

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Rules

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BILL: CS/SB 396

INTRODUCER: Senators Hukill and Bean

SUBJECT: Student Loan Debt

DATE: March 28, 2017

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Androff</u>	<u>Graf</u>	<u>ED</u>	<u>Fav/CS</u>
2.	<u>Androff</u>	<u>Phelps</u>	<u>RC</u>	<u>Favorable</u>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 396 requires certain postsecondary education institutions to provide information regarding student loans annually to students. Specifically, the bill:

- Defines “student loans” to mean federal loans disbursed to a student to pay for education-related expenses.
- Establishes the requirement that a postsecondary education institution that disburses state financial aid provide the following up-to-date information annually to each student receiving student loans:
  - An estimate of the student’s total amount of borrowed student loans.
  - An estimate of the student’s total potential loan repayment amount associated with the total amount of student loans borrowed by the student.
  - An estimate of the student’s monthly loan repayment amount for the student’s total amount of borrowed student loans.
  - The percentage of the borrowing limit that the student has reached at the time the information is provided.
- Provides that an institution does not incur liability for providing the specified information.

The bill takes effect July 1, 2017.

**II. Present Situation:**

A student may receive financial aid from a variety of sources to pay for education-related expenses associated with pursuing higher education, including federal aid, state aid, aid from the

postsecondary education institution the student attends, and aid from private and nonprofit organizations.<sup>1</sup>

Federal student 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 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 federal 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 are loans to eligible undergraduate students who demonstrate financial need to help cover the costs of higher education;
- Direct unsubsidized loans are loans to eligible undergraduate, graduate, and professional students that are not need-based;
- Direct PLUS loans are 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 Feb. 20, 2017).

<sup>2</sup> *Id.*

<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 Feb. 20, 2017).

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

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

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

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

<sup>11</sup> 34 C.F.R. s. 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 answers determine 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. s. 674.1.

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

<sup>15</sup> 34 C.F.R. s. 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 Feb. 20, 2017).

<sup>17</sup> U.S. Department of Education, *Understanding Repayment*, <https://studentaid.ed.gov/sa/repay-loans/understand/servicers> (last visited Feb. 20, 2017).

<sup>18</sup> U.S. Department of Education, *My Federal Student Aid*, <https://studentaid.ed.gov/sa/?login=true> (last visited Feb. 20, 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 Feb. 20, 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 Feb. 20, 2017).

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

<sup>23</sup> *Id.*

<sup>24</sup> U.S. Department of Education, *Student Loan Types*, <https://studentaid.ed.gov/sa/types/loans/subsidized-unsubsidized#how-much> (last visited Feb. 20, 2017).

### ***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, the 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 also 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**

Each state university and Florida College System (FCS) institution is required to provide to each enrolled student, 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

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

<sup>26</sup> 20 U.S.C. s. 1092(1)(2).

<sup>27</sup> 20 U.S.C. s. 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 Feb. 20, 2017).

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

consider various financial aid options, including borrowing loans, to pursue a postsecondary education degree program of their choice.

### ***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***

Each 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***

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

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

### III. Effect of Proposed Changes:

CS/SB 396 requires certain postsecondary education institutions to provide information regarding student loans annually to students. Specifically, the bill:

- Defines “student loans” to mean federal loans disbursed to a student to pay for education-related expenses.
- Establishes the requirement that a postsecondary education institution that disburses state financial aid provide the following up-to-date information annually to each student receiving student loans:
  - An estimate of the student’s total amount of borrowed student loans.
  - An estimate of the student’s total potential loan repayment amount associated with the total amount of student loans borrowed by the student.
  - An estimate of the student’s monthly loan repayment amount for the student’s total amount of borrowed student loans.
  - The percentage of the borrowing limit that the student has reached at the time the information is provided.
- Provides that an institution does not incur liability for providing the specified information.

#### Student Loans Definition

The bill defines “student loans,” for purposes of the information that must be annually provided to enrolled students, to mean federal loans disbursed to a student to pay for education-related expenses. Postsecondary education institutions do not have access to information on private loans borrowed by a student, unless the student provides such information to the institutions.<sup>42</sup>

#### Student Loan Disclosure Requirements

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

- An estimate of the student’s total amount of borrowed student loans.

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

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

<sup>41</sup> Section 1005.04(1)(f), F.S.

<sup>42</sup> Florida Department of Education, *CS/SB 396 Analysis* (2017), at 7.

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

The specified requirements may assist with reinforcing the information available to students who complete the federal Free Application for Federal Student Aid (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 takes effect July 1, 2017.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 1009.894 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Education on February 21, 2017:**

The committee substitute clarifies that:

- Student loans means federal loans disbursed to a student to pay for education-related expenses.
- A postsecondary institution that disburses state financial aid must annually provide up-to-date information on the total loans borrowed and loan repayment obligations to each enrolled student receiving student loans.

- B. **Amendments:**

None.