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**REVISED
FISCAL NOTE**

(replaces fiscal note dated February 6, 2019)

Drafting Number: LLS 19-0482
Prime Sponsors: Sen. Winter; Fenberg

Date: February 25, 2019
Bill Status: Senate Finance
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Bill Topic: REGULATE STUDENT EDUCATION LOAN SERVICERS

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill requires entities that service student loans to be licensed by the Department of Law and creates the Student Loan Ombudsperson to assist student loan borrowers. This bill will increase state revenue and expenditures beginning in FY 2019-20.

Appropriation Summary: For FY 2019-20, the bill requires an appropriation of \$211,333 to the Department of Law.

Fiscal Note Status: The fiscal note reflects the introduced bill, as amended by the Senate Education Committee.

**Table 1
State Fiscal Impacts Under SB 19-002**

		FY 2019-20	FY 2020-21
Revenue	Cash Funds	\$280,000	\$280,000
	Total	\$280,000	\$280,000
Expenditures	General Fund	\$115,273	-
	Cash Funds	\$96,060	\$209,388
	Centrally Appropriated	\$65,810	\$69,034
	Total	\$277,143	\$278,422
Total FTE		2.8 FTE	3.0 FTE
Transfers		-	-
TABOR Refund	General Fund	\$280,000	-

Summary of Legislation

This bill requires student loan servicers to obtain a license from the Administrator of the Uniform Consumer Credit Code in the Department of Law. The bill also establishes the Student Loan Ombudsperson to provide assistance to student loan borrowers by responding to complaints, analyzing data, and creating education materials and courses.

Student loan servicer licenses. The new licensure requirement applies to any entity seeking to act in the state as a student loan servicer. The bill specifies application requirements, including that financial statements and criminal histories of the applicant and associates be submitted with the application. The administrator must investigate the financial condition, business expertise, character, and general fitness of the applicant. Federal student loan servicing contractors are exempt from the application requirements and, upon payment of fees, will automatically be issued a license.

The department is required to collect an initial licensing fee of at least \$1,000 and establish an inspection fee by rule. A late application fee may also be imposed. Licenses must be renewed annually. The licensee must provide written notice to the department if surrendering a license.

Student loan servicers are required to keep records for each student loan transaction for at least two years following the final loan payment, and provide these records upon request of the department. Except as otherwise provided in agreements or contracts, student loan servicers are required to respond to written inquiries within 30 days, communicate with the borrower about the application of nonconforming payments, and make other communications as outlined in the bill.

Student loan servicers are prohibited from defrauding or misleading borrowers, omitting material information, misapplying student loan payments, providing inaccurate information to a credit bureau, and failing to evaluate a borrower for an income-based repayment program where available, among other requirements. The administrator has the authority to conduct investigations; may direct, subpoena, or order the attendance of and examine under oath any person whose testimony or records may be required; and may suspend, revoke, or refuse to renew a license. Any violation is a deceptive trade practice, subject to penalties equal to the sum of actual damages sustained by the borrower; a monetary award equal to three times the amount the servicer collected from the borrower; punitive damages, where the court allows; and, in certain cases, the costs of the action and reasonable attorney fees.

Student Loan Ombudsperson. The ombudsperson will primarily work to receive, review, and attempt to resolve borrower complaints and collect related data. The role is also responsible to provide public information related to rights and responsibilities under the terms of student loans, and provide an education course. The ombudsperson must annually report to the General Assembly by January 1 of each year through 2023.

Student Loan Ombudsperson and Student Loan Servicer Licensing Fund. The bill creates the Student Loan Ombudsperson and Student Loan Servicer Licensing Fund for the purpose of supporting the licensing program and ombudsperson's office. The fund is to consist of licensing and investigation fees, interest earnings, and any other money appropriated by the General Assembly to the fund. The fund is continuously appropriated to the Department of Law.

State Revenue

Beginning in FY 2019-20, state cash fund revenue to the Student Loan Ombudsperson and Student Loan Servicer Licensing Fund from fees charged to student education loan servicers is expected to increase by approximately \$280,000 per year, as shown in Table 2. This revenue is subject to TABOR. This estimate is based on the assumption that 35 entities will be licensed each year under the bill. In addition, state General Fund revenue may increase to the extent that lenders are penalized for deceptive trade practices.

Fee impact on student education loan servicers. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee amounts are estimates only, actual fees will be set administratively by the Department of Law based on cash fund balance, actual program costs, and the actual number of licensees subject to the fee. The table below identifies the fee impact of this bill.

**Table 2
Fee Impact on Student Education Loan Servicers**

Fiscal Year	Type of Fee	Proposed Fee	Number Affected	Total Fee Impact
FY 2019-20	Annual license fee	\$1,000	35	\$35,000
	Annual inspection fee	\$7,000	35	\$245,000
FY 2019-20 Total				\$280,000
FY 2020-21	Annual license fee	\$1,000	35	\$35,000
	Annual inspection fee	\$7,000	35	\$245,000
FY 2020-21 Total				\$280,000

Penalties. To the extent that the Attorney General or district attorneys pursue actions related to the deceptive trade practice, fine revenue to the General Fund will increase. The precise impact to the state cannot be determined.

State Expenditures

This bill will increase state expenditures for the Department of Law by \$277,143 and 2.8 FTE in FY 2019-20 and by \$278,422 and 3.0 FTE in FY 2020-21 and future years. Expenditures in FY 2019-20 assume an earlier start date than permitted under the current version of the bill; see Technical Note. Until licensing fees are collected, the fiscal note assumes General Funds will be required for the first six months of implementation. From February 2020 on, these costs will be paid from the Student Loan Ombudsperson and Student Loan Servicer Licensing Fund. Expenditures are shown in Table 3 and discussed below.

Table 3
Expenditures Under SB 19-002

	FY 2019-20	FY 2020-21
Department of Law		
Personal Services	\$175,940	\$191,934
Operating Expenses and Capital Outlay Costs	\$19,649	\$5,730
Inspection-related Travel	\$15,744	\$11,724
Centrally Appropriated Costs*	\$65,810	\$69,034
Total Cost	\$277,143	\$278,422
Total FTE	2.8 FTE	3.0 FTE

* Centrally appropriated costs are not included in the bill's appropriation.

Department of Law. The department will have three main responsibilities under the bill: licensing student loan servicers, supporting the newly created ombudsman position, and prosecuting deceptive trade practices as appropriate.

Licensing. The department will adopt rules for the new license requirement, set up application and renewal procedures, review applications, inspect applicant's financial conditions, and conduct annual licensing exams for an estimated 35 licensees. This workload is expected to require 0.5 FTE Financial and Credit Examiner and 0.5 FTE Compliance Specialist. First year costs assume an August start date and reflect standard operating expenses and capital outlay costs, with the addition of a cell phone plan. Inspection-related travel costs include hotel, mileage, and per diem reimbursement for five days of travel per month.

Ombudsperson. The ombudsperson will respond to inquiries and complaints, create and implement an education course, and engage in public outreach. Assuming that the each inquiry will require approximately 2 hours of research and outreach, and that the ombudsperson will hear from 0.5 percent of individuals with a student loan in the state, the workload will also necessitate an additional 1.0 FTE Administrative Assistant. First-year costs assume an August 2019 start date and reflect standard operating expenses and capital outlay costs, with the addition of a cell phone plan.

Deceptive trade practice. Workload in the Attorney General's office may increase to the extent that deceptive trade practice complaints are filed under the bill. The office will review complaints under the bill within the annual body of deceptive trade practice complaints and assess which complaints to investigate.

Judicial Department. To the extent that number of filings for deceptive trade practice increase, workload in the Judicial Department will also increase. This impact is expected to be minimal and can be accomplished within existing appropriations.

TABOR refunds. The bill increases state cash fund revenue from licensing and inspection fees by \$280,000 per year, which will increase the amount of money required to be refunded under TABOR for FY 2019-20. Under current law and the December 2018 forecast, the bill will correspondingly increase the amount refunded to taxpayers via sales tax refunds on income tax returns for tax year 2020. The state is not expected to collect a TABOR surplus in FY 2020-21.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$65,810 in FY 2019-20 and \$69,034 in FY 2020-21.

Technical Note

The bill takes effect January 1, 2020, and requires issuance of licenses by January 31 of each year, which is a limited time frame for a new licensing program to be implemented. The fiscal note assumes that the Department of Law will begin implementation on August 1, 2019, as it would with a standard referendum clause. If an amendment to this effect is not adopted, the fiscal note will be revised to assume that licensure of loan servicers will begin at a later date than January 31, which will shift the implementation timeline and reduce costs in the first year.

The newly created cash fund will not have licensing revenue to appropriate to the expenditures under the bill until the licensing program is in effect. The fiscal note assumes General Fund will be required for six months during the program implementation period.

Effective Date

The bill takes effect January 1, 2020, if no referendum petition is filed, and applies to conduct occurring on or after this date.

State Appropriations

For FY 2019-20, the bill requires an appropriation of \$211,333 to the Department of Law and an allocation of 2.8 FTE. Of this amount, \$115,273 is appropriated from the General Fund, and \$96,060 is appropriated from the Student Loan Ombudsperson and Student Loan Licensing Fund.

State and Local Government Contacts

Higher Education
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Information Technology
Personnel