

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 867 Student Loan Debt

**SPONSOR(S):** Education Committee' Higher Education Appropriations Subcommittee; Leek and others

**TIED BILLS:** None **IDEN./SIM. BILLS:** CS/SB 396

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Post-Secondary Education Subcommittee	12 Y, 0 N	McAlarney	Bishop
2) Higher Education Appropriations Subcommittee	13 Y, 0 N, As CS	Butler	Lloyd
3) Education Committee	18 Y, 0 N, As CS	McAlarney	Hassell

### SUMMARY ANALYSIS

This bill requires a postsecondary education institution that disburses state financial aid to annually provide students with information regarding their student loans. The term "student loans" is defined as federal loans offered to a student to pay for education-related expenses.

A postsecondary education institution must provide:

- An estimate of:
  - The student's total amount of borrowed student loans,
  - The student's total potential loan repayment amount, including principal and interest, for the total amount of borrowed student loans,
  - The student's monthly loan repayment amounts for the total amounts of borrowed student loans at the time the institution provides the required student loan information, and
  - The percentage of the borrowing limit that the student has reached at the time the information is provided.

An institution is indemnified and does not incur liability for providing loan information to a student.

Current Federal law requires post-secondary institutions to provide entrance and exit counseling to every student who has Federal student loans. This counseling includes providing the debt, repayment and borrowing limit information required in the bill. The National Student Loan Data System maintains information on Federal student loans. The bill requires postsecondary institutions that disburse state financial aid to annually provide students with information about their federal student loans. It is unknown whether the additional requirement of annual notifications will significantly increase institutions' workloads. Universities and colleges may not have adequate staffing and information technology capabilities to fulfill the requirements of the bill; however, the potential costs to institutions are indeterminate.

The bill has an effective date of July 1, 2017.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

Students attending Florida colleges, universities, and other postsecondary institutions receive financial aid from a plethora of private and public sources including the federal government, state government, postsecondary education institutions, private individuals, corporations, and non-profits. The aid is used to pay education-related expenses.<sup>1</sup>

Federal aid includes grants, loans, and work-study programs.<sup>2</sup> Federal grant aid is generally not required to be repaid unless, for instance, a student withdraws and owes a refund.<sup>3</sup> Federal loans are borrowed money for postsecondary education that must be repaid, with interest.<sup>4</sup> A student may participate in a federal work-study program through which he or she earns money to assist with the costs of higher education.<sup>5</sup>

Florida provides financial assistance programs through state grants and scholarship programs.<sup>6</sup> Postsecondary education institutions also offer financial aid from their own institutional funds.<sup>7</sup> In addition, students may seek aid in the form of scholarships or grants from a nonprofit or private organization to assist with the costs of higher education,<sup>8</sup> which are generally not required to be repaid. Finally, students may borrow funds from private loan sources to pay for higher education.<sup>9</sup>

##### Federal Student Loans

The U.S. government offers loans to eligible students for the purpose of assisting with the costs of higher education.<sup>10</sup> A direct loan is a federal student loan, through the William D. Ford Federal Direct Loan Program, for which eligible students and parents borrow directly from the U.S. Department of Education at participating schools.<sup>11</sup> Direct loans include the following four types of loans:<sup>12</sup>

- Direct subsidized loans - loans to eligible undergraduate students who demonstrate financial need to help cover the costs of higher education;
- Direct unsubsidized loans - loans to eligible undergraduate, graduate, and professional students that are not need-based;
- Direct PLUS loans - loans to graduate or professional students and parents of dependent undergraduate students to help pay for educational expenses not covered by other financial aid; and
- Direct consolidation loans - allow student borrowers to combine all eligible federal student loans into a single loan with a single loan servicer.

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<sup>1</sup> U.S. Department of Education, *Types of Aid*, <https://studentaid.ed.gov/sa/types> (last visited Mar. 14, 2017).

<sup>2</sup> U.S. Department of Education, *Types of Aid*, <https://studentaid.ed.gov/sa/types> (last visited Mar. 14, 2017).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> Florida Department of Education, Office of Student Financial Assistance, *State Scholarships and Grant Programs*, <http://www.floridastudentfinancialaid.org/SSFAD/home/uamain.htm> (last visited Mar. 14, 2017).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> 34 C.F.R. section 668.

<sup>11</sup> 34 C.F.R. section 685.100.

<sup>12</sup> *Id.*

The U.S. Department of Education also offers the federal Perkins loan program, a school-based loan program for undergraduates and graduate students with exceptional financial need.<sup>13</sup> The school is the lender of Perkins loans and the loan amount is capped.<sup>14</sup>

### ***Free Application for Federal Student Aid***

An eligible student who wishes to receive federal loans is required to annually complete and submit a Free Application for Federal Student Aid (FAFSA).<sup>15</sup> The postsecondary education institution at which the student is enrolled receives the FAFSA and is responsible for distributing the loan award letter, which specifies the amount of loan that the student is eligible for at the school and provides instructions on how to accept all or part of the loan.<sup>16</sup> Students who borrow federal student loans may visit the My Federal Student Aid website to view information about the federal student loans they have borrowed.<sup>17</sup> This website provides students with access to their total loan obligations, repayment calculators, information regarding loan servicers, and other data related to federal student loans.<sup>18</sup>

### ***Borrowing Limit***

The federal government limits the amount in subsidized and unsubsidized loans that a student may borrow each academic year (annual loan limits) and the total amount the student may borrow for undergraduate and graduate study (aggregate loan limits).<sup>19</sup> The actual loan amount a student is eligible to receive may be less than the annual loan limit depending on the year of study and whether or not the student is a dependent or independent student.<sup>20</sup> The student's FAFSA determines whether the student is considered dependent or independent.<sup>21</sup> The FAFSA questions that determine dependency status change annually.<sup>22</sup>

A student who reaches the aggregate loan limit is not eligible to receive additional loans, unless the student first makes a payment that reduces his or her outstanding loan debt below the aggregate loan limit.<sup>23</sup> The student may then borrow up to the amount of his or her remaining eligibility under the aggregate loan limit after his or her outstanding loan limit is within the aggregate loan limit established by the federal government.<sup>24</sup>

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<sup>13</sup> 34 C.F.R. section 674.1.

<sup>14</sup> 34 C.F.R. section 674.12.

<sup>15</sup> 34 C.F.R. section 685.201.

<sup>16</sup> U.S. Department of Education, *Student Loan Types*, <https://studentaid.ed.gov/sa/types/loans/subsidized-unsubsidized#how-much> (last visited Mar. 14, 2017).

<sup>17</sup> U.S. Department of Education, *Understanding Repayment*, <https://studentaid.ed.gov/sa/repay-loans/understand/servicers> (last visited Mar. 14, 2017).

<sup>18</sup> U.S. Department of Education, *My Federal Student Aid*, <https://studentaid.ed.gov/sa/?login=true> (last visited Mar. 14, 2017).

<sup>19</sup> U.S. Department of Education, *Student Loan Types*, <https://studentaid.ed.gov/sa/types/loans/subsidized-unsubsidized#how-much> (last visited last visited Mar. 14, 2017).

<sup>20</sup> *Id.*

<sup>21</sup> U.S. Department of Education, *Filling out the FAFSA*, <https://studentaid.ed.gov/sa/fafsa/filling-out/dependency#dependent-or-independent> (last visited Mar. 14, 2017).

<sup>22</sup> *Id.*

<sup>23</sup> U.S. Department of Education, *Student Loan Types*, <https://studentaid.ed.gov/sa/types/loans/subsidized-unsubsidized#how-much> (last visited Mar. 14, 2017).

<sup>24</sup> *Id.*

## **Loan Disclosure Requirements**

Federal law requires that every postsecondary education institution eligible to participate in the federal loan programs must provide student borrowers with entrance counseling prior to the initial disbursement of federal funds.<sup>25</sup> Specifically, federal loan entrance counseling must include the following information:<sup>26</sup>

- The effect of accepting the loan on the eligibility of the borrower for other forms of student financial assistance;
- An explanation of the use of the master promissory note;
- Information on how interest accrues and is capitalized;
- Options for the student to pay interest on specified loans while in school;
- Sample monthly repayment amounts;
- The borrower's obligation to repay the full loan amount;
- Consequences of default on the loan;
- Information on borrower records available on the National Student Loan Data System; and
- Contact information for an individual the borrower may contact with questions regarding the loan.

Federal law requires each postsecondary education institution eligible to participate in federal financial assistance programs to provide exit counseling to student borrowers of federal loans prior to the completion of the borrower's course of study or departure from the institution.<sup>27</sup> This exit counseling must include:<sup>28</sup>

- Available repayment plans;
- Debt management strategies;
- An explanation of repayment options for each loan;
- A general description of any loan forgiveness program;
- A description of any forbearance provisions;
- Default consequences;
- Consolidation options;
- Available tax benefits; and
- Information regarding the National Student Loan System.

## **State Reporting Requirements**

Florida College System (FCS) institutions and state universities are required to provide enrolled students, prior to registration, electronic access to the economic security report of employment and earnings outcomes prepared by the Department of Economic Opportunity.<sup>29</sup> The economic security report provides estimated earnings potential and salary ranges for specified degree programs offered by the institutions.<sup>30</sup> Based on this information, a student may consider various financial aid options, including borrowing loans, to pursue a postsecondary education degree program of their choice.

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<sup>25</sup> 20 U.S.C. section 1092(l)(1).

<sup>26</sup> 20 U.S.C. section 1092(l)(2).

<sup>27</sup> 20 U.S.C. section 1092(b)(1)(A).

<sup>28</sup> *Id.*

<sup>29</sup> Section 1001.706(5)(d), F.S.; Department of Economic Opportunity, *Economic Security Report 2016*, [http://www.beyondeducation.org/temp/ER\\_Report.pdf](http://www.beyondeducation.org/temp/ER_Report.pdf) (last visited Mar. 14, 2017).

<sup>30</sup> Section 1001.706(5)(d), F.S.

## **Board of Governors**

The Board of Governors of the State University System of Florida (BOG) must develop an accountability plan for the State University System and each constituent university, which must address institutional and system achievement of the goals and objectives specified in the BOG's strategic plan.<sup>31</sup> The BOG strategic plan must include, but is not limited to, performance measures and standards for student loan burden and default rates.<sup>32</sup>

Each university board of trustees is required to establish a policy for the administration, distribution and use of student financial aid, including student loans, that complies with existing federal or state law relating to financial aid.<sup>33</sup>

## **State Board of Education**

The board of trustees of an FCS institution is authorized to create policies related to student financial assistance and other student services, subject to rules of the State Board of Education (SBE).<sup>34</sup> Each FCS institution must submit specified financial reports to the Florida Department of Education (DOE) in addition to maintaining enrollment-related financial records.<sup>35</sup> SBE rules require that each FCS institution enrolling students who receive state financial aid and tuition assistance:<sup>36</sup>

- Develop written procedures for the administration of aid programs;
- Provide adequate staff;
- Coordinate institutional, state, federal, and state tuition awards to students;
- Maintain auditable records of state student aid and tuition assistance funds;
- Retain these records for five years;
- Verify and certify student eligibility;
- Disburse state aid and tuition assistance funds;
- Maintain student acknowledgement of receipt of funds;
- Provide reports required by the DOE; and
- Comply with refund policies.

## **Nonpublic Postsecondary Education Institutions**

All nonpublic postsecondary institutions<sup>37</sup> must comply with the following student loan related reporting requirements specified in Florida law:<sup>38</sup>

- Inform each student accurately about financial assistance and obligations for repayment of loans, describe any employment placement services provided and the limitations thereof, and refrain from misinforming the public about guaranteed placement, market availability, or salary amounts.<sup>39</sup>
  - This disclosure must be in writing and signed and dated by each student applying for and receiving a student loan, to the effect that the student understands that he or she is obligated to repay the loan, the terms and amounts of repayments, and when repayments will begin.<sup>40</sup>

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<sup>31</sup> Section 1001.706(5)(c), F.S.

<sup>32</sup> Section 1001.706(5)(b)1., F.S.

<sup>33</sup> Florida Board of Governors Regulation 3.009.

<sup>34</sup> Sections 1001.64(1) and (8), F.S.

<sup>35</sup> Rule 6A-14.072, F.A.C.

<sup>36</sup> Rule 6A-20.002, F.A.C.

<sup>37</sup> This includes every institution that is under the jurisdiction of the Commission for Independent Education or that is exempt from the jurisdiction or purview of the Commission pursuant to section 1005.06(1)(c) or (f) and that directly or indirectly solicits student enrollment. Section 1005.04, F.S.

<sup>38</sup> Section 1005.04(1), F.S.

<sup>39</sup> Section 1005.04(1)(c), F.S.

<sup>40</sup> Rule 6E-1.0032(6)(h), F.A.C.

- Publish and follow equitable refund policies and follow these refund policies in addition to federal refund guidelines.<sup>41</sup>

### **Effect of Proposed Changes**

The bill defines “student loans,” for purposes of the information that must be provided to enrolled students, to mean federal loans disbursed to a student to pay for education-related expenses.

The bill requires public and private postsecondary education institutions that disburse state financial aid to annually provide each student receiving student loans the following information:

- An estimate of:
  - The student’s total amount of borrowed student loans;
  - The student’s total potential loan repayment amount, including principal and interest, for the total amount of borrowed student loans;
  - The student’s monthly loan repayment amounts for the total amounts of borrowed student loans at the time the institution provides the required student loan information; and
  - The percentage of the borrowing limit that the student has reached at the time the information is provided.

The specified requirements may reinforce the information available to students who complete the FAFSA, regarding federal student loans and obligations related to incurring debt. Consequently, the bill may increase students’ awareness about their aggregate federal student loan debt, estimated repayment obligations, and the consequences of failing to repay federal loans. Students may use this information to consider various financial aid options, including borrowing student loans, in planning to pay for education-related expenses.

The bill provides that an institution does not incur liability for providing the annually required student loan information.

This bill has an effective date of July 1, 2017.

### **B. SECTION DIRECTORY:**

**Section 1.** Creates s. 1009.45, F.S. which defines the term student loans, requires postsecondary institutions to annually provide students information regarding their federal loans, and indemnifies institutions that provide loan information to students.

**Section 2.** This bill has an effective date of July 1, 2017.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

None.

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<sup>41</sup> Section 1005.04(1)(f), F.S.  
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**DATE:** 4/7/2017

## B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

### 1. Revenues:

None.

### 2. Expenditures:

None.

## C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

According to the State University of Florida, Board of Governors, information on student indebtedness and loan repayment is currently available to students in an ongoing manner in compliance with federal law and university regulations and policies. The bill specifies that the information must be provided annually, which will be in addition to ongoing financial counseling and information already provided by SUS institutions to students. This extra layer of reporting may be confusing to students and has the potential to create situations where the student receives conflicting information.<sup>42</sup>

## D. FISCAL COMMENTS:

Provisions of the bill could increase costs for postsecondary institutions; however, those costs are indeterminable. Institutions with significant IT resources would most likely be able to meet these requirements more quickly.<sup>43</sup>

The State University System provided an analysis of the bill, identifying the potential costs to meet the additional requirements. Based on the proposed bill language, additional staff time may be required to counsel certain students with specified information regarding their loans. Furthermore, if most of the financial aid counseling administered by the universities is automated and conducted online, universities may be required to upgrade existing software, purchase new software, or incur additional programming costs to meet the additional demand for counseling students. Staffing needs and software upgrades and programming costs cannot be determined at this time.

From the university perspective, implementing provisions of the bill may create an administrative burden, as the complexities involved with monitoring and providing accurate loan amounts, interest rates, monthly repayment amounts, percentages of borrowing limits, and payoff amounts may be extremely difficult to provide. Additionally, there are multiple sources that already provide this information, and the information may conflict with university information.

University compliance with implementation of the bill may necessitate adding more staffing positions to provide administrative support. For example, there are approximately 18,000 students who received loans at the University of Florida during the 2015-16 academic year. While this information is currently available to students to use at their discretion via online sources, providing mandatory detailed loan indebtedness and repayment information to each student with every new loan throughout the SUS would possibly require additional funding resources to enhance current personnel and existing automated financial aid systems already in place.<sup>44</sup>

In summary, postsecondary institutions may have increased workload due to increased responsibilities in annually providing students with loan information. It is unknown whether current federally required counseling responsibilities an institution must perform upon a student's entrance and exit from the institution will increase with the annual disclosure requirements. Universities and colleges may not have adequate staffing and information technology capabilities to fulfill the requirements of the bill. The

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<sup>42</sup> 2017 Legislative Bill Analysis, from the State University System of Florida, Board of Governors 3-15-2017

<sup>43</sup> 2017 Legislative Bill Analysis from the Florida Department of Education 3-17-2017

<sup>44</sup> 2017 Legislative Bill Analysis, from the State University System of Florida, Board of Governors 3-15-2017

potential costs to institutions are indeterminate; however, by specifying the required information pertains to “federal loans”, the potential costs to institutions are reduced in the committee substitute as compared to the original bill.

No analysis was provided from the Florida College System.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

#### **B. RULE-MAKING AUTHORITY:**

None.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On April 3, 2017, the Higher Education Appropriations Subcommittee adopted one amendment and reported the bill favorably as a committee substitute.

The amendment modifies the definition of “student loans” to mean “federal student loans” disbursed to a student to pay for education-related expenses.

On April 6, 2017, the Education Committee adopted one amendment and reported the bill favorably. The amendment changed the new section of law being created from s. 1009.894, F.S., to s. 1009.45, F.S.

The bill analysis is drafted to the bill as amended by the Education Committee.