

N/A	N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	N/A	N/A	N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

N/A

Duplicates/Relates to Appropriation in the General Appropriation Act:

N/A

SECTION III: NARRATIVE

BILL SUMMARY

HB71 relates to student loans and state financial institutions, creating the Student Loan Bill of Rights Act. It charges the Director of the Financial Institutions Division of the Regulation and Licensing Department (RLD) to issue a license to any person wishing to act as a student loan servicer within the State of New Mexico and provides for the assessment of fees to provide for the provisions within the Act. The legislation directs RLD to designate an Ombuds within the division whose purpose is to provide assistance to student loan borrowers, including reviewing and resolving complaints; analyzing data and trends in student accounts; educating borrowers on their rights and responsibilities; and monitoring trends in federal, state and local laws. It further directs the Director and Ombuds to submit annual reports to the Legislature addressing the implementation and effectiveness of the Act.

The New Mexico Higher Education Department (NMHED) analysis of this bill focuses on the higher education implications of the proposed legislation. Additional insight may be obtained from other agencies' analyses.

FISCAL IMPLICATIONS

HB71 provides for the collection of fees from loan servicers for approval to operate within the state. It creates a fund within the state treasury but it is unknown whether the fees collected will

be sufficient to carry out the provisions of the legislation and if those fees are intended to support the activities of the ombuds' office.

SIGNIFICANT ISSUES

New Mexico citizens have historically carried lower levels of student debt. In FY23, New Mexico students accumulated one hundred and sixty-four million dollars (\$164,000,000) in student loan debt. New Mexico is able to continue lower debt trends due to the free tuition and fees initiative for student pursuing an undergraduate degree seeking program or certificate.

HB71 creates a Student Loan Ombuds Office within the Financial Institutions Division of the RLD. The establishment of this office within the Financial Institutions Division of RLD would suggest that the legislation is intended to address private student loans and loan servicers. However, the legislation does not make any distinction between private vs. public loans (e.g., state and federal loans) or the profit status of loan servicers.

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 from the legislation and could leave these borrowers with limited avenues of dispute resolution.

Some private colleges and universities offer in-house, private student loans which would presumably be subject to the provisions of this Act. The New Mexico Higher Education Department (NMHED) Private and Proprietary Schools Division does not currently collect data on in-house loans and is unaware of any institutions licensed in New Mexico that offer such loans. See Other Substantive Issues below.

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. Creating this position may be duplicative as 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.

The NMHED maintains several student Loan-For-Service and loan repayment programs pursuant to 21-21-1 NMSA et. seq. (Student Loans). The NMHED Student Financial Aid Division maintains a hotline for students with concerns regarding any aspect of student financial aid, including but not limited to the Department's financial aid programs. When unable to resolve the issue internally, NMHED staff forward the student's concerns to the proper regulatory authority.

HB71 defines student loan servicer as a person engaged in the business of servicing of student education loans to a student loan borrower.

Loan servicers authorized by the USDOE to service federal loans automatically qualify for a license to operate in New Mexico under the provisions of the legislation.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

HB71 directs RLD to administer the provisions of the legislation.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

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.

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

No legislation for a Student Loan Bill of Rights Act will be created.

AMENDMENTS

N/A