

Senate Bill No. 1031

CHAPTER 636

An act to amend Sections 69522, 69529, 69761, 69763, 69766, 69766.1, 69767, and 69768 of the Education Code, relating to student financial aid, and making an appropriation therefor.

[Approved by Governor October 5, 1999. Filed
with Secretary of State October 10, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1031, Hughes. Student financial aid: Student Aid Commission: Federal Family Education Loan Program.

(1) Existing law establishes the Student Aid Commission as the primary state agency for the administration of state-authorized student financial aid programs available to students attending all segments of postsecondary education. Existing state law authorizes the State of California to participate in the Federal Family Education Loan Program for eligible postsecondary students and their parents and its various component programs. Existing law authorizes the commission to establish an auxiliary organization as a nonprofit public benefit corporation for the purpose of providing operational and administrative services for the commission's participation in the Federal Family Education Loan Program. Existing law requires that the operations of the auxiliary organization be conducted in conformity with an operating agreement approved annually by the commission.

This bill, on and after January 1, 2002, would authorize the operating agreement to be conducted in conformity with an operating agreement approved by the commission for a period not to exceed 5 years.

(2) Existing law provides for participation by the State of California in the Federal Family Education Loan Program. Existing law specifies that one of the purposes for California's participation in the federal program is to provide a source of loans to eligible students in order to assist them in meeting educational costs at eligible schools of their choice.

This bill would additionally specify that one of the purposes for California's participation in the federal program is to provide a source of loans to eligible students, regardless of their domicile or the location of the educational institutions they attend, to assist them in meeting educational costs.

(3) Existing law establishes the State Guaranteed Loan Reserve Fund and requires the deposit of all money received from federal, state, or local governments, or from other private or public sources,

for the purposes of California's participation in the Federal Family Education Loan Program in that fund.

This bill would abolish the State Guaranteed Loan Reserve Fund and instead establish the Federal Student Loan Reserve Fund and the Student Loan Operating Fund for the deposit of funds for the purposes of the federal program. The bill would deem the contents of the Federal Student Loan Reserve Fund to be the property of the federal government and the contents of the Student Loan Operating Fund to be the property of the Student Aid Commission, acting on behalf of the State of California. The bill would provide that the contents of the Federal Student Loan Reserve Fund and the Student Loan Operating Fund are continuously appropriated for the purposes of the bill.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 69522 of the Education Code is amended to read:

69522. (a) The commission may establish an auxiliary organization for the purpose of providing operational and administrative services for the commission's participation in the Federal Family Education Loan Program.

(b) The auxiliary organization shall be established as a nonprofit public benefit corporation subject to the Nonprofit Public Benefit Corporation Law in Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code, except that, if there is a conflict between this article and the Nonprofit Public Benefit Corporation Law, this article shall prevail.

(c) The commission shall maintain its responsibility for financial aid program administration, policy leadership program evaluation, and information development and coordination. The auxiliary organization shall provide operational and support services essential to the administration of the Federal Family Education Loan Program, if those services are determined by the commission to be consistent with the overall mission of the commission. The implementation and effectuation of the auxiliary organization shall be carried out so as to enhance the administration and delivery of commission programs and services.

(d) The operations of the auxiliary organization shall be conducted in conformity with an operating agreement approved annually by the commission. On and after January 1, 2002, the commission may approve an operating agreement for a period not to exceed five years. Prior to approval, the commission shall provide the proposed operating agreement to the Department of Finance for its review and comment. The operations of the auxiliary organization shall be limited to services prescribed in that agreement.



(e) The commission shall oversee the development and operations of the auxiliary organization in a manner that ensures broad public input and consultation with representatives of the financial aid community, colleges and universities, and state agencies.

SEC. 2. Section 69529 of the Education Code is amended to read:

69529. The operating agreement with the board of directors of the auxiliary organization, approved by the commission pursuant to subdivision (d) of Section 69522, shall cover all of the following:

(a) Any support services provided or special programs administered by the auxiliary organization.

(b) The sources of revenue available to the auxiliary organization, including agreements concerning federal administrative cost allowances, guarantee fees charged to borrowers, and retention of funds obtained through collections on defaulted loans.

(c) Support and administrative services to be provided by commission staff, including accounting, personnel, clerical, administrative support, and other services necessary for the administration of the auxiliary organization.

SEC. 3. Section 69761 of the Education Code is amended to read:

69761. (a) The purposes of California's participation in the Federal Family Education Loan Program are as follows:

(1) To ensure that, in meeting their educational costs, a source of loans is available to assist the greatest number of eligible resident students.

(2) To ensure that loans are available to eligible resident students that meet the criterion set forth in paragraph (1), the commission is authorized to provide a source of loans to eligible students within and outside California irrespective of their residence or the location of their educational institution, to assist them in meeting educational costs at eligible schools of their choice.

(3) To accept, receive and administer the funds provided under Title IV of the "Higher Education Act of 1965," and extensions thereof, or any similar act of Congress in any jurisdiction permitted under the Higher Education Act.

(b) The Legislature finds and declares that subdivision (a), as amended during the 1999 portion of the 1999–2000 Regular Session, reflects the intent of the Legislature in enacting Chapter 961 of the Statutes of 1996, and is therefore declaratory of existing law.

SEC. 4. Section 69763 of the Education Code is amended to read:

69763. (a) (1) The commission shall administer the Federal Family Education Loan Program as authorized pursuant to this chapter. The commission may enter into any contract with the United States Secretary of Education or any other federal officer or agency under Title IV of the Higher Education Act of 1965, any extension thereof, or any similar act of Congress, may cooperate with the government of the United States, or any agency or agencies



thereof, in administration of the act of Congress and the rules and regulations adopted thereunder. The commission shall adopt any rules and regulations it deems necessary for the proper administration of this chapter.

(2) Loans or loan guarantees issued by the commission, irrespective of the domicile of the eligible student or the location of the educational institution attended by the eligible student, prior to the effective date of amendments made to this section during the 1999 portion of the 1999–2000 Regular Session, have been determined by the Legislature to be consistent with the purposes of California's participation in the Federal Family Education Loan Program, and within the authority of the commission to administer that program, and consistent with the intent of the Legislature in enacting Chapter 961 of the Statutes of 1996.

(b) The rules and regulations adopted by the commission pursuant to this section shall include a provision authorizing the commission to impose a civil penalty in an amount not to exceed twenty-five thousand dollars (\$25,000) per violation against any financial or educational institution that violates any applicable law, rule, regulation, limitation, consent agreement, or school or lender agreement, relative to a state financial aid program. The rules and regulations adopted pursuant to this section shall provide all of the following:

(1) No civil penalty shall be imposed against an institution without first affording that institution an opportunity to request a hearing and, if a request for a hearing is made, a hearing shall be held before a representative of the commission.

(2) No civil penalty shall be imposed against an institution unless an action against that institution has been initiated pursuant to Section 30302 or 30304 of Title 5 of the California Code of Regulations.

(c) Any moneys derived from the assessment of penalties pursuant to this section shall be deposited into the Student Loan Operating Fund.

SEC. 5. Section 69766 of the Education Code is amended to read:

69766. (a) The Federal Student Loan Reserve Fund and the Student Loan Operating Fund are hereby created in the State Treasury. On January 1, 2000, the State Guaranteed Loan Reserve Fund shall cease to exist, and funds deposited, or required to be deposited in that fund, shall be transferred to the Federal Student Loan Reserve Fund or the Student Loan Operating Fund and allocated to those funds in accordance with the requirements of federal law.

(b) All money received for the purposes of this article from federal, state or local governments, including any money deposited in the State Guaranteed Loan Reserve Fund, or from other private or public sources, shall be deposited in the Federal Student Loan Reserve Fund or the Student Loan Operating Fund and allocated to



those funds in accordance with the requirements of federal law. Funds deposited in the Federal Student Loan Reserve Fund or the Student Loan Operating Fund are not part of the General Fund, as defined in Section 16300 of the Government Code. No moneys from the General Fund shall be deposited in the Federal Student Loan Reserve Fund or the Student Loan Operating Fund.

(c) The contents of the Federal Student Loan Reserve Fund are federal funds, administered in accordance with federal laws and regulations. The contents of the Student Loan Operating Fund are state funds within the custody and control of the Student Aid Commission.

(d) Notwithstanding Section 13340 of the Government Code, all moneys deposited in the Federal Student Loan Reserve Fund and the Student Loan Operating Fund are hereby continuously appropriated, without regard to fiscal years, for purposes of this article. The continuous appropriation made by this section shall be available to assume the obligation under any outstanding budget act appropriation from the State Guaranteed Loan Reserve Fund as it existed prior to January 1, 2000.

(e) The total amount of all outstanding debts, obligations, and liabilities that may be incurred or created under this article, including any obligation to repay to the United States any funds provided under Title IV of the "Higher Education Act of 1965," and extensions thereof or amendments thereto, or any similar act of Congress, is limited to the amount contained in the Federal Student Loan Reserve Fund or the Student Loan Operating Fund, and the state shall not be liable to the United States, or to any other person or entity, beyond the amount contained in the Federal Student Loan Reserve Fund or the Student Loan Operating Fund for any debts, obligations, and liabilities.

SEC. 6. Section 69766.1 of the Education Code is amended to read:

69766.1. (a) Notwithstanding Section 13340 of the Government Code, in addition to the purposes for which funds are appropriated pursuant to Section 69766, there is hereby continuously appropriated from the Federal Student Loan Reserve Fund and the Student Loan Operating Fund to the commission, the amount of funds necessary to make payments for the purchase of defaulted loans.

(b) Notwithstanding Section 13340 of the Government Code, there is hereby continuously appropriated from the Student Loan Operating Fund for transfer to the Federal Student Loan Reserve Fund, all federal reinsurance payments received on defaulted student loans and deposited in the Student Loan Operating Fund.

(c) The appropriation authorized by this section shall be operative only if the annual Budget Act for the fiscal year is not chaptered on or before July 15, and shall not exceed the amount deemed by the commission to be required by federal law or



regulation. The commission shall notify the Joint Legislative Budget Committee of the amount of any payments issued pursuant to this section.

SEC. 7. Section 69767 of the Education Code is amended to read:

69767. The Treasurer shall invest, pursuant to statute, any surplus money in the Federal Student Loan Reserve Fund and the Student Loan Operating Fund. The interest or other accretions as a result of the investment of this money shall be deposited in the originating fund, and may be expended for those purposes authorized in this article or the Higher Education Act of 1965.

SEC. 8. Section 69768 of the Education Code is amended to read:

69768. (a) The funds in the Federal Student Loan Reserve Fund and the Student Loan Operating Fund shall be paid out by the State Treasurer on warrants drawn by the Controller, or through a transfer between the Federal Student Loan Reserve Fund and the Student Loan Operating Fund, and requisitioned by the commission in carrying out the purposes of this article and the federal act.

(b) The commission is hereby authorized to make advance payments from the Student Loan Operating Fund to the auxiliary organization for services rendered to the commission under Article 2.5 (commencing with Section 69522). Notwithstanding any other provision of law, advance payments to the auxiliary organization and any fees charged by the auxiliary organization for services rendered to the commission pursuant to an operating agreement may be deposited with a private financial institution.

