by offering the  
4       borrower an incentive, as described in paragraph  
5       (2).

6               (2) INCENTIVE.—Except as provided in para-  
7       graph (3), an incentive to a borrower regarding a  
8       loan for which the holder of the loan is entitled to  
9       a special allowance payment determined under sec-  
10       tion 438(b)(2)(B) of the Higher Education Act of  
11       1965 (20 U.S.C. 1087–1(b)(2)(B)) that ensures the  
12       holder a minimum 9.5 percent rate of return on  
13       such loan, shall take the form of—

14                       (A) an immediate \$1,000 reduction in the  
15       principal of such loan; or

16                       (B) not less than a 1-percent reduction in  
17       the interest rate payments on such loan.

18               (3) EXCEPTION.—The Secretary of Education  
19       shall not offer an incentive under paragraph (2) to  
20       a borrower of a loan described in such paragraph if  
21       offering the incentive will increase the long-term  
22       costs to the Federal Government of such loan.

1 SEC. 4. TUITION-FREE COLLEGE FOR FUTURE MATHE-  
2 MATICS, SCIENCE, AND SPECIAL EDUCATION  
3 TEACHERS.

4 (a) ADDITIONAL AMOUNTS FOR TEACHERS IN MATH-  
5 EMATICS, SCIENCE, AND SPECIAL EDUCATION.—

14 (b) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply only with respect to eligible individ-  
16 uals who are new borrowers on or after October 1, 1998.

17 SEC. 5. INCREASED GRANT AID TO PELL GRANT RECIPI-  
18 ENTS.

19 (a) IN GENERAL.—Any funds available to the Sec-  
20 retary of Education as a result of reduced expenditures  
21 under section 438 of the Higher Education Act of 1965  
22 (20 U.S.C. 1087–1) secured by the enactment of section  
23 3 shall first be used by the Secretary for loan cancellation  
24 and loan forgiveness for teachers under sections 428J and  
25 460 of the Higher Education Act of 1965 (20 U.S.C.  
26 1078–10 and 1087j), as amended by section 4.

## 1       (b) REMAINING FUNDS.—

2               (1) IN GENERAL.—Any such funds remaining  
3       after carrying out subsection (a) shall be used by the  
4       Secretary of Education to make payments to each  
5       nonprofit lender in an amount that bears the same  
6       relation to the remaining funds as the amount the  
7       nonprofit lender receives for fiscal year 2005 under  
8       section 438(b)(2)(B) of the Higher Education Act of  
9       1965 (20 U.S.C. 1087–1(b)(2)(B)) bears to the total  
10      amount received by nonprofit lenders for fiscal year  
11      2005 under such section.

12               (2) DEFINITION OF NONPROFIT LENDER.—In  
13       this subsection, the term “nonprofit lender” means  
14       an eligible lender (as defined in section 435(d) of the  
15       Higher Education Act of 1965 (20 U.S.C. 1085(d))  
16       that—

17                       (A) is an organization described in section  
18       501(c)(3) of the Internal Revenue Code of  
19       1986;

20                       (B) is a nonprofit entity as defined by ap-  
21       plicable State law; and

22                       (C) meets the following requirements:

23                               (i) The nonprofit lender does not con-  
24       fer a salary or benefits to any employee of  
25       the nonprofit lender in an amount that is

4 (ii) The nonprofit lender does not  
5 maintain an ongoing relationship whereby  
6 the nonprofit lender passes on revenue di-  
7 rectly or indirectly through lease,  
8 securitization, resale, or any other financial  
9 instrument to a for-profit entity or to  
10 shareholders.

11 (iii) The nonprofit lender does not  
12 offer benefits to a borrower in a manner  
13 directly or indirectly predicated on such  
14 borrower's participation—

15 (I) in a program under part B or  
16 D of title IV of the Higher Education  
17 Act of 1965 (20 U.S.C. 1071 et seq.  
18 and 1087a et seq.); or

19 (II) with any particular lender.

20 (iv) The nonprofit lender certifies that  
21 the nonprofit lender uses the payment re-  
22 ceived pursuant to paragraph (1) to confer  
23 grant or scholarship benefits to students  
24 who are eligible to receive Federal Pell  
25 Grants under subpart 1 of part A of title

3 (v) The nonprofit lender is subject to  
4 public oversight through either a State  
5 charter or through not less than 50 per-  
6 cent of the nonprofit lender's board of di-  
7 rectors consisting of State-appointed rep-  
8 resentatives.

9 (vi) The nonprofit lender does not en-  
10 gage in the marketing of the relative value  
11 of programs under part B of title IV of the  
12 Higher Education Act of 1965 (20 U.S.C.  
13 1071 et seq.) as compared to programs  
14 under part D of title IV of the Higher  
15 Education Act of 1965 (20 U.S.C. 1087a  
16 et seq.), nor does the nonprofit lender en-  
17 gage in the marketing of loans or pro-  
18 grams offered by for-profit lenders. This  
19 clause shall not be construed to prohibit  
20 the nonprofit lender from conferring basic  
21 information on lenders under part B of  
22 title IV of the Higher Education Act of  
23 1965 (20 U.S.C. 1071 et seq.) and the re-  
24 lated benefits offered by such nonprofit  
25 lenders.

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