

Department of Planning and Budget 2019 Fiscal Impact Statement

1. Bill Number: SB1112-S1

House of Origin	<input type="checkbox"/> Introduced	<input checked="" type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: Howell

3. Committee: Finance

4. Title: Student loans; licensing of qualified education loan servicers, civil penalties.

- 5. Summary:** Prohibits any person from acting as a qualified education loan servicer except in accordance with provisions established by this bill. The bill requires a loan servicer to obtain a license from the State Corporation Commission (SCC) and establishes procedures pertaining to such licenses. Banks, savings institutions, credit unions, and nonprofit institutions of higher education are exempt from the licensing provisions. The servicing of a qualified education loan encompasses (i) receiving any scheduled periodic payments from a qualified education loan borrower pursuant to the terms of a qualified education loan; (ii) applying the payments of principal and interest and such other payments, with respect to the amounts received from a qualified education loan borrower, as may be required pursuant to the terms of a qualified education loan; and (iii) performing other administrative services with respect to a qualified education loan. Qualified education loan servicers are prohibited from, among other things, (a) misrepresenting the amount, nature, or terms of any fee or payment due or claimed to be due on a qualified education loan, the terms and conditions of the loan agreement, or the borrower's obligations under the loan; (b) knowingly misapplying or recklessly applying loan payments to the outstanding balance of a qualified education loan; and (c) failing to report both the favorable and unfavorable payment history of the borrower to a nationally recognized consumer credit bureau at least annually if the loan servicer regularly reports information to such a credit bureau. Violations are subject to a civil penalty not exceeding \$2,500.

The bill has a delayed effective date of July 1, 2020, but provides that applications shall be accepted, and investigations commenced, by the SCC beginning March 1, 2020.

The substitute removes the enactment clause that appeared on the original introduced bill that stated a minimum fiscal impact of \$50,000 from the Virginia Criminal Sentencing Commission based on the projection the proposed legislation would increase the number of inmates incarcerated in prison.

- 6. Budget Amendment Necessary:** No. Item 477 of Senate Bill 1100, 2019 includes a budget amendment for \$65,100 nongeneral fund appropriation and one full-time equivalent position

in fiscal year 2020 for the State Corporation Commission to oversee the licensing of qualified education loan servicers. The bill also has a delayed effective date of July 1, 2020.

7. Fiscal Impact Estimates: Preliminary – see Item 8.

Expenditure Impact: Department of Corrections

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2019	\$0	0.00	-
2020	\$0	0.00	-
2021	\$50,000	0.00	GF
2022	\$0	0.00	-
2023	\$0	0.00	-
2024	\$0	0.00	-
2025	\$0	0.00	-

Expenditure Impact: State Corporation Commission

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2019	\$0	0.00	-
2020	\$65,100	1.00	NGF
2021	\$168,600	2.00	NGF
2022	\$246,800	3.00	NGF
2023	\$246,800	3.00	NGF
2024	\$246,800	3.00	NGF
2025	\$246,800	3.00	NGF

Revenue Impact: State Corporation Commission

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2019	\$0	0.00	-
2020	\$65,100	0.00	NGF
2021	\$168,600	0.00	NGF
2022	\$246,800	0.00	NGF
2023	\$246,800	0.00	NGF
2024	\$246,800	0.00	NGF
2025	\$246,800	0.00	NGF

8. Fiscal Implications: The proposed legislation requires the State Corporation Commission (SCC) to begin accepting applications for licenses on or before March 1, 2020. The SCC estimates one full-time equivalent position is needed in fiscal year 2020 to receive license applications from qualified education loan servicers on or before March 1, 2020, and commencing the investigation of, such applications for licensure. The estimated total cost of the one full-time equivalent position, including benefits, is \$65,100.

Beginning in fiscal year 2021, an additional full-time equivalent position with the knowledge of and expertise in the qualified education loan servicing industry would be needed to serve as a program manager to receive and investigate consumer complaints. The estimated total cost of one full-time program manager, including benefits, is \$103,500. In fiscal year 2022, the SCC expects an entry-level examiner would be needed to examine the qualified education

loan servicer licensees. The estimated total cost of the full-time equivalent examiner position is \$78,200, including benefits.

The revenues, generated by the nonrefundable application and annual fees, would be used to offset the costs associated with the operation of the qualified education loan servicer program; however, until sufficient fees are collected, the SCC may have to redirect other resources to implement this program and support staff. The potential need for supplemental resources will depend upon the volume of applications received and number of investigations conducted of qualified education loan servicers.

The proposed legislation requires the SCC to forward investigations of qualified education loan servicers applicants to the Central Criminal Records Exchange (CCRE), which is managed by the Virginia State Police (VSP). The estimated fiscal impact for the VSP cannot be determined at this time because the VSP's costs would be dependent upon the number of investigations forwarded to the CCRE. According to the VSP, its current staffing of the fingerprint section of the CCRE may not be able to absorb the additional work to meet the requirements of the proposed legislation. Based on the current work processes in the CCRE, it is estimated that one full-time equivalent fingerprint technician can process approximately 10,000 fingerprint requests. If future investigations and fingerprinting requirements were to increase to this degree, the estimated annual fiscal impact for one full-time equivalent fingerprint position at VSP would be \$81,868, which includes salary and benefits and would be supported through the general fund. This estimated impact is not included with the cost estimates provided in Table 7 above since the workload impact cannot be determined at this time.

Pursuant to § 6.2-2611, of the proposed legislation, the SCC has the authority to administer oaths as part of its investigation or examination of a licensed qualified education loan servicer or applicant for a qualified education loan servicer license. The penalty for someone convicted of perjury is a Class 5 felony; therefore, this proposal could result in an increase in the number of persons sentenced to jail or prison.

There is not enough information available to reliably estimate how many additional inmates in jail could result from this proposal. Ultimately, the presiding judge will decide if there is to be any time served in jail; however, any increase in jail population will increase costs to the state. The Commonwealth presently pays the localities \$4.00 a day for each misdemeanor or otherwise local responsible prisoner held in a jail and \$12.00 a day for each state responsible inmate. It also funds a considerable portion of the jails' operating costs, e.g. correctional officers. The state's share of these costs on a per prisoner, per day basis varies from locality to locality; however, according to the Compensation Board's most recent Jail Cost Report (November 2018), the estimated total state support for local jails averaged \$33.83 per inmate, per day in FY 2017.

Due to the lack of data, the Virginia Criminal Sentencing Commission has concluded, pursuant to §30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation on state-responsible (prison) bed space cannot be determined. In such cases, Chapter 2 of the

2018 Acts of Assembly, Special Session I requires that a minimum impact of \$50,000 be assigned to the bill; however, due to the effective date of this legislation, this impact will not occur until the next biennium.

- 9. Specific Agency or Political Subdivisions Affected:** State Corporation Commission, Department of Corrections, and Virginia State Police
- 10. Technical Amendment Necessary:** The proposed legislation would require the SCC to administer oaths as part of its investigation or examination of a licensed qualified education loan servicer or applicant for a qualified education loan servicer license. The penalty for someone convicted of perjury is a Class 5 felony. The substitute of Senate Bill 1112 removed the enactment clause included in the introduced version of the bill, which assessed a fiscal impact of \$50,000 based on the projection the proposed legislation would increase the number of inmates incarcerated in prison; however, it appears that this enactment clause may need to be reinstated.
- 11. Other Comments:** The fiscal impact statement for Senate Bill 1112-S1 reflects updated potential costs for the VSP based upon further analysis of the CCRE's current workload.