

# 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:

6                   “(v) Notwithstanding clauses (i) and  
7                   (ii), the quarterly rate of the special allow-  
8                   ance shall be the rate determined under  
9                   subparagraph (A), (E), (F), (G), (H), or  
10                  (I) of this paragraph, or paragraph (4), as  
11                  the case may be, for loans—

12                          “(I) originated, transferred, or  
13                          purchased on or after the date of en-  
14                          actment of the Taxpayer-Teacher Pro-  
15                          tection Act of 2004;

16                          “(II) financed by an obligation  
17                          that has matured, been retired, or  
18                          defeased on or after the date of enact-  
19                          ment of the Taxpayer-Teacher Protec-  
20                          tion Act of 2004;

21                          “(III) which the special allowance  
22                          was determined under such subpara-  
23                          graphs or paragraph, as the case may  
24                          be, on or after the date of enactment

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

3 “(IV) for which the maturity  
4 date of the obligation from which  
5 funds were obtained for such loans  
6 was extended on or after the date of  
7 enactment of the Taxpayer-Teacher  
8 Protection Act of 2004; or

9 “(V) sold or transferred to any  
10 other holder on or after the date of  
11 enactment of the Taxpayer-Teacher  
12 Protection Act of 2004.”.

13 (2) RULE OF CONSTRUCTION.—Nothing in the  
14 amendment made by paragraph (1) shall be con-  
15 strued to abrogate a contractual agreement between  
16 the Federal Government and a student loan pro-  
17 vider.

18 (c) PREPAYMENT OF CURRENT LOANS.—

19 (1) IN GENERAL.—The Secretary of Education  
20 shall encourage a borrower to consolidate such bor-  
21 rower’s loans under section 428C or 455(g) of the  
22 Higher Education Act of 1965 (20 U.S.C. 1078–3  
23 and 1087e(g)) if 1 or more of such loans is a loan  
24 for which the holder of the loan is entitled to a spe-  
25 cial allowance payment determined under section

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.—

6 (1) FFEL LOANS.—Section 428J(c)(3) of the  
 7 Higher Education Act of 1965 (20 U.S.C. 1078–  
 8 10(c)(3)) is amended by striking “\$17,500” and in-  
 9 serting “\$23,000”.

10 (2) DIRECT LOANS.—Section 460(c)(3) of the  
 11 Higher Education Act of 1965 (20 U.S.C.  
 12 1087j(c)(3)) is amended by striking “\$17,500” and  
 13 inserting “\$23,000”.

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

1 in excess of the salary and benefits pro-  
 2 vided to the Secretary of Education by the  
 3 Department of Education.

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



1 IV of the Higher Education Act of 1965  
2 (20 U.S.C. 1070a et seq.).

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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