FISCAL IMPACT REPORT

SPONSOR	Chandler/Hochman-Vigil/ Roybal Caballero	**LAST UPDATED**	2/9/2024
		ORIGINAL DATE	1/23/2024
SHORT TITLE	Student Loan Bill Of Rights Act	**BILL NUMBER**	House Bill 71/aHCEDC
		ANALYST	Hanika-Ortiz

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

Agency/Program	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
RLD/FID	No fiscal impact	Up to $285.0	Up to $570.0	Up to $855.0	Recurring	Other state funds
RLD/FID	No fiscal impact	Up to $285.0	Indeterminate but minimal	Up to $300.0	Recurring	General Fund

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From
Higher Education Department (HED)
Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of HCEDC Amendment to House Bill 71

The House Commerce and Economic Development Committee amendment to House Bill 71 changes the dates for licensing renewal applications from being due on or before November 1 of the year in which the license expires to being due beginning on November 1 and before December 31. Renewal applications filed before December 31 would not be considered late and applications would be accepted up until March of the following year if accompanied by a $100 late fee.

Synopsis of Original House Bill 71

House Bill 71 (HB71) 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 Financial Institutions Division (FID) at RLD with issuing licenses to student loan servicers and private education lenders and provides for discharge of loans in cases of permanent disability. Violations of the act are subject to the enforcement and penalty provisions of the Unfair

Practices Act. The bill creates an ombudsperson to assist student loan borrowers, whose duties include reviewing and resolving complaints, educating borrowers on their rights and responsibilities, and monitoring trends in federal, state, and local laws. It further directs FID and the new ombudsperson to submit annual reports to the Legislature on the implementation and effectiveness of the act.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, or May 15, 2024, if enacted.

FISCAL IMPLICATIONS

HB71 creates the student loan bill of rights fund as a nonreverting fund administered by the Financial Institutions Division (FID) at RLD. The fund will consist of fees revenues collected by the division and money that is appropriated or donated or that otherwise accrues to the fund.

This bill creates a new fund and provides for continuing appropriations. LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds because it reduces the ability of the Legislature to establish spending priorities.

HB71 provides for collection of fees from loan servicers to license and regulate their activities. The FID is not clear whether fees will be sufficient because the number of loan servicers impacted are unknown. Student loan servicers are not required to license or register in New Mexico.

The FID reports it will need four FTE to carry out the newly assigned duties: the new ombudsperson position, two examiners, and one licensing specialist position. Salary and benefits, along with operational expenses, are $569.9 thousand per year. For the first year of operation, prior to the receipt of licensing fees, these costs will likely require a supplemental appropriation.

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. According to FID, 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 market.

SIGNIFICANT ISSUES

HB71 creates a Student Loan Ombuds Office within FID. According to HED, the establishment of this office suggests the legislation is intended to address private student loans and loan servicers. The bill does not make a distinction between private vs. public loans (e.g., state and federal loans).

Furthermore, HED notes, HB71 exempts banks, credit unions, and their wholly-owned subsidiaries from the provisions of the act. This exemption represents a significant proportion of privately held student loans and could leave these borrowers with limited avenues of dispute resolution.

HED explains:

> HB71 directs the student loan ombuds to interface with the public on matters regarding student loans without reference to the type of loan the borrower may carry. The United States Department of Education (USDOE) ombuds group provides borrower services for all federal student loans. All student loan servicers under contract from the USDOE servicing legacy Federal Family Educational Loans (FFEL) are required to have an ombuds office that serves as the primary point of contact for borrowers and their concerns, and in practice, all servicers under contract with USDOE maintain such an office. The largest private, nonprofit student loan servicer in New Mexico, the New Mexico Educational Assistance Foundation (NMEAF), also maintains an Office of the Ombuds.
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> HED maintains student loan-for-service and loan repayment programs pursuant to 21-21-1 NMSA et. seq. (student loans). The HED Student Financial Aid Division also maintains a hotline for students with concerns regarding any aspect of student financial aid.

ADMINISTRATIVE IMPLICATIONS

RLD will create a student ombudsperson position at FID. This position will 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 ombudsperson is required to work collectively with the New Mexico Attorney General and HED to assist and educate student loan borrowers and the public. The director of FID will be required to furnish a report annually, including on lending and servicing activities of the licensees.

TECHNICAL ISSUES

FID provided the following potential conflict and suggested an amendment:

> The FID utilizes the Nationwide Multistate Licensing System and Registry (NMLS) for the licensing of several financial industries regulated by the FID. The bill allows use of the NMLS to conduct licensing applications and process activities for the licensing of student loan servicers. Utilization of the NMLS for licensing purposes would allow for efficiency and cost savings. However, page 13, lines 4-9 note the renewal of applications shall be filed on or before November 1 of the year in which the license expires. It further notes applications filed between November 1 and before December 31 must be accompanied by a $100 late fee. To be compatible with the NMLS system, the licensing period should begin November 1 and not be considered late until after December 31.

This issue is addressed by the HCEDC amendment.

OTHER SUBSTANTIVE ISSUES

HED provided the following background:

> Private student loans are federally regulated consumer loans offered to borrowers to fund undergraduate, graduate, and other forms of postsecondary education. Under Regulation Z (12 CFR 1026.46(b)(5)), a private education loan means an extension of credit that:

- Is not made, insured, or guaranteed under Title IV of the Higher Education Act (20 USC 1070 et seq.);
- Is extended to a consumer expressly, in whole or in part, for postsecondary educational expenses, regardless of whether the loan is provided by the educational institution that the student attends;
- Does not include open-end credit or any loan that is secured by real property or a dwelling; and
- Does not include an extension of credit in which the covered educational institution is the creditor if the term of the extension of credit is 90 days or less; or an interest rate will not be applied to the credit balance and the term of the extension of credit is one year or less, even if the credit is payable in more than four installments.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

RLD/FID advises that borrowers will continue to have access to similar ombuds programs through the federal Consumer Financial Protection Bureau, federal student loan servicing contractors, the NMEAF, and the hotline maintained by HED.

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