SB 21-057

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number:	LLS 21-0483	**Date:**	March 02, 2021
Prime Sponsors:	Sen. Winter; Gonzales	**Bill Status:**	Senate Education
		Fiscal Analyst:	Sonia Hatfield | 303-866-5851 Sonia.Hatfield@state.co.us

Bill Topic: **PRIVATE LENDERS OF STUDENT LOANS ACTS & PRACTICES**

Summary of Fiscal Impact:

☒ State Revenue
☒ State Expenditure
☐ State Transfer
☐ TABOR Refund
☒ Local Government
☐ Statutory Public Entity

This bill adds private lenders, creditors, and collection agencies connected with student loans to the Colorado Student Loan Servicers Act. This bill will increase state and local revenue and expenditures beginning in FY 2021-22.

Appropriation Summary: For FY 2021-22, the bill requires an appropriation of $83,838 to the Department of Law.

Fiscal Note Status: This fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under SB 21-057

		Budget Year FY 2021-22	Out Year FY 2022-23
Revenue	Cash Funds	$112,500	$112,500
	Total Revenue	**$112,500**	**$112,500**
Expenditures	Cash Funds	$83,838	$77,638
	Centrally Appropriated	$25,705	$31,654
	Total Expenditures	**$109,543**	**$109,292**
	Total FTE	**1.0 FTE**	**1.0 FTE**
Transfers		-	-
TABOR Refund		-	-

Summary of Legislation

This bill expands the Colorado Student Loan Servicers Act to include requirements for private lenders, creditors, and collection agencies related to higher education loans. It also increases protections for borrowers and cosigners.

Oversight and regulation. Beginning September 1, 2021, private lenders must register with the Department of Law (DOL) and annually provide certain information on their loans. The bill requires that these lenders abide by requirements related to flexible payment options, disclosures to potential borrowers, record retention, and advertisements, among other requirements. The Ombudsperson must provide education and data on private lenders to the public, and respond to and investigate complaints.

Borrower and cosigner protections. The bill provides legal recourse for borrowers and cosigners who are harmed by predatory acts and practices, and:

- requires lenders to release loan cosigners from repayment in certain situations;
- gives cosigners more rights in accessing information on the loan;
- expands the situations in which disability discharge requirements may release either borrowers or cosigners from repayment;
- prohibits "robo-signing" of documents used in collection lawsuits and requires certain evidence before allowing a loan creditor or collection agency to start legal proceedings;
- prohibits auto defaults, where a loan is declared immediately due upon the death or bankruptcy of the cosigner.

Violations and enforcement. A violation of this new section is defined as a deceptive trade practice under the Colorado Consumer Protection Act. The department may impose penalties on private education lenders and collection agencies that do not comply with the certain requirements, including barring them from operation or ordering a rescission of a loan if the lender fails to register. Violating such a rescission order is a misdemeanor.

Background

Private loans currently make up an estimated 8 percent of all student loans, nearly $130 billion nationally. Colorado borrowers currently owe an estimated $9.1 billion in private student loan debt.

Comparable Crime Analysis

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of an existing crime. This section outlines data on crimes comparable to the offense in this bill and discusses assumptions on future rates of criminal conviction for those offense.

Prior conviction data and assumptions. This bill creates the new offense for a violation of a private educational loan rescission order, a misdemeanor. To form an estimate on the prevalence of this new crime, the fiscal note analyzed the existing offense of promoting a pyramid promotional scheme as a comparable crime. From 2018-2020, zero offenders have been sentenced and convicted for this existing offense; therefore, the fiscal note assumes that there will be minimal or no additional case filings or convictions for the new offense under the bill. Because the bill is not expected to have a tangible impact on criminal justice-related expenditures or revenue at the state or local levels, these potential impacts are not discussed further in this fiscal note.

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Assumptions

The Student Loan Ombudsperson currently has 3.0 FTE to oversee federally backed loans, which make up 92% of student loans. Last year the office licensed 33 entities as student loan servicers in Colorado, and they received 44 complaints. As private lenders do not have the same reporting requirements under federal consumer financial laws as federally backed lenders, it is assumed that a greater amount of oversight will be required for the regulation of private student loan servicers compared to federally backed loans. Due to these factors and the nationwide growth in private student loan origination, this fiscal note assumes a higher rate of complaints and investigations than the office currently receives.

State Revenue

This bill will increase state cash fund revenue to the Student Loan Servicer Licensing Cash Fund in DOL by $112,500 annually beginning in FY 2021-22. This revenue is from registration fees and is subject to TABOR. In addition, state General Fund revenue may increase to the extent that lenders are penalized for deceptive trade practices.

Fee impact on private student 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, based on an assumed 25 entities each year. Actual fees will be set administratively by DOL based on cash fund balance, actual program costs, and the estimated number of regulated bodies subject to this fee. The table below identifies the fee impact of this bill based on the assumed number of private student loan servicers that will be registered and the costs identified in the State Expenditures section below.

Table 2
Fee Impact on Private Student Education Loan Servicers

Fiscal Year	Type of Fee	Estimated Fee	Number Affected	Total Fee Impact
FY 2021-22	Annual Registration Fee	$4,500	25	$112,500
FY 2022-23	Annual Registration Fee	$4,500	25	$112,500

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

The bill increases costs in DOL by $109,543 in FY 2021-22 and $109,292 in FY 2022-23, paid from the Student Loan Servicer Licensing Cash Fund, as shown in Table 3. The bill may also increase workload and costs for the Judicial Branch. These impacts are discussed below.

Table 3
Expenditures Under SB 21-057

	FY 2021-22	FY 2022-23
Department of Law		
Personal Services	$76,288	$76,288
Operating Expenses	$1,350	$1,350
Capital Outlay Costs	$6,200	-
Centrally Appropriated Costs[1]	$25,705	$31,654
Total Cost	**$109,543**	**$109,292**
Total FTE	**1.0 FTE**	**1.0 FTE**

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

Department of Law. The Student Loan Servicer division will require one additional staff member (1.0 FTE) to register private education lenders and ensure lenders, creditors, and collection agencies entities abide by the bill's requirements. The division will make data on private lenders publicly available, respond to inquiries and investigate complaints, and handle any deceptive trade practices.

Judicial Department. To the extent that more civil cases are filed, workload for the trial courts will increase. This workload increase can be accomplished within existing appropriations.

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 $25,705 FY 2021-22 and $31,654 in FY 2022-23.

TABOR refunds. Under the December 2020 Legislative Council Staff Economic and Revenue forecast, the state is not expected to collect revenue above the TABOR limit in either FY 2021-22 or FY 2022-23, and refund obligations are not anticipated for these years. This bill does not change these expectations concerning refunds to taxpayers.

Local Government

Similar to the state, to the extent that there is an increase in the number of civil case filings, costs and workload may increase for the district attorneys. The number of case filings is expected to be minimal.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature. It applies to conduct occurring on or after the bill takes effect, including collection of debts from loans issued prior to the bill's effective date.

State Appropriations

For FY 2021-22, the bill requires an appropriation of $83,838 and 1.0 FTE from the Student Loan Servicer Licensing Cash Fund to the Department of Law.

State and Local Government Contacts

Counties	District Attorneys	Higher Education
Judicial	Municipalities	Information Technology
Law	Personnel	Regulatory Agencies