

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | <u>FY25</u> | <u>FY26</u> | <u>FY27</u> | <u>3 Year Total Cost</u> | <u>Recurring or Nonrecurring</u> | <u>Fund Affected</u> |
|--------------|-------------|-------------|-------------|----------------------------------|--------------------------------------|-------------------------------------|
| Total | NFI | \$201.5 | NFI | \$201.5 | Recurring | General Fund |
| Total | NFI | NFI | \$403.0 | \$403.0 | Recurring | Student Loan Bill of Rights Fund |

Duplicates/Conflicts with/Companion to/Relates to: HB61 “Unfair Practices Act Changes”
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY House Bill 224 (HB224)

HB224 enacts the Student Loan Bill of Rights Act (“Act”) to regulate student loan servicers and private education lenders that extend private education loans. The bill charges the Director of the Regulation and Licensing Department’s (RLD) Financial Institutions Division (FID) with issuing licenses to student loan servicers and private education lenders in New Mexico. The bill provides for disability discharge upon notification of the total and permanent disability of the borrower and rights for student loan cosigners and their release upon timely loan repayment. The bill further provides that violations of the Act are subject to the enforcement and penalty provisions of the Unfair Practices Act.

The bill also creates an ombud position within the FID to assist student loan borrowers. The ombud’s duties would include reviewing and resolving complaints, educating borrowers on their rights and responsibilities, and monitoring trends in federal, state, and local laws. It further directs the Director of the FID and the ombud to submit annual reports to the Legislature on the implementation and effectiveness of the Act.

FISCAL IMPLICATIONS

HB224 provides for collection of fees from loan servicers to license and regulate their activities. It is unknown whether the fees collected will be sufficient to carry out the provisions in the act. In the event fees are insufficient, there will be an indeterminate recurring cost to the General Fund.

The FID will require an additional three (3) full-time equivalent (FTE) positions to carry out the newly assigned duties under HB224: The statutorily implemented new ombud position and two (2) financial examiners. The FID believes the clerical duties related to the licensing actions created under HB224 can be absorbed without any immediate addition to the FID’s licensing staff, but given the uncertainty of the number of applicants, the FID may find it necessary to add to licensing staff in the future. Salary and benefits, along with operational expenses, are projected to be \$403.0 thousand per year for the three (3) new positions that will be required to carry out the new responsibilities put on the FID by the bill. For the first year of operation, prior to the receipt of licensing fees revenues, these positions and costs will need to be funded from the General Fund. It is anticipated these positions and operating costs, after a year of collecting licensing fees credited to the newly created nonreverting fund, will thereafter be paid from the

nonreverting fund.

The RLD reports no projected budget impact in FY25 due to the bill going into effect at the halfway point of FY26. Therefore, the three-year cost indicated in the table (above) only accounts for half of FY26 and all of FY27. A true three-year cost would be approximately \$1.21 million.

HB224 creates the student loan bill of rights fund as a nonreverting fund administered by the division. The fund consists of fees collected by the division pursuant to the new act and money that is appropriated or donated, or that otherwise accrue to the fund, including investment income. Money in the fund is appropriated to the division to carry out the provisions of the Act.

Revenue projections are indeterminate because the number of loan servicers impacted is unknown. Student loan servicers are currently not required to license or register in New Mexico.

The bill directs the creation of a student loan ombud. The FID reports student loan servicers under contract with the U.S. Department of Education are required to have an ombudsman office to address borrower concerns. The largest private, nonprofit student loan servicer in New Mexico, the New Mexico Educational Assistance Foundation, maintains a hotline for student concerns.

SIGNIFICANT ISSUES

HB224 exempts banks, credit unions, and their wholly owned subsidiaries from the provisions of the Act. This could exempt a sizable amount of privately held student loans from the provisions of the Act and leave these borrowers with limited avenues of dispute resolution.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

The RLD will administer provisions in the act including creating a new student loan ombud position at FID. This position will take and investigate complaints, provide information to the public about services, disseminate reports and statistics about student loans, and develop a student loan borrower education course funded through fees. The ombud is required to work collectively with the New Mexico Department of Justice and the New Mexico Higher Education Department (HED) to assist and educate student loan borrowers and the public. The Director of the FID is required to furnish a report annually concerning lending and servicing activities of licensees.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Language in the bill relates to HB61 “Unfair Practices Act Changes” in that it defines an “unfair or deceptive trade practice” as violations of Sections 10 (Student Loan Servicers – Prohibited Acts) or Section 17 (Private Education Lenders – Prohibited Acts) of the Act.

TECHNICAL ISSUES

The “private education lender” or “lender” in the bill means any person engaged in the business of securing, making or extending private education loans or any holder of a private education loan.” It is not clear if a holder of a private education loan includes the holder of a tranche or portion of private student loans when the loans are packaged and sold on the secondary market. Consideration should be given to further clarifying the definition of a holder to exclude non-servicing investors in loans covered by the Act.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Borrowers will continue to have access to similar ombuds through the federal Consumer Financial Protection Bureau, federal student loan servicing contractors, the New Mexico Educational Assistance Foundation, and a hotline maintained by HED.

AMENDMENTS