PROTECT BORROWERS

THE WORST OF BOTH WORLDS

An Investigation of State Student Loan Lending

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August 2026

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About Protect Borrowers

Protect Borrowers (formerly Student Borrower Protection Center) is a nonprofit organization led by a team of experts, lawyers, and advocates fighting to build an economy where debt doesn't limit opportunity. We investigate financial abuses, take predatory companies to court, and push for policies to protect working people from debt traps. We aim to deliver immediate relief to families while building power, driving systemic change, and fighting for racial and economic justice.

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Foreword

Most people think that there are two types of loans students can take out to attend college: federal student loans and private student loans. However, a third option exists: loans from state agencies or quasi-governmental nonprofits. Over half of states have some sort of state agency, legislature-created nonprofit, or other state entity that lends student loans directly to students.

State student loans are marketed as coming from the government and thus signaling a more “trusted” source, which is a better option than private loans. Their superiority to traditional private student loans, however, is questionable at best. Many state loans more closely resemble private student loans, with high and variable interest rates, limited repayment options, co-signer requirements, and harsh default provisions, than federal loans. In fact, state student loans combine the worst of both private loans and federal loans. They have unfavorable terms and the state creditor has heightened collection powers and protections.

In light of President Trump’s efforts to downsize the federal government, including the expressed goal of closing the Department of Education and “sending education back to the states,” as well as the strict new federal lending limits passed in 2025 and taking effect in 2026 as part of the One Big Beautiful Bill Act, it is likely that there will be a rise in state student lending. Unless and until scholars and policymakers understand the realities of state student lending programs, such a move will cause increased harm to America’s college students.

This investigation offers an empirical look at state student loan programs, collecting and collating state student loan options that exist across the country. It identifies and analyzes the types of state student loans offered, their repayment terms, cancellation options, and other features. This investigation analyzes the state student loan options that exist across the country, including the types of loans offered, repayment terms, cancellation options, as well as some of the ways in which state student loans impact borrowers in uniquely harmful ways. This analysis sheds light on one primary conclusion: as currently designed, state student loans are uniquely harmful to borrowers as compared to private and federal student loans.[1]

Introduction

The One Big Beautiful Bill Act has changed the landscape of student loans, setting new, lower loan borrowing limits in the federal student loan program for students and their families. For many, these limits fall short of what they need to finance their education. To fill the void left by Congress and the Trump administration, many states and students are tempted to utilize state student loan programs. Students often turn to state agencies for funding because they seem more legitimate than private lenders. States often market their loans as a safer option for students and their families.[2] But as the first comprehensive investigation into state student loan programs will show, these programs often do not match the rhetoric.

Student loans are often viewed in two buckets: federal loans (loans lent or guaranteed by the federal government) and private loans (generally speaking, loans lent by banks or other financial institutions).[3] However, these are not the only types of loans students borrow to finance their education. Many states have some sort of government lending apparatus to provide student loans directly to borrowers.

Contrary to the marketing, most state loans function similarly to traditional private student loans, with high and variable interest rates, limited repayment options, co-signer requirements, and harsh default provisions. Simultaneously, the state lenders have increased collection powers that traditional private lenders do not have, and are shielded from certain consumer-protection laws because of their proximity to the state.

State student loans are important to consider for three main reasons. First, this market accounts for hundreds of millions of dollars in debt and hundreds of thousands of borrowers across the country, and is likely to expand due to recent federal policy changes, including strict federal student loan lending limits. Yet there is no scholarship on the subject. Second, as state agencies lose some federal student loan business with the decline of older loans that they played important roles in insuring and guaranteeing, higher education continues to be unaffordable, and the federal government pursues a policy of "handing education back to the states," states may continue to be looking for "new" ways to help students pay for college and increase their own lending. Third, because of the line state student loans straddle between private and public loans, they pose unique dangers to borrowers. States can pursue debts more aggressively than private lenders, and may also be protected by doctrines like sovereign immunity. Yet most do not offer the same favorable terms available in federal student loans, such as repayment plans or discharge programs.

This investigation uncovers that state student loans are not the safer, more trustworthy student loan option they are marketed to be. Rather, they combine some of the worst features of private and federal student loans. This analysis not only collects and catalogs the landscape of state student loan lending, it also begins a necessary dialogue into this under-studied lending market. In doing so, it proposes a conceptual framework for understanding how state student loan lending burdens borrowers in particularly pernicious ways.

This Article proceeds as follows: Part I provides context to state student loan lending, including a brief history of state involvement in student loan lending. Part II describes and defines state student loans. Part III analyzes state student loan terms, as well as lenders' collection powers and protections, advancing this Article's conclusion that these loans are the worst of both worlds, and uniquely harmful to borrowers. Lastly, Part IV proposes several policy recommendations for states with lending programs.

I. Background

Higher education in the United States is expensive, and most students take out loans when they go to college.[4] State student loan lending is not happening in a vacuum. For decades, tuition costs have been rising and states have been disinvesting from higher education.[5] Simultaneously, the new Trump administration has stated a goal of dismantling federal oversight into education across the country and giving states greater control.[6]

Students often draw on multiple funding sources to make college a viable option.[7] Students fund their post-secondary schooling with assistance from family, working and federal work-study, federal loans, federal grants, scholarships, private student loans, and more.[8] The process of securing funding can be a complicated one, especially for families unfamiliar with today's costs and processes.[9] Some state student loan programs have been part of the student loan landscape for decades, while others are fairly new. State student loans have grown out of an increasingly difficult and burdensome higher education financing system, and instead of offering a light in the dark, they offer students another way–a more dangerous way–to get into debt.

A. Brief History of State Agency Involvement in Student Loan Lending

A state student loan program may have served as inspiration for the first iterations of federal student lending.[10] In 1956, the Massachusetts Higher Education Assistance Corporation created a guaranteed student loan program, which "insured students' bank loans with money raised through philanthropic donations from local businesses."[11] Shortly after, the federal government started its own student lending program, following a similar model, with the Guaranteed Student Loan Program (later called Federal Family Education Loans or "FFEL").[12] This program "empowered state and private nonprofit agencies to guarantee student loans and to establish insurance for lenders who did not have access to state or private nonprofit agencies."[13] These loans were administered via guaranty agencies, which were state or private nonprofit agencies.[14]

Despite initial hesitancy to enter the market, by 1986 a majority of state legislatures had created nonprofit agencies that either lent loans to student borrowers or purchased student loans made by banks.[15] These state or quasi-state agencies sold tax exempt bonds to Sallie Mae and other lenders, and were able to borrow money at interest rates much lower than what they would turn around and charge.[16] As a result of this structure, lending became very profitable, and therefore popular, among states.[17] Since they were created, state student loan agencies have played multiple roles in the student loan landscape, as guarantor, servicer, and lender.[18]

By 2009, there were 34 existing guaranty agencies that could roughly be broken down into three types: standalone entities that administered FFEL loans, state higher education authorities that administered FFEL loans as part of their portfolios, and entities that provided all guaranty functions in addition to lending themselves.[19] Although FFEL loans were discontinued over a decade ago, millions of borrowers still hold FFEL loans.[20] As a result, some state student loan agencies still service a federal student loan portfolio.[21] When FFEL was phased out, many student loan agencies pivoted their services, sometimes by expanding or creating their own loan programs or by taking on larger servicing contracts. For example, Pennsylvania's state agency, the Pennsylvania Higher Education Assistance Agency (PHEAA) became one of the largest federal student loan servicers.[22] New Jersey's agency, the Higher Education Student Assistance Authority (HESAA) "sharply expanded its loan program in the years leading up to 2010" and in 2016 had an outstanding portfolio of $2 billion.[23] By 2016, only 4% of the agency's portfolio was federal loans.[24] Many of these state agencies came under scrutiny at various points in time for their business and spending practices, during and after the FFEL program.[25]

States have been experimenting with state lending programs over the past several decades. In 2014, close to 25 states considered legislation to create Income-Sharing Agreement (ISA) programs, controversial financial products that tie repayment obligations to borrowers' income.[26] After IRS guidance in 2016, more states began to offer refinancing options that would refinance private or federal student loans into state student loans.[27] Sometimes the motivation for these programs appears to be purely financial. Other times, the messaging around these loans indicates that legislators see these loans as somewhat of a "fix" to the student loan crisis.[28]

Presently, there are 32 states with active or recently active state student loan programs. The programs and entities differ across the states. Some states house their loan programs in divisions of the state government, like Minnesota, Wisconsin, and Michigan.[29] Other states, like Maine, Vermont, Rhode Island, Massachusetts, New Jersey, have quasi-state agencies, nonprofit corporations that were enacted via legislation that have both public and private features.[30] For some agencies, their exact connection or affiliation to the State is not clear, and some states have student loan lending nonprofits that are not connected to the state at all.[31] The state student loan lenders described in this analysis are referred to collectively as "state agencies," regardless of whether they are divisions of state government or quasi-state agency nonprofits. According to the Education Finance Council (EFC), a national trade association of state-based higher education finance organizations, during academic year 2023-24, their 30 "state-based and nonprofit members" provided more than 82,250 "affordable nonprofit education loans," totaling over $1.26 billion.[32] For academic year 2024-25, EFC reported 84,404 student loans made by its 31 member organizations, totaling $1.38 billion.[33]

B. Why Now? State and Federal Disinvestment in Higher Education

Accelerating during the Great Recession, education costs have shifted to students and families, necessitating more and more student lending.[34] While federal student loans have played a significant role in that cost-shifting, the Trump administration's policy goals mean that there is more potential for states' role in lending to grow.

President Trump and his administration have repeatedly expressed the desire to close the Department of Education, and "send education back to the states."[35] On March 20, 2025, Trump issued an Executive Order to do just that.[36] At the same time, in summer 2025 Congress passed the One Big Beautiful Bill Act (OBBBA), which instituted major lending limits for federal student loans, for both undergraduate and graduate students. The OBBBA eliminates the Grad PLUS program entirely, lowers the Parent PLUS aggregate loan limit to $65,000 per dependent student, and imposes a new lifetime maximum aggregate loan limit for student borrowers to $257,500.[37] The OBBBA limits graduate students to $20,500 in federal student loans annually, with an overall cap of $100,000 for certain programs of study, with the caps rising to $50,000 and $200,000, respectively, for so-called "professional" degree programs, which are defined narrowly.[38]

These new federal loan lending limits will likely impact students significantly, leaving them with increased funding gaps. Experts expect borrowers to turn to the private market to fill those gaps, with varying success, and real consequences for students.[39] The funding gaps will be large: for example, research has found that degree holders who rely on Grad PLUS (over 440,000 borrowers in 2023-2024), rely on it for half their aid package.[40] It is widely understood that federal loans are preferable to private loans, due to their consumer protections and more favorable terms.[41] Without access to Grad PLUS loans, however, and with no federal legislation to lower tuition in line with the new borrowing limits, students will have no choice but to turn to the private loan market. Private lenders like Navient and SoFi have stated publicly that they expect increased demand for private student loans, and some schools have announced their own lending programs to fill in the gaps.[42] At least one private lender, College Ave, has already created a new private student loan explicitly to fill the gap left from the new federal lending limits.[43] Arkansas Student Loan Authority (ASLA) has stated that it anticipates an increase in lending of nearly 50% in FY26, given the "void caused by the phase-out of Federal Grad PLUS loans."[44] In response to the elimination of the Federal Grad PLUS loan program and new graduate and Parent PLUS lending gaps, the Massachusetts Educational Finance Authority (MEFA) has also increased its undergraduate and graduate student loan lending,[45] and Connecticut has proposed a new graduate state student loan program.[46] Other agencies, like Indiana's INvestEd, also "anticipate a surge in demand for private loans" due to federal lending limits.[47]

The shifts to dismantle the federal student loan program come as state investment in higher education is already at a low, and private lending is already on the rise.[48] State funding for higher education, adjusted for inflation, was lower in 2015 than a decade earlier, by 16%.[49] In 2018, almost all states were spending less per student than they were in 2008, and for the first time, public colleges and universities started receiving a majority of their funding from tuition and not government appropriations.[50] Instead of raising non-loan aid or reining in costs, "[state] [l]egislators rightly assumed that if states chose to provide less financial support for public colleges and universities, then these schools could simply raise the cost of college in order to make up any shortfall."[51] In essence, the costs could be passed on to students and their families.[52] In 1980, students contributed about 20.9% towards their college costs. In 2021, they contributed about 42.1%.[53] With tuition in the tens of thousands at many schools, students and their families cannot afford the kind of cost-sharing that is forced upon them, cost-sharing that turns into decades-long indebtedness.

For example, in 2009, New York proposed a state student loan program in the state budget that would cost $50 million to set up and $10 million annually, and lend $350 million in loans to 45,000 resident students.[54] In the very same budget, state funding for State Universities of New York was reduced "by 80 percent of the amount of money a tuition increase brought in. . ." amounting to a 20% tuition hike at SUNY schools.[55] Of course, there is not necessarily, or always, a direct line between the amount of disinvestment in public higher education in a state and the amount of state student loan debt students take on. There are a variety of factors that would make such analysis complicated, such as the fact that many state student loan agencies provide loans to students going to out of state colleges, or to students attending private colleges. However, it is important to consider how state disinvestment, which will now be coupled with insufficient federal loan funds, creates a reality in which students are forced to look to private and state products to finance their education.

Disinvestment in higher education, and the resulting cost-sharing it precipitates, has created a market for states to lend to students who no longer have access to affordable, subsidized tuition.[56] Instead of directly investing in higher education and keeping costs down, states have opted to commit to the "education as commodity"[57] model and insisted on shifting the cost of higher education to students and their families. At the same time, new federal loan limits in the OBBBA are drastically shifting the financing available for students to fill in those funding gaps.[58] State student loans continue this tradition of cost-shifting in higher education that has been going on for decades. Yet frequently when states consider new state student loan programs they are discussed and marketed as if they are solutions to the student loan crisis and new ways to make education affordable and accessible to state residents.[59] While state student loans make up a fraction of the student loan market, any additional student loan debt can be burdensome and potentially life-changing for the student (and family) that takes it out. State disinvestment in directly funding higher education, coupled with new federal loan limits, are the backdrop to which state agencies advertise their student loans to students and one reason there is even a market for these loans to begin with.

II. What Are State Student Loans?

State student loans are often included in statistics about private student loans, and articles or analyses of lending fail to differentiate them from traditional private loans. At the same time, the state student loan lenders themselves tell prospective borrowers that they are not traditional private loan lenders. They lean on their nonprofit and government-affiliated status and association to distinguish themselves from banks, credit unions, and other financial companies that lend student loans.[60] But even across federal law, their treatment as private student loans varies.[61]

This Section first identifies state student loan programs across the country, attempting to provide a more comprehensive listing of these agencies and fill in existing gaps in the literature. This Section offers a discussion of how state student loan lending fits into existing frameworks of federal and private student loan lending. Lastly, this Section discusses how state agencies advertise themselves to students, and how those advertisements compare to what borrowers receive and experience.

A. Identifying State Student Loans

The existing discussions and data on state student loans are incomplete and sometimes inaccurate. For example, a 2012 analysis by the Consumer Financial Protection Bureau (CFPB) attempted to assess the quality and volume of state student loans, finding that state student loan entities provided about $950 million annually in loans, and that these loans had various benefits including low, fixed interest rates, financial counseling, and a lack of significant risk-based pricing.[62] However, the data was majorly limited, as it was provided voluntarily, and from only 10 state lending agencies.[63]

An unknown number of state student loan agencies and nonprofits are members of the Education Finance Commission (EFC), a trade association that advocates for various student loan policies and touts the services these entities provide.[64] The 2024 Annual EFC Report states that 23 nonprofit state student loan lenders made more than 82,250 loans totaling over $1.26 billion.[65]

This investigation is the first to provide a comprehensive analysis of state student loan programs, identifying active or recently active student loan programs in thirty-three states.[66] While the programs and loan types vary across these states, they have several common features. State student loans are generally lent by nonprofits created by the state legislature, though sometimes they are lent directly by state departments or divisions.

These states offer loans to students, and sometimes the student's family members, and the loan terms often closely resemble traditional private student loans. Some states only lend forgivable loans, i.e. loans that can be forgiven if the borrower meets specific requirements (usually those requirements are linked to profession and/or residence).[67] Some states have specialty loans, which are loans only extended to students attending certain programs, schools, or entering certain professions.[68] A few states offer no-interest or 1 percent interest loans.[69]

The volume of loans lent by these agencies varies widely.[70] Generally speaking, these agencies lend to thousands of students a year and have portfolios of millions of dollars in loans. For illustration, for the academic year 2024-25, Rhode Island Student Loan Authority (RISLA) issued $96 million in undergraduate loans to students and families, and refinanced $29 million in existing loans.[71] In fiscal year 2025 alone, the Massachusetts Educational Financing Authority (MEFA) disbursed $348 million in private education loans, compared to $449 million in fiscal year 2024.[72]

Some state lending has been happening for decades, whereas others are only a year or two old.[73] In 2021, Washington state took steps to establish a state student loan program with interest rates between 1%-2.5% that would be "more affordable than direct federal student loans and private loans," and provide assistance to graduate students in particular who face education funding gaps.[74] Governor Jay Inslee signed the bill into law in 2022, which was set to fund Washington Student Aid Council (WSAC) with $150 million to start the loan program.[75] In 2024, WSAC issued a report on the loan program design and feasibility, and summarized several changes to the program made during the 2023 legislative year, including increasing the maximum interest rate from 1-2.5% and restricting the program to state residents pursuing "high-demand graduate studies."[76] However, since 2022, the legislature has continuously cut or redirected potential funds available to WSAC for the loan program, and WSAC is not currently offering any loans through this program.[77]

Table 2 in the Appendix provides portfolio figures for some of the state agencies. Some lend very few loans each year, because the loans are school or profession-specific. Others lend millions each year to thousands of students.

B. Where State Student Loans Fit In

State student loans are not federal loans, as they are not made or insured by the federal government. It would also be inaccurate to describe them as purely private student loans, however, they do meet the definition of private student loans under several federal definitions. Private student loans generally describe loans originated by banks and other financial institutions.[78] State student loans also fall under the broad Truth-in-Lending Act (TILA) definition of a private student loan. Under TILA, a private educational lender is defined as a financial institution, federal credit union, or "any other person engaged in the business of soliciting, making, or extending private education loans."[79] A private education loan, in turn, is defined as a loan provided by a private education lender that is not "made, insured, or guaranteed under" Title IV of the Higher Education Act and is "issued expressly for postsecondary educational expenses to a borrower . . . ."[80] While state student loans fall under the definition of a private student loan under TILA, their treatment is different in the Bankruptcy Code. The Bankruptcy Code imposes an "undue hardship" standard on borrowers seeking to discharge student loans in bankruptcy. For this purpose, it defines student loans in roughly three buckets: i) qualified education loans, as defined by the Internal Revenue Code; ii) any "obligation to repay funds received as an educational benefit, scholarship, or stipend,"; or iii) "an educational benefit or overpayment or loan made, insured, or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution."[81] As a result, the Bankruptcy Code treats state student loans akin to federal loans, and distinct from traditional private loans, which must overcome the undue hardship standard if they meet the definition of a qualified education loan, which is narrower than what we colloquially associate with the term "student loan."[82] This makes discharge of state student loans potentially harder than other private loans, as they are categorically subject to the undue hardship standard through the third definition, and borrowers cannot avail themselves of any off-ramp from the undue hardship standard if the loans do not meet the specific definition of a "qualified education loan."[83]

Despite the fact that state student loans can sometimes be categorized as private loans, it is misleading to simply refer to them as private loans and important to classify them separately for two reasons. First, state agencies explicitly market their loans as distinct, and safer, than traditional private student loans. This analysis pushes back against that marketing, which deceptively situates state student loans like federal student loans, when the reality is that their terms and benefits more closely resemble private student loans. Second, state student loans have unique drawbacks due to their proximity to the state that are not present for traditional private student loans and make these loans even less borrower-friendly.[84]

Students can take out federal student loans or private student loans to fund their education. When students go to school, they often fill out the Federal Financial Aid Application (FAFSA) to access federal aid and grants.[85] Federal student loans come with certain regulations, controls, and benefits. Among those include: fixed interest rates (with the exception of a small number of older loans), income-driven repayment plans, forbearance and deferment options, Public Service Loan Forgiveness (PSLF), Total and Permanent Disability Discharge (TPD), Death Discharge, and other programs to contest liability such as Closed School Discharges and Borrower Defense to Repayment.[86] Due to these terms and benefits, they are considered safer options when compared to private student loans.[87] However, these benefits are not provided without strings: because they are lent by the federal government, there is no statute of limitations, meaning the government can pursue a borrower forever to collect on the debt.[88] Additionally, the federal government has extraordinary collection powers at its disposal, including offsetting tax refunds and other federal benefits. Federal student loan debt currently stands at $1.6 trillion across 45 million borrowers.[89]

Students may opt for private student loans, or state student loans, for a variety of reasons. Some are unaware of FAFSA or are unable to go through the complicated application process on their own. Others complete FAFSA and receive federal financial aid, but are left with significant funding gaps. Others may use private student loans for additional expenses not contemplated in their financial aid package. Private student loan lenders have also been accused of specifically targeting communities of color who have fewer resources to fund their post-secondary education or who may have less assistance in securing other forms of aid.[90] Students may consider state student loans for similar reasons, and because of the misleading advertising and marketing these lenders engage in.

C. What Are States Advertising to Students?

State agencies often market their loans to students who are facing a gap in their student loan financing, and they enter the market offering something that other private student lenders cannot: a sense of legitimacy. State authorities "market themselves as the 'good guys' in the world of student loans since they tend to be nonprofit entities, and their loan products may have lower interest rates than more traditional commercial lenders."[91] States often describe their student loans as important programs that assist residents in accessing and affording college. In Washington, the legislators who advocated for establishing a new low interest rate state student loan program, sought to "provide hope for students to be able to access a college education without taking on crushing, high-interest debt that puts things like home ownership out of reach after they graduate."[92] They saw a new loan program as a way for students to avoid "ridiculously high interest student loans," and access "a more affordable option" instead.[93] RISLA describes state student loans as offering "loans with a different mission: helping students and families access affordable education," and as "prioritizing affordability and borrower success over profit."[94] It tells borrowers that "non-profit lenders reinvest earnings into borrower benefits rather than distributing profits," and having "local expertise and support," to "prioritize borrower-friendly features…"[95]

Similarly, when the Pennsylvania Higher Education Assistance Authority (PHEAA) announced its new private loan program in 2019, PHEAA described the program as having "borrower benefits built in that [students] can't enjoy elsewhere."[96] PHEAA emphasized that its goal was not "to make money," but rather "to make sure the borrower stays in good standing and has a worry-free repayment experience."[97] A state legislator described the program as "finally giv[ing] Pennsylvania students a borrower-friendly, lower-cost private student loan option from a trusted source." [98] The President of the Association of Independent Colleges and Universities of

Pennsylvania concurred, stating: "it's better to get your loan money from an agency that has to be responsive to your elected officials…[i]t's far less likely that they would be able to get away with selling your loans to some out-of-state bank that could raise your interest rate because at least you have a recourse. You can go to your legislator and say this isn't right. Banks can do that and there really isn't a recourse other than calling your bank."[99]

This sort of marketing has led many borrowers to feel betrayed. A New Jersey Higher Education Student Assistance Authority's (HESAA) borrower, who went back to school later in life to complete her degree, was denied any flexible repayment options on her HESAA "NJClass" loans when she had not yet found a job post-graduation.[100] She complained to the Consumer Financial Protection Bureau (CFPB), stating: "Shame on NJ Class for giving people the false impression they are there to assist in the goals and dreams of students that just want to get an education but fall short on money."[101] Some borrowers felt particularly preyed upon by how these agencies touted their aid to low-income students. One RISLA borrower recalled receiving "a lot of mailers from RISLA saying that they were the loan company that would really help me."[102] As a first-generation college student, the borrower and her family "were eager" to find ways to finance her college education.[103] But after taking out a RISLA loan and later experiencing difficulty with the cosigner release and inflexible repayment options, she regretted her choice.[104] She explained: "Boy were we wrong. RISLA has done nothing to help me, and they do not look out for their customers, only themselves."[105] A Vermont Student Assistance Corporation (VSAC) borrower complained that he went through VSAC to get his student loans because he was told "how great and reliable they [were] when it comes to working with low-income students/students in need of help paying for college,"[106] but ended up struggling to repay a loan balance of $140,000 after graduation.[107] Another VSAC borrower said that the experience of trying to repay VSAC loans left her feeling "ripped off" by the agency and by the State.[108]

The EFC proclaims that its members' loans are "low-cost," with "transparent terms" and that its member agencies "serve as trusted guides" in the financial aid space and "work closely with borrowers experiencing personal hardship or financial difficulties to offer guidance and assistance."[109] EFC asserts that its members nonprofit status "means their interests are inherently aligned with the student," and that students can expect "a high level of service and accountability from nonprofit, state-based, and state-chartered organizations who make education loans."[110] For such strong language, students would reasonably expect borrower-friendly terms and/or assistance and flexibility in repayment. But, as is explained further in Part III, that is not at all what state student loan borrowers find. In fact, what EFC and state agencies seem to mean when referring to their missions and nonprofit status, is simply that they provide financial counseling, funded in part by loan revenue, and (sometimes) offer marginally competitive rates as compared to certain federal loans known as Direct PLUS loans.

As a result of the advertising and marketing these state agencies engage in, students and their families may go to state agencies for loans because it seems like a safer option. Students expect that these state nonprofits will be more willing to work with them, and unlike other private student loan lenders, will be more invested in students' success. Unfortunately, that is not always what they find. A 2016 report by The Institute for College Access and Success (TICAS) found that "while states often strive to create loan programs that are better for students than federal student loans, the reality generally falls far short," and that their terms "frequently have more in common with other private loans than with federal loans."[111]

This Section analyzes state agencies' marketing claims, then describes borrower experiences of those claims, specifically as it pertains to confusion around the types of loans being lent, and the financial counseling provided by the state agencies.

i. State Agency Websites

In attempting to distinguish themselves from other student loan lenders, state agencies often market themselves as distinct from and more borrower-friendly than traditional private lenders because of their nonprofit status and state affiliation. Even if they do not make the comparison outright, the implication is clear. When the state agency says they are there for the state's residents, and have the students' best interests at heart, these words are accompanied by the state's seal, appear to be endorsed by state officials, and/or are surrounded by language tying the loans to the state government. The EFC makes these assertions explicit, continuously stating that their members' loans and policies are more borrower friendly than other student loans.[112]

Within this framework, there is a range in how aggressively and transparently these state agencies market their loans. Some agencies have clear disclaimers that students should (or must) consider taking out federal student loans before turning to state student loans.[113] Many offer financial counseling that describes the type of federal loan repayment options available to borrowers, how to recertify Income-Driven Repayment, how to save for college, and how to compare loan options.[114] Other state agencies more aggressively market their state student loan programs. When under fire for harsh loan terms and collection practices in 2016, HESAA's website featured a photo of the Governor, along with the text: "[our] singular focus has always been to benefit the students we serve."[115] Although the photo and text have since been removed, the current website states that HESAA is the "only New Jersey state agency with the sole mission of providing students and families with financial and informational resources for students to pursue their education beyond high school."[116]

The following table includes some of those assertions from the agency websites. It is clear that the purely state agencies make much less-bold claims, whereas the quasi-state agencies are doing the most marketing with their words. Where an agency did not make any assertions, or no longer lends student loans, they are marked as "N/A."

Table 1: Marketing Claims

AGENCY	ASSERTIONS
Alaska Commission on Postsecondary Education	"Flexible borrower options!"[117] "ACPE's education loan solutions offer financially responsible borrowing opportunities for students & families."[118] "Potential savings range from $12,700 to $56,500."[119]
Arizona Board of Regents	N/A
Arkansas Student Loan Authority	"We're Here for You: Through College Planning Services and Arkansas Education Loans, we're here to help you succeed."[120]
Connecticut Higher Education Supplemental Loan Authority	"CHESLA gives you a low rate, peace of mind and predictability."[121] "Offering competitive fixed rates and flexible solutions for advanced education financing."[122] "We are a non-profit that channels our resources into helping you reach your educational goals."[123]
Georgia Student Finance Commission	"As part of our mission to increase access to postsecondary education, the Georgia Student Finance Commission has a variety of grants, loans and scholarships to help residents with the cost of a higher education."[124]
INvestEd Indiana	"The INvestEd Student loan difference! The INvestEd Student Loan is different than other private loans primarily because INvestEd is a different type of lender," and "INvestEd and our partners offer hard-working, qualified families a better private loan option- the INvestEd Student Loan!"[125]
Iowa Student Loan Liquidity Corporation	"Plan smart and pay less for college." [126] "As a nonprofit, we're able to offer competitive rates that are often lower than rates offered by other for-profit private loan lenders... We're here to help."[127]
Kentucky Higher Education Assistance Authority	"Additional benefits when needed"[128] "Several repayment options- choose the repayment plan that best fits your need."[129] "If you must borrow college expenses – borrow from someone who can help you now and later. Borrow with the Advantage Education Loan."[130]

AGENCY	ASSERTIONS
Louisiana Education Loan Authority (division of the Louisiana Public Facilities Authority)	"LelaCHOICE provides better supplemental loan options for paying for college."[131] "Choose Quality. Choose Community. Choose Lela."[132]
Finance Authority of Maine	"FAME helps the people of our state by making it easier for Mainers to make their education… dreams a reality."[133] "The Maine Loan from FAME: It's the smart way to bridge the gap between financial aid and tuition costs."[134]
Massachusetts Educational Finance Authority	"Our Mission: College Affordability for All." [135] "We, the Massachusetts Educational Financing Authority, are a state authority with an essential public function, committed to helping students and their families plan, save, and pay for college and reach financial goals."[136] "Community-oriented and value-minded." [137] "Our goal is to help you save money on your student loans."[138]
Massachusetts Office of Student Financial Assistance	N/A
Michigan Finance Authority (division of Michigan Department of Treasury)	N/A
Minnesota Office of Higher Education	"Backed by Minnesota. Built for your success."[139] "A trusted state program"[140] "Committed to your success" [141] "Flexibility and control: Designed to support you from enrollment through graduation and beyond, the SELF loan offers flexible repayment terms… "[142]
Mississippi Office of Financial Aid	N/A

AGENCY	ASSERTIONS
Missouri Grant & Loan Foundation (branch of Mohela)	"The Foundation was formed by MOHELA to help make higher education more accessible and affordable for Missouri families. By providing scholarships and low-cost student loans, the foundation supports persistence to graduation from institutions of higher education by Missouri citizens."[143]
New Jersey Higher Education Student Assistance Authority[144]	"HESAA, the Higher Education Student Assistance Authority, is the only New Jersey state agency with the sole mission of providing students and families with financial and informational resources for students to pursue their education beyond high school."[145]
New Mexico Educational Assistance Foundation	"We are a Non-Profit Organization… That's right- we are NOT for profit. Unlike other lenders, all of the money we earn beyond expenses goes back into helping students and families plan, prepare and pay for college."[146] "We won't issue bad loans."[147] "We understand New Mexico's students and universities better than any other student loan provider. If you ever want help in person you can visit our friendly representatives in our Albuquerque office. Also, when you borrow from us, you are helping employ fellow New Mexicans."[148] "We are proud to be serving the community of New Mexico for more than 35 years. You can trust that you are in good hands with NMEAF as we have been servicing New Mexicans since 1981 and have helped more than 340,000 borrowers with $2.9 billion loans."[149]
New Mexico Higher Education Department	N/A
New York Higher Education Services Corporation	N/A

AGENCY	ASSERTIONS
College Foundation of North Carolina	"Getting an affordable, transparent student loan has never been easier."[150] "As a non-profit lender, our goal is to get you the best possible loan at the lowest possible rate."[151] "Student Loans that Let You Thrive."[152] "Our only goal is to help you afford and succeed in your education."[153] "NC Assist Loans make affording college simple, with a fixed interest rate, easy application, and solid support from North Carolina's trusted non-profit lender."[154]
Bank of North Dakota	"Student loans are an investment in your future. Bank of North Dakota wants you to Be Confident with your student loan decisions and encourages you not to take out more than you need."[155]
Ohio Department of Higher Education	N/A
Oklahoma Higher Education Loan Program	"Our mission is to make higher education more affordable and accessible for Oklahoma students and families. Our vision is to be the premier nonprofit financial aid services organization in the marketplace creating affordable access to higher education… [O]ur earnings are reinvested into our loan program to assist more Oklahoma students and families."[156]
Pennsylvania Higher Education Assistance Authority	"PA's Low-Cost Way to Pay for College"[157] "Our earnings help support PHEAA's public service mission to give back to PA students and families."[158] "Great Benefits!"[159]
Rhode Island Student Loan Authority	"RISLA is a nonprofit education lender committed to helping students and families succeed – not just at application, but throughout their entire borrowing journey."[160] "In addition to competitive rates and clear terms, RISLA offers borrower benefits and protections designed to support you when you need it most."[161]

AGENCY	ASSERTIONS
South Carolina Student Loan	"Trusted Guidance."[162] "Local Expertise: We're a South Carolina lender with decades of student loan experience."[163] "Tailored Loans: Get student loan options with repayment plans that fit your needs."[164] "From day one, we've put our students first, because we believe when they succeed, we all succeed. We accomplish that with low interest rates, a local team of trusted advisors, and unrivaled service."[165]
Tennessee Student Assistance Corporation	N/A
Texas Higher Education Coordinating Board	N/A
Vermont Student Assistance	"With VSAC, you decide which loan fits best in your future."[166] "Created by the Vermont Legislature in 1965 as a public nonprofit agency, we advocate for students and their families to ensure that they have the information, the counseling and the financial aid to achieve their education goals."[167] "[O]ur loan programs and loan forgiveness programs are saving Vermont families thousands of dollars in interest."[168]
Washington Student Achievement Council	N/A
West Virginia Higher Education Policy Commission	N/A
Wisconsin Higher Educational Aids Board	N/A

ii. Borrower Confusion

Borrowers report confusion when it comes to the exact type of loan the state student loan agency is lending them. Borrowers remain unclear as to whether they have taken out a private loan or something different, and these experiences become particularly confusing when the state agency may have worked with the borrower to access both state student loans and federal loans.[169] One HESAA borrower complained to the CFPB that they were misled into thinking their state student loan "was a government backed loan via its association to federal and state officers,"[170] and another explained that their parents, who were cosigners on the loans, thought that HESAA's name meant that it was connected to the state in a way that would make the loan more beneficial than a purely private student loan.[171]

Borrowers in other states seem to be similarly confused about the type of loan they have taken out from these agencies. When a single mother in Vermont was helping her son apply to college, she felt overwhelmed by the financial aid process. She and her son met with a VSAC employee who helped them. But throughout the process "nothing was mentioned" about the type of loan her son was applying for.[172] It wasn't until repayment started that the VSAC employee told her the loan was private.[173] She felt that "as a single parent getting their child ready for college" she had "relied on [VSAC] and [VSAC] neglected [their] role."[174] The experience made her lose "all confidence" in VSAC and what she thought its mission was.[175] Another VSAC borrower complained to the CFPB that the agency "never specified" which of the loans offered were private and which were federal, and that he "applied for the private loans without even knowing that it was [private]."[176] Another VSAC borrower, who went to VSAC because she had heard they helped low-income students, had no idea she was borrowing a private VSAC loan instead of a federal loan.[177] She and her father had been in communication with VSAC throughout the process and "were under the impression that all of their loans were federally funded."[178]

Borrowers from other agencies have had similar issues. A New Mexico Educational Assistance Foundation (NMEAF) borrower was confused and frustrated by the fact that he ended up with private student loans through NMEAF when the agency "insist[ed] that they [were] a federal student loan company."[179] An Alaska Commission of Postsecondary Education (ACPE) borrower did not realize he had taken out private student loans until he started going through hard times.[180] Once the loan went into default, and then collections, he realized he had no options, like rehabilitation, to get his loan back into good standing.[181] He reflected that when he took out loans with ACPE he was "struggling and juggling multiple lenders" and "didn't realize [the loan] was separate from federal loans."[182] This reflects the experience of other borrowers who complained to the CFPB about their ACPE loans.[183]

iii. Financial Counseling and Financial Planning

Many state student loan agencies offer financial aid counseling for students and their families, and college savings accounts. One of EFC's guiding principles is providing financial education and assistance, and it encourages its members to provide financial aid counseling to K-12 schools, run financial literacy education with local education agencies, and work directly with organizations that do outreach to "historically marginalized students."[184] New Jersey's Student Loan Bill of Rights tasks HESAA, along with New Jersey's Student Loan Ombudsman, with "maintain[ing] a student loan borrower education course that shall include educational presentations and materials regarding student education loans."[185]

While assistance and support through the student aid application process can be a valuable resource for many families, it is easy to see how lines could be blurred when the agency offering financial counseling also lends its own loans. For example, New Jersey borrowers have been uncomfortable with HESAA's role in providing financial aid information and counseling. One parent borrower complained to the CFPB about a presentation HESAA gave at her child's high school, which she believed "unduly promoted NJHESAA loans, gave false or misleading information regarding federal loan options, and presented misleading information about the 'benefits' of NJHESAA loans."[186] She felt that the HESAA representatives "used their position as employees of a state agency to deceive parents, students, and teacher[s] into believing that the information being presented was given without agenda or bias and was factually correct."[187] Further, she felt that people were misled into thinking that these loans had the same terms as federal loans, and that these loans "were the only viable option to pay for a college education and that federal loans would not be suitable to cover the cost of college education."[188]

One of EFC's federal policy goals is to get the federal government to loosen its restriction on preferred lenders.[189] Schools that have preferred lender arrangements are required to provide students with disclosures that list the preferred lenders and disclose why the institution participates in those arrangements, specific borrower-friendly provisions, the method and criteria used to select the preferred lenders, and other specific disclosures related to the relationship between the school and lender, and terms and conditions of those loans.[190] Under regulations issued in 2008, colleges have to make the criteria publicly available, and are not allowed to financially benefit from any of the lenders on the list.[191]

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Many state agencies tell students and their families that they should trust their state agency over other private loan lenders. But it is not clear that they should. As Part III will further describe, there is no indication that these lenders offer flexible repayment terms, are interested in offering truly flexible or helpful repayment options to struggling borrowers, or that they generally operate in a more borrower-friendly manner, despite their many assertions to the contrary. Many agencies tout their nonprofit status as if it means that borrowers' best interests are prioritized.[192] But this constant refrain obscures the fact that, for the most part, any "borrower-friendly" programs they run are separate from the loan terms themselves.

III. Worst of Both Worlds

State agencies sell students on better terms, trustworthy lenders, and flexible repayment. But what are students actually getting? Is it any better than what traditional private student lenders offer? And what are the unique risks that state lenders pose to borrowers precisely because of their state-status?

This Part proceeds as follows. Part A surveys and compares state student loan terms, comparing them to private and federal options. Overall, the only slightly competitive feature of state student loans appears to be their interest rates, but often only for students with excellent credit. Part B reviews borrower complaints regarding loan servicing. Part C discusses the unique collection powers state student loans have compared to private loans, posing often undisclosed harm to borrowers. Part D discusses the lack of consumer protections available for state student loan borrowers.

Most state student loans are indistinguishable, when it comes to loan terms, from private student loans. Furthermore, they lack meaningful borrower protections or policies while lenders enjoy enhanced collection powers. State student loans therefore combine the worst elements of private and federal student loans, offering students a risky third option.

A. Loan Terms

There are key differences between federal and private student loan terms that are important in determining whether or not state student loans are favorable options for borrowers. These loans differ on interest rates, repayment options, forgiveness options, and more. Federal student loans have fixed interest rates, set by Congress, which are tied to a 10-year Treasury yield plus a premium.[193] Federal loans have borrowing caps, and generally speaking do not have co-signers or credit score requirements.[194] Federal student loan borrowers can access income-driven repayment plans, and different forgiveness and cancellation programs.[195] Currently, there are between one to four income-driven repayment plans available to different federal loan borrowers that tie monthly payments to a percentage of a borrower's "discretionary income."[196] While the plans are far from perfect, they enable some borrowers to access affordable payments, and ostensibly also provide a plan for forgiveness once the loans are paid on for 20 to 30 years.[197] Federal student loan borrowers also have the opportunity to participate in Public Service Loan Forgiveness (PSLF), can have their loans cancelled due to death or permanent disability, and have avenues to apply for relief if they have been defrauded or suffered other harm at the hands of their institution.[198] Borrowers default on federal student loans after about nine months of missed payments, and they can get out of default via consolidating or rehabilitating their loan.[199]

Private student loans, on the other hand, more closely resemble other consumer loan products. They can have fixed or variable interest rates, sometimes rising to the double digits.[200] Private student loans with variable interest rates tie the rate to an index and can change the interest rates, and therefore monthly payments, accordingly (sometimes quarterly, and sometimes even monthly).[201] Private student loans generally have rigid repayment schedules, without long term income-based repayment options, and very limited opportunities for cancellation.[202] Unless the borrower has a stellar credit score, a private student loan will usually require a co-signer. Borrowers can default much more quickly on private student loans than federal loans, and may not have access to programs, like consolidation or rehabilitation, to get the loan back in good standing.

As this Section will describe, state student loans fit somewhere in the middle, and in fact take on the worst characteristics of private and federal student loan repayment and collection. This Section provides an overview of state student loan terms, including co-signer requirements, interest rates, lending limits, repayment terms, and fees. Despite marketing themselves as borrower-friendly, trustworthy nonprofits, most state agencies offer very limited repayment options and fail to advertise flexible repayment options on their websites.

i. Co-signers

State student loans often require co-signers, similar to other private loans. Many lenders require co-signers for most first-time students unless they meet certain credit requirements."[203] Most borrowers must find a family member to co-sign their loan. Co-signers are often in a precarious situation: they are legally obligated to the loan like the primary borrower, responsible for payments that come due.[204] Their credit can be harmed by any missed payments, and they can be sued when the loan goes into default. Lenders sometimes have programs, which they sometimes advertise up-front, called "co-signer releases," whereby the borrower can apply to have their co-signer removed from the loan.[205] However, in both traditional private student loans and state student loans, these co-signer release programs are very limited and rigid, which is often not clear to borrowers when they take out the loan.

Being able to release a co-signer from a loan is a borrower-friendly policy that rewards loan payments and removes potential negative consequences for the co-signer, should the borrower miss payments or default.[206] Borrowers often believe that they will be able to release their cosigners from their obligations if they are able to make payments on the loan. But the process of releasing a co-signer is often complicated and unforgiving.[207] Sixteen state student loan lenders have identifiable co-signer releases available; the remaining states may offer such releases, however there is not information readily available on their websites.[208] For borrowers to have their co-signers released, they have to make on-time, full principal and interest payments for a period ranging from 12 months to 48 months, depending on the state and loan.[209] The months must be consecutive, and the borrower often must meet other indicia of creditworthiness.[210] Some agencies do not provide any sort of co-signer release.[211] Borrowers have complained to the CFPB about various issues relating to cosigners on state student loans, including harassing collection tactics and difficulties getting co-signers released.[212]

Requiring co-signers on student loans is not a borrower-friendly practice. Instead, it wraps up entire families, and possibly communities, in a potentially dangerous financial situation, putting many at risk when a loan becomes unaffordable. Co-signer releases are rarely generous to borrowers, and often out of reach when borrowers need them the most. The co-signer releases offered by state agencies are not more favorable than the ones offered by traditional private lenders.[213]

ii. Interest Rates

The Education Finance Council (EFC) states that its member entities offer "low-cost" loans and encourages its members to offer "low interest rate loan[s], including a fixed rate option, and no origination fee."[214] Current federal student loan rates are 6.52% for undergraduate Direct loans, 8.07% for graduate Direct loans, and 9.07% for Direct PLUS loans.[215] Many state agencies advertise low interest rates, and some do follow through on this promise. However, the upfront advertising of "low interest rates" often obscures the fact that for many of these agencies, interest rates are still based on credit score and can extend fairly high.[216] Although interest rates of 0-1% could make a big difference for some borrowers, those truly low-interest rate loans are rare.[217]

In fact, agencies that are funded by bond revenue may "face pressure to charge interest rates and fees sufficient to support investor returns and reserve requirements."[218] Furthermore, some states explicitly exempt their state agencies from state usury limits. For example, Vermont Student Assistance Corporation (VSAC) is exempt from Vermont law that caps interest rates at 12%.[219] Analysis published in 2019 of state-sponsored student loans in 15 states found that the median starting interest rate was 5.15% for fixed-rate loans and 4.07% for variable-rate loans.[220] State agencies generally change their interest rates for new loans annually. In 2026, fixed interest rates ranged from as low as 2.95% to as high as 12.468%, to variable rates that could go as high as 18%.[221] As explained later in this sub-section, many state student loan borrowers still experience the same issues with spiraling loan balances that federal and private student loan borrowers experience.

Many state agencies try to sell borrowers on their loans by highlighting lower interest rates.[222] In reality, low interest rates may be out of reach for many borrowers who do not have stellar credit scores, and borrowers may still see their loan balances spiraling despite the hopeful tone of many of these agencies. However, few states offer student loans with a sharply lower interest rate (1% or 0%), and many state agencies still offer variable rates and/or hinge their interest rates on the borrower's credit score.[223]

iii. Lending Limits

Federal student loans have aggregate and annual lending limits, which cause some students to have funding gaps that need to be filled by other types of student loans. The aggregate lending limits for undergraduate loans are $57,500 for independent students (or dependent students whose parents were unable to obtain PLUS loans), and $31,000 for dependent students.[224] While the One Big Beautiful Bill Act (OBBBA) did not change the undergraduate lending limits, it instituted a $275,500 lifetime maximum borrowing cap.[225] Additionally, the OBBBA lowered graduate lending caps significantly. Now, graduate students have an annual federal loan limit of $20,500, with an aggregate limit of $100,000 for a program of study.[226] Graduate students enrolled in so-called "professional degree" programs are limited to $50,000 annually and $200,000 for a program of study.[227] OBBBA also eliminated the Grad PLUS loan program, and limited Parent PLUS loans to $20,000 annually per dependent student and a $65,000 aggregate limit.[228]

Some state student agencies, like Vermont Student Assistance Corporation, the Finance Authority of Maine, and Indiana's INvestEd, set their loan limits at the cost of attendance minus other financial aid.[229] Others, like the Minnesota Office of Higher Education, Alaska Commission on Postsecondary Education, and Georgia Student Finance Commission, set specific limits, ranging from $8,000 to $20,000 annually, and $56,000 to $120,000 aggregate.[230] Finally, some state agencies, like Kentucky Higher Education Assistance Authority and Pennsylvania Higher Education Assistance Authority allow borrowers to take out their loans up to the cost of attendance.[231] Lending limits may be higher for graduate loans versus undergraduate loans. For example, Minnesota's doctoral program SELF loan has a cumulative maximum of $300,000, with no annual limit, whereas its undergraduate SELF loan has an annual limit of $40,000.[232]

In many states, state student loan borrowers can take on tens of thousands of dollars, even into six digits, in state student loans. That is a huge risk, considering the repayment terms they are likely to have and, as is further explained later in this Part, there are no paths towards forgiveness, and rarely ever long-term income-based repayment plans.

iv. Repayment Terms

State agencies advertise their non-profit or governmental status when lending state loans, encouraging borrowers to trust them because they have students' best interests at heart. One would reasonably assume this means that there is some flexibility and compassion in the repayment of these loans. But that's not what state student loan borrowers will actually find once entering repayment.

In fact, it is unclear if some state agencies even offer discharges for borrowers who die or become permanently disabled.[233] This could leave borrowers even worse off with state student loans than had they taken out private student loans. Although not all private student loan lenders offer disability discharges, a number do,[234] and some states with Student Loan Borrower Bills of Rights or similar servicing laws require private lenders to have disability discharge programs.[235] Although the EFC "encourages" its member organizations to offer such discharges, state student loan agencies are often opaque about their availability, or it takes significant press to get them to implement these programs.[236] For example, a 2016 ProPublica and New York Times investigation highlighted New Jersey Higher Education Student Assistance Authority's (HESAA's) draconian policy of refusing to discharge loans in the event of a borrower's death, leaving parents with astronomical bills in the wake of a tragedy.[237] Rather than provide a discharge at the death of a borrower, HESAA had encouraged borrowers to take out life insurance policies.[238]

Presently, it appears that at least fourteen states allow borrowers to apply to discharge their loans upon permanent disability and/or death.[239] It is possible that other state agencies offer such programs, but they are not advertised on those agencies' websites. Many borrowers may find themselves unable to pay temporarily due to illness or conditions that do not meet the definition of total and permanent disability. Federal student loan borrowers in this position can access forbearance options, apply for Cancer Treatment Deferment if they are undergoing cancer treatment, or apply for an Economic Hardship Deferment. A few states also offer programs for borrowers in similar situations. For example, HESAA allows borrowers to apply for deferments due to temporary disability.[240] This application requires a physician to certify that the borrower cannot attend school or work because of their illness or condition.[241] If approved, the loan can be deferred for six months, and a new application can be submitted every six months up to a maximum that is based on the repayment term of the loan.[242]

One of the main reasons federal loans can be safer options for students is that they offer more flexible repayment options (including opportunities for long-term income-driven repayment, cancellation, and forgiveness). Federal student loan repayment generally starts six months after graduation.[243] If borrowers fall behind, they are not considered in default for another nine months.[244] Private student loans, on the other hand, rarely offer income-driven repayment options.[245] They might provide limited grace periods before repayment, although many require interest-only payments during enrollment, or increase interest rates when payments are not made during school.[246] The default timeline is often much shorter for private student loans, and borrowers can quickly find themselves in hot water after one missed payment.[247] When it comes to repayment options, state student loans seem to more closely resemble traditional private loans than federal loans. They offer few flexible repayment options or opportunities for cancellation.

Similar to traditional private student loans, state student loans generally have repayment terms of seven to 20 years (most commonly 10, 15, or 20 years), with repayment schedules based off the total loan amount and repayment term length.[248] States agencies often advertise that they have multiple repayment "plans" available to students to help make repayment affordable. In reality, most agencies only offer three different ways to repay that are strikingly similar and inflexible. They are not offering anything similar to the variety of plans found at the federal loan level, like Extended, Graduated, or Standard plans, or Income-Driven Repayment plans. Instead, the only differences among the repayment options are whether or not the borrower has to make payments while enrolled in school, and whether or not the interest rate changes as a result. State agencies generally provide: i) immediate repayment, which usually offers the lowest interest rates, where the borrower makes full principal and interest payments while enrolled in school; ii) interest-only repayment, where the borrower makes interest-only payments after disbursement, and sometimes during a post-graduation grace period; and iii) deferred repayment, where borrowers do not have to make payments during school or during a grace period after graduation.[249] Under deferred repayment, interest may capitalize when repayment begins.[250]

Not only can interest rates vary based on borrower credit score, as described previously, but they can also vary based on the repayment plan the borrower chooses. For example, the Finance Authority of Maine's Maine Loan offers 6.24% for immediate repayment, 7.24% for interest-only repayment, and 7.74% for deferred repayment.[251]

Only a couple of state student loan agencies offer their borrowers any sort of income-driven repayment plan, and even those plans are not very generous. After coming under fire in 2016 for harsh repayment terms, New Jersey's HESAA created two income-driven repayment plans to help borrowers repay their loans. The Repayment Assistance Program (RAP) reduces payments to 10% of the monthly income of all parties to the loan, for up to two years.[252] During this time, HESAA subsidizes interest, so that the payments can go towards the loan's principal.[253] The Household Income Affordable Repayment Plan (HIARP) reduces payments to 15% of monthly income of all parties on the loan, extends the loan term to 25 years, and allows the remaining loan balance to be forgiven at the end of the extended term.[254] The Rhode Island Student Loan Authority (RISLA) also offers an Income-Based Repayment Plan, which reduces payments based on income and family size, and extends the loan term up to 25 years.[255] For both agencies, the income-driven repayment plans take into account co-signer income, which may make these plans significantly less useful for borrowers.[256]

Presumably, many state student loan agencies also offer borrowers limited deferment or forbearance options, as private lenders do. While financial statements from several entities reveal that many borrowers are, in fact, enrolled in such plans, their websites do not make these options clear to potential borrowers. Massachusetts Educational Finance Authority's (MEFA's) most recent financial statements state that it "uses loan modifications to assist private loan borrowers demonstrating a need for temporary payment relief during difficult economic times," but does not advertise loan modifications on its website.[257] The modifications temporarily reduce payments for up to 48 months, but do not change the original loan term or interest rate.[258] In 2025, MEFA reported that about 4.19% of loans in repayment were utilizing the modified repayment plan (up from 3.8% in 2024).[259]

CFPB complaints illustrate how borrowers struggle with the lack of repayment options for their state student loans. For example, an Iowa Student Loan Liquidity (ISL) borrower complained to the CFPB about the lack of assistance ISL offered at the beginning of the COVID-19 pandemic: he asked ISL for a six-month forbearance and was denied.[260] ISL only paused collections during the pandemic once advocates raised the issue and the attorney general stepped in.[261] One MEFA borrower complained to the CFPB about her efforts to lower her payments, made difficult in part because she was not able to access her payment history through her online account.[262] For a short time, she was able to make $200/month "interest-only" payments on her loans (which had interest rates of 6.9%).[263] However, the interest-only payment plan expired, leaving her with double the monthly payments and no other repayment options.[264] Another MEFA borrower experienced "nothing but terrible communication, hassles, and a total disregard for [her] situation," and "the worst customer service" she could "ever imagine." [265] With an annual income under $35,000, she was able to temporarily make interest-only payment, although she had to reapply for this plan every six months. [266] After two years, she was told that she also had exhausted her interest-only payment options. [267] She wanted to keep paying on her loans, and offered to do so, "pleading with [MEFA]" to be able to do an income-driven repayment plan.[268] Another MEFA borrower lost her job and was not able to pay her MEFA loans for one month while she was job searching.[269] She called MEFA to see if there was anything that could be done, and warn them about the missing payment.[270] She was "flat-out told no, that there [was] no help."[271] MEFA was unwilling to work with her, and she felt as though they did not care "whether I starve or can't make rent."[272] Other MEFA borrowers have complained to the CFPB about high payments and harassing and threatening attempts at communication or collection.[273]

Complaints about high payments and the lack of affordable repayment options span across state student loan agencies. A VSAC borrower complained to the CFPB that VSAC wanted him to make payments of $1,500/month ($800/month in interest), which was higher than his rent and unaffordable on his $16/hour salary.[274] A South Carolina Student Loan borrower had been paying on his loan until he lost his job.[275] Once an automatic deferment or forbearance ended, he contacted the agency to see if he could get any assistance resuming payments.[276] He was told that there "were no options," and the agency would not accept a request for a hardship forbearance.[277] As a result, his loan was transferred to a collection agency, and he received a letter from the agency threatening to garnish his wages and seize his family's tax returns.[278]

Many HESAA borrowers have complained to the CFPB about frustrations with HESAA and the repayment process.[279] While in school, one HESAA borrower started to pay interest of $520 on a quarterly basis with the help of her mother.[280] She tried to consolidate her loans after graduation "but NJ Class was neither informative or helpful" with the process.[281] Although she tried to repay her loans "things became unbearable" and "spiraled out of control."[282] Speaking with HESAA representatives about her financial situation, she was told "[i]f you can't pay back the $1500 a month there's no point in paying $500 a month because we will still garnish your mother's wages."[283] The borrower felt that HESAA was making it impossible for her to try to pay down her debt.[284] The situation caused stress for her and her mother, who were receiving "numerous phone calls, emails, and letters from NJ Class," even at her mother's work.[285] The experience made her mother physically ill.[286] Another HESAA borrower complained about HESAA's website, which advertised "flexible repayment options," only for her and her mother to find out after graduation that these flexible repayment options were merely the decision to enroll in interest-only, deferred, or full repayment at the outset of the loan.[287] She had also been told by a HESAA representative that choosing to defer payments until graduation would mean that her cosigner would not be liable for payments, and that upon graduation HESAA would consolidate the loans and remove her cosigner.[288] However, when the borrower graduated, her consolidation was denied and she was told she needed a co-signer in order to consolidate.[289] It is worth noting that these complaints were made prior to 2018, when HESAA did create, despite the limitations it eschewed in its 2014 Board meeting, two income-driven repayment plans to assist borrowers (RAP and HIARP).

However, repayment can be difficult even when the state agency offers income-driven repayment plans. Although RISLA is one of the few agencies to offer Income-Based Repayment, borrowers may still struggle under the plan due to negative amortization and the calculation of borrower income.[290] When one RISLA borrower attempted to enroll in Income-Based Repayment, RISLA failed to communicate that the plan was negatively amortizing and that payments would be based off of both the borrower's and the co-signer's incomes.[291]

State agencies assert that because they are nonprofits they have students' best interests in mind. Many specifically state that they offer flexibility that traditional private lenders do not. In reality, these assertions are misleading and false. State agencies lend student loans with inflexible repayment terms and few, if any, borrower protections.

v. Forgivable Loan Programs

A handful of state student loan agencies lend loans that are marketed as forgivable or cancelable loans, or even as scholarships or grants, that can convert into loans if certain post-graduation requirements are not met. Forgivable loans are distinct from forgiveness or repayment programs. These types of state student loans, referred to collectively in this Article as forgivable loans, are programs in which the state student lender provides conditional educational funding to a student in exchange for a promise to use the education to serve in a specific field or area post-graduation. Many of the forgivable loans offered by these states focus on the teaching or medical professions, and aim to incentivize graduates to move to certain areas of the state that have employment shortages in these fields. Terms vary significantly across forgivable loans. Sometimes the loans are clearly loans from the beginning, and borrowers work in certain fields with the promise of forgiveness. Other times the loans are marketed as scholarships or grants, and convert to loans should the borrower default on the grant or scholarship's post-graduation service terms. Sometimes a portion of the loan can be forgiven each year, up to a certain amount, and sometimes the whole loan is cancelled at once if the student meets certain requirements.[292] A number of states lend these sorts of loans: Tennessee, Wisconsin, New York, Arizona, Ohio, West Virginia, Mississippi, Maine, New Mexico, North Carolina, New Jersey, South Carolina, Ohio, and Georgia.[293]

When state agencies describe forgivable loans as scholarships or grants, they dangerously obscure the ways that students can become seriously indebted. For example, the Tennessee Student Assistance Corporation offers a forgivable loan for registered nurses who go back to school to become teachers and administrators in nursing education programs. If awardees do not complete the required four years of full-time employment immediately after graduation, they must pay back the loan at 9% interest.[294] While borrowers may go to school with every intention of fulfilling service requirements post-graduation, life circumstances and job opportunities can quickly change. Borrowers' spouses may find it hard to secure employment in the areas the borrowers' family would be required to live in to access loan forgiveness.[295] Or borrowers may find themselves without any jobs in the area that qualify for the service requirements for the forgivable loan. Arizona's forgivable loan for teachers has only 181 borrowers currently teaching per their service requirement and 2,009 borrowers in repayment or in default.[296]

Many state agencies offering forgivable loans do not make the loan terms clear should the borrower fail to meet the educational or post-graduation requirements.[297] Additionally, the process of cancellation is not automatic: borrowers must provide proof, sometimes annually, that they are meeting the loan and forgiveness requirements. Should the borrower fail to do so, the loan can go into repayment. A handful of complaints to the CFPB indicate confusion around these state forgiveness programs. One borrower explained his frustration with a forgiveness program operated by the Texas Higher Education Coordinating Board.[298] He believed he had been accepted into a loan repayment program whereby he would work for five years full time at an approved facility in an employment shortage area. Upon completing the requirements, he was unable to qualify for forgiveness through this program, and was told to pursue federal forgiveness options instead.[299] Another borrower complained to the CFPB about a Georgia Service Cancelable loan, and the confusion and communication difficulties he had when trying to ascertain what documents were needed to get forgiveness.[300] Only "after a terrible amount of communication with [the Georgia Student Finance Commission]," was the borrower able to resolve the issue, however negative credit reporting continued despite the loan supposed to be cancelled during those years due to service.[301]

Upon first glance, forgivable loans seem like an effective way to incentivize students to go into much needed fields after graduation while simultaneously helping them avoid significant student loan debt. But not all borrowers will be able to fulfill the post graduate requirements despite their original intentions, and may have no idea what type of loan they have actually agreed to should that happen. Additionally, the service requirements and documentation requirements can be confusing and burdensome. The consequences of failing to meet those requirements can be unclear when the borrower signs up for the loan, and shocking to the borrower when repayment starts. Lastly, the forgiveness may not be as stable as advertised: states have previously reneged on loan forgiveness programs due to budgetary constraints, leaving borrowers stranded with debt they did not expect to have to pay back.[302]

vi. Refinancing

State agencies are not just in the business of originating new state student loans; some also refinance other private or federal student loans into a state student loan.[303] As with other consumer debt, borrowers may want to refinance their student loans in order to access different interest rates or switch lenders.[304] When borrowers take out a new federal student loan to pay off existing federal student loans, this process is called consolidation.[305] Federal student loan consolidation can have many benefits, like bringing the borrower out of default or giving the borrower access to programs like PSLF.[306] When federal student loans are purchased and replaced by a private student loan, or private student loans are purchased and replaced by a private student loan (or a combination of the two), this process is called refinancing.

Refinancing federal student loans through private lenders can put borrowers in difficult situations. While the refinancing can sometimes lower the borrower's interest rate, provide an opportunity to remove a co-signer, or offer a chance to switch lenders, refinancing federal student loans causes borrowers to lose access to income-driven repayment plans, as well as any federal forgiveness and cancellation options. When federal student loan interest rates are particularly high, there is confusion or uncertainty around federal loan programs, or the economy is in a recession, students are often bombarded, via search engines, snail mail, and online ads, with the offers from companies to refinance their student loans. For example, in the wake of President Biden's federal student loan cancellation announcement in August 2022, refinancing companies ramped up their advertising.[307] The extra outreach was particularly pernicious considering that if borrowers did refinance their federal student loans, they would be rendered ineligible for Biden's loan cancellation.[308] Borrowers may hold private student loans and federal student loans that are serviced through the same state agency.[309] It is easy to see how these borrowers in particular may be confused by an agency's refinancing options and how it would affect their rights as private or federal student loan borrowers.

Refinancing may also be costly to borrowers because it can extend the term of the loan. In 2008, the Iowa Attorney General investigated ISL, and reported that the agency engaged in deceptive marketing involving its refinancing option.[310] The attorney general report found that ISL misled borrowers into believing that refinancing their loans would save them money, when in reality the term extension would leave them paying more.[311] It also revealed that ISL had paid "at least one… alumni association[] to market ISL consolidation loans."[312]

About sixteen state agencies offer refinancing.[313] Even in states without agencies that offer refinancing, borrowers may still be able to refinance their loans through credit unions, banks, or other financial institutions. Many of these refinancing programs are relatively new, and began after guidance from the Internal Revenue Service in 2016 made it clear that agencies could use tax-exempt bonds to fund refinancing.[314] After this guidance was released, states, mainly ones that did not have student loan lending authorities, passed legislation to study refinancing.[315] Others passed legislation to create refinancing programs.[316]

Private student loan refinancing is particularly worrisome as federal student loan borrowers can get lured into refinancing with the promise of lower interest rates, only to give up important protections and benefits once they do so (and are unable to undo the refinancing).[317] Refinancing federal loans, or even traditional private student loans, presents even more cause to be alarmed given the poor repayment terms, lack of borrower protections, and significant creditor rights these loans and lenders have.

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In general, state student loan terms are not significantly more favorable than private student loan terms or federal student loan terms. Some state student loan lenders offer forgivable, or cancellable loans, which, under the best circumstances, can be beneficial to borrowers. But while some borrowers may find everything to go smoothly after taking out a cancelable loan, many others will find themselves in unexpected life circumstances that make completing the requirements impossible, and instead be stuck with high-interest debt.

Only a handful of state agencies offer loans with very low interest rates that are not available from the federal government or traditional private lenders. But these opportunities are outliers. While a borrower with excellent credit may be able to find a good deal on the state student loan market, many others may remain stuck with high interest rates comparable to their private or federal options.

Lastly, only a few student loan lenders offer long-term flexible or income-sensitive repayment to any borrowers. Most do not offer any of the protections (like long-term, borrower-friendly income-driven repayment, multiple opportunities to get out of default, or a long pre-default delinquency timeline) that often make federal student loans a better option over private student loans.[318] As the next Section will discuss, state student loans are particularly disadvantageous for borrowers in additional ways, given the powers and protections available to state lenders.

B. Servicing Experience

State student loan agencies are marketing themselves as more trustworthy than private lenders, and entities that can provide a better experience to borrowers. But many of the servicing issues experienced by private and federal loan borrowers are the same. Some agencies service their own loans, whereas others have servicing arms or contract with private student loan servicing companies.[319] Many borrowers complained to the CFPB about issues they experienced even when they were able to make payments. One MEFA borrower described how making payments on his daughters' accounts had always been unnecessarily difficult.[320] Between his daughters there were eight loans, and MEFA required separate payments towards each.[321] The auto-debits set up to pay these loans became complicated when they were transferred to a different servicer. Despite having auto-debit set up, the complainant and his daughters were "constantly told their loans are delinquent, in default and are being sent to a collection agency, even though they are automatically paying on time and over the amount required."[322]

A VSAC borrower was paying more than the required amount each month, but could not get the overpayment amount applied towards the loan principal.[323] Instead, VSAC's policy was to put overpayments towards the lowest interest loans.[324] One South Carolina loan borrower experienced frustration when it felt as though her payments were being applied to her two loans in order to maximize interest charges.[325] She took out two loans, and was current on payments. When she was close to paying off one loan, all of a sudden her loan payments were redirected to her second loan, meaning that interest could still be charged on both loans. She was instructed that moving forward she would have to make two separate payments, one of which would have to be the exact payoff amount.[326]

The servicing complaints made to the CFPB about these agencies span many other issues. Some borrowers made complaints about improper processing of forbearances, including in-school deferments.[327] Many borrowers experienced issues with credit reporting, as well.[328] A frequent complaint across agencies and issues was unhelpful and rude customer service representatives who were unwilling to listen to borrowers.[329] Borrowers also reported antiquated and difficult-to-navigate websites and payment apparatuses and difficulty obtaining basic information about their loans from the agency, like their original contract or payment history.[330]

C. Collection Powers

While many state student loans resemble private loans in their terms and repayment conditions, they are not traditional private loans. Because these loans are lent by quasi-state agencies, nonprofits created by the legislature, or state government divisions, they may exercise collection powers not available to traditional private student loan lenders. Federal student loans offer more flexible payment options and opportunities for cancellation, but can also pursue borrowers indefinitely and with unique federal collection tools, like tax offsets or wage garnishments, without having to sue borrowers in court.[331] Private lenders, on the other hand, have high interest rates and inflexible repayment options, but must sue borrowers (within a certain period of time) after default in order to collect.[332] Many state student loans subject borrowers to the worst of both worlds: limited repayment options, harmful collections, and enforcement tools unique to government creditors.

As student loan expert Adam Minsky has argued, these state agencies "have remedies under state law which the federal government doesn't need and private lenders don't have."[333] As a Boston-based student loan attorney, Minsky has noted that, in his experience, because MEFA is "funded by bonds or public funds....[they] tend to be extremely aggressive in collections and may be very quick to file a lawsuit."[334] The fact that these agencies "depend[] on Wall Street investors to finance student loans through tax-exempt bonds," means that they "need[] to satisfy those investors by keeping losses to a minimum."[335] Sometimes state attorneys general sue defaulting state student loan borrowers. For example, the Texas Higher Education Coordinating Board's enabling statute tasks the Texas Attorney General with filing suit against students who fail to pay on their student loans after six months.[336] The suit must be instituted "unless the attorney general finds reasonable justification for delaying suit and so advises the board in writing."[337] The statute also specifies that all suits shall be brought in Travis County (where Austin is located).[338] Borrowers could still be living in Texas but end up being sued over 500 miles from their home.

This Section discusses some of the enhanced debt collection tools state student loan agencies use, which are not available to traditional private student loan lenders, and are often unbeknownst to students who take out these loans.

i. Tax Offsets and Administrative Garnishments

The federal government is often described as having uniquely powerful collection tools at its disposal, primarily because it can offset tax returns with just a simple notice and without initiating a lawsuit. But many states give their agencies similar powers.[339] State statutes permitting offsets of state tax returns are often broad, permitting a range of state agencies and other governmental units to offset state tax refunds to cover debts owed to the agency or agencies.[340] Furthermore, many states allow for administrative wage garnishment; that is, garnishing borrowers wages without having to first obtain a court order.

For example, in fiscal year 2025, Mississippi collected $115,252.45 through tax offsets on their undergraduate and graduate forgivable loans.[341] Vermont's offset statute specifically permits VSAC to offset state tax refunds,[342] and in 2018, "hundreds of Vermonters" saw their refunds seized to offset student loans.[343] States like Maine,[344] South Carolina,[345] Rhode Island,[346] Minnesota,[347] and others, have similar offset statutes. Alaska's offset statute also considers its student loan agency to be a claimant agency, and permits the agency to offset the residents' permanent fund dividend payments, as well as record liens, garnish wages, and initiate other administrative garnishment.[348] Many states also have reciprocal tax offset agreements with a handful of other states, permitting those states to offset debts using that state's tax refunds, and vice versa.[349] Some states can also access federal tax refunds to pay down state-owned debt.[350]

Collection activity like this can be devastating to borrowers. Interviews with dozens of NJ HESAA borrowers revealed that these loans had "unraveled lives," destroying credit scores and eating away at entire salaries.[351] In addition to the aggressive debt collection practices detailed in the 2016 investigative report of HESAA, the Department of Justice has also sued the agency for violating the Servicemembers Civil Relief Act, alleging that HESAA "obtain[ed] unlawful court judgments against two military servicemembers who co-signed student loans."[352] In some states, defaulting on student loans can cause borrowers to lose access to professional and occupational licenses, and even be barred from holding public office.[353]

Borrowers have sued ISL for utilizing the archaic collection tool called "cognovit" against state student loan borrowers.[354] When civil debtors sign cognovits, also known as confessions of judgment, they waive all of their rights to due process.[355] The plaintiffs in Iowa Legal Aid's lawsuit were coerced into signing cognovits they thought were just payment plan documents, often for loans that were "time-barred, poorly documented, and subject to several affirmative defenses and claims."[356] Yet by signing these confessions, ISL was able to "garnish wages and accounts, as well [as] taking other harsh collection actions – all without any advance notice, without any supervision or review by a court, without the opportunity to raise a defense or counterclaim, and without any opportunity to contest ISL's claims."[357]

ii. Pandemic Practices

At the beginning of the pandemic, all federal loans held by the Department of Education were placed into forbearances, and interest rates set at 0%.[358] This forbearance lasted three and half years, followed by an additional year of "on-ramp to repayment" where borrowers would not fall into default or face other negative consequences if they fell behind on payments.[359] By contrast, even at the beginning of the pandemic, only 9% of MEFA loans were in forbearance, and a year later this decreased to .15%.[360]

In the months following March 2020, there were concerns that private student loan lenders, including state student loan agencies, were continuing collection activities amid federal and state pauses. In Iowa, the attorney general had to step in to persuade ISL to temporarily stop collections at the beginning of the pandemic.[361] About a month into the pandemic a multi-state agreement was reached between some student loan lenders, including Kentucky, New Jersey, Rhode Island, and Vermont's lenders, which allowed borrowers to temporarily suspend payments, late fees, and negative credit reporting, and required agencies to refrain from filing new debt collection lawsuits.[362] Other state agencies also offered temporary protections or benefits during the pandemic. For example, Pennsylvania Higher Education Assistance Authority (PHEAA) created an optional forbearance for its private student loans for the first six months of the pandemic, and paused wage garnishments between March 2020 and December 2022.[363] Minnesota set its SELF loans to a 0% interest rate from March 13, 2020 to September 30, 2020.[364]

State student loan borrowers struggled during the pandemic, and did not get anywhere near the help offered by the federal government for federal student loans.

D. Special Treatment

This Article argues that state student loans sit at a dangerous intersection of private and federal loans due to their loan terms, which offer few benefits and enhanced debt collection power. This danger is further enhanced by the ways in which state student loan lenders are shielded from accountability due to doctrines like sovereign immunity and *nullum tempus*, and are sometimes explicitly exempt from important state consumer protection laws. For example, the Finance Authority of Maine is exempt from portions of the Student Loan Bill of Rights[365] and Private Education Lending Law.[366] VSAC is exempt from Vermont's Fair Credit Reporting Act.[367] This Section dives further into the lack of consumer protections available to state student loan borrowers.

i. Sovereign Immunity

When private student loan lenders or servicers make material errors in servicing, misrepresent their loan terms, or take other illegal actions harmful to borrowers, borrowers can try to sue them in court under state or federal consumer protection laws. However, holding state agencies accountable for these practices may be harder because these agencies will likely argue that they are immune from certain lawsuits due to sovereign immunity and their connection to their states.[368] If these agencies are immune from suit, that leaves harmed borrowers with no recourse.

The agencies lending state student loans differ across the states, with some states housing their programs in divisions of state government (like the Treasury or Office of Higher Education),[369] and other states lending through quasi-state agency nonprofits created by state legislatures.[370] The varying degrees of connectedness to the state impacts how strong a sovereign immunity defense would be if asserted by an agency in litigation. This Section focuses on the quasi-state agencies, as these agencies present a more complex question in terms of protections they can, and should or should not be able to, assert.

Among the quasi-state agencies that lend student loans, there is significant variation that may cause some to benefit from sovereign immunity while others may not. For example, some receive state funding for various parts of their operations, and some have boards that are appointed, at least in part, by the governor. Some focus most of their attention on lending to in-state residents, while others have a national reach. Often, these agencies issue bonds to fund their loan programs instead of receiving funding directly from the state.[371]

In order for an entity to benefit from sovereign immunity, they must prove that they are an "arm of the state."[372] This analysis attempts to "draw the line between 'a State-created entity functioning independently of the State from a State-created entity functioning as an arm of the State or its alter ego.'"[373] Circuit courts use either one of very similar three-factor or four-factor tests to determine if a state agency constitutes an arm of the state. The tests are "fact-intensive review[s] that calls for individualized determinations."[374] Under the three-factor test, courts consider: i) whether the state would ultimately be liable for paying a judgment issued against the agency, ii) how state law views the entity, and iii) the amount of autonomy the agency can exercise.[375] The four-factor test adds on an additional factor: whether the agency is specifically focused on state concerns.[376]

Different circuit courts have come to different conclusions about whether or not quasi-state lending agencies can benefit from sovereign immunity, and the inquiry is fact intensive. The issue of these state agencies' connections to their states has been in the national conversation recently with the Supreme Court's decision in *Biden v. Nebraska*, the student loan forgiveness case.[377] But despite the Supreme Court's determination of a close connection between Mohela and Missouri, a District Court judge recently held that Mohela was not entitled to sovereign immunity under the Fourth Circuit's test, finding that the Nebraska analysis was not about sovereign immunity, but rather about standing.[378]

The Fourth Circuit has come to different determinations for Vermont's VSAC and Arkansas's Student Loan Authority (ASLA).[379] In *U.S. ex rel. Oberg v. Pennsylvania Higher Education Assistance Agency*, a False Claims Act (FCA) case, the U.S. alleged that VSAC and ASLA had fraudulently claimed hundreds of millions of dollars in federal student-loan subsidy payments.[380] The Fourth Circuit analyzed whether or not these agencies qualified as people, and could therefore be sued under the FCA. As part of that analysis, the Court applied the four-factor arm-of-the-state test used in the Eleventh Amendment context to determine whether or not the agency was "truly subject to sufficient state control to render [it] a part of the state."[381]

The analyses in *Oberg* illustrate the differences in how state agencies are organized and constructed, and how those differences will impact borrowers' right to sue. The Fourth Circuit determined that Vermont's agency, VSAC, was not an arm of the state, while Alaska's agency, ALSA, was. Although unclear whether or not Vermont would be liable for a judgment against VSAC, the posture of the case led the Court to weigh this factor in the plaintiff's favor.[382] Additionally, although VSAC receives 20% of revenue from state-based appropriations, the revenue goes primarily to need-based grants, not VSAC loans.[383] This "critical factor" in the arm of the state analysis therefore weighed against VSAC being an arm of the state. Ultimately, the Court determined that, despite VSAC's connections to Vermont, Vermont's involvement and oversight of the agency, VSAC was sufficiently independent as to fail to qualify as an arm of the state.[384]

The Court found that, unlike Vermont for VSAC, Alaska would likely satisfy any judgment against ASLA.[385] The Court also found it persuasive that ASLA operated with significantly less autonomy, received significant funding from the state, was subjected to substantial state oversight, and that the attorney general represents the agency in litigation.[386] As a result, the Court held that ASLA was an arm of the state entitled to sovereign immunity.

Other cases and courts have considered whether or not other state student loan agencies are arms of the state entitled to sovereign immunity. The Fourth Circuit, a Pennsylvania federal appellate court and a Massachusetts state court have all determined that PHEAA is not entitled to sovereign immunity.[387] The Tenth Circuit has recently come to the same conclusion about MOHELA, as have federal courts in Florida and Tennessee regarding Kentucky's agency.[388] However, a Michigan federal court found that Kentucky's student loan agency was immune from suit,[389] and the California Student Aid Commission has prevailed on its sovereign immunity claims at the Ninth Circuit.[390]

As *Oberg* and other cases demonstrate, whether or not a state agency can assert sovereign immunity is a very fact-dependent and agency-specific analysis. However, a recent Supreme Court case clarifies the standard and focuses the analysis on "whether the State structured the entity as a legally separate entity liable for its own judgments," supported by evidence showing that the State "created a corporation with the traditional corporate powers to sue and be sued, hold property, make contracts, and incur debt."[391] In *NJ Transit*, the Supreme Court focused on four factors: i) the corporate form, ii) whether the agency is described as a separate legal entity, iii) whether the entity is liable for its own judgments, and iv) the degree of control the State asserts over the entity.[392] The Court emphasized that the third factor is the most important, explaining that "this Court has never once found a corporation that was liable for its own judgments to be an arm of the State, even when the State had significant control over that entity. That includes cases in which the State was the sole shareholder, possessed appointment and removal powers over the entity's officers, and managed the entity's affairs."[393] Lastly, the Court cautioned putting much weight on the degree of control the state exercises over the entity.[394] Many enabling statutes specifically state that the debts of the agency are not debts of the State.[395] Others are much more financially reliant on their state and operate with significantly less autonomy, making it much more likely that these agencies could successfully defend a case on the basis of sovereign immunity.

Lastly, for decades, state student loan agencies also tried to assert sovereign immunity defenses in adversary proceedings, where debtors seek to discharge student loans in bankruptcy under the undue hardship standard and may bring other claims against the lenders. However, the Supreme Court has ruled both that agencies cannot assert sovereign immunity to bar debtors from seeking loan discharges, nor can they use it to bar ancillary issues raised in the bankruptcy case.[396]

Sovereign immunity is a powerful doctrine that shields states and state officials from lawsuits. Public colleges and universities have a long history of asserting sovereign immunity successfully to avoid liability.[397] Borrowers who take out traditional private student loans already come up against many barriers when trying to sue their lender or servicer. Depending on the specific state and court, borrowers who take out state student loans may have an additional barrier to contend with when trying to hold lenders accountable. The variable and fact-specific nature of the sovereign immunity analysis creates yet another hurdle for borrowers when trying to bring actions against lenders or servicers. Proximity to the state can also be implicated in various other consequential issues, as we saw in *Nebraska* with the issue of standing and widespread debt cancellation.

ii. Statutes of Limitations

While borrowers may want to sue state agencies for lending or servicing issues, state agencies may also want to sue borrowers to collect on their loans. In a normal private student loan debt collection lawsuit, a borrower could have certain defenses available to them. One such defense is that the lender waited too long to sue them. When borrowers know to assert this statute of limitations defense, or lenders refrain from bringing a suit because the statute of limitations has passed, borrowers can find some relief from private student loan debt.[398] By contrast, federal student loans have no statute of limitations: the federal government can attempt to collect student loan debt indefinitely.[399] State agencies may try to argue that they, too, are exempt from the statute of limitations because of their ties to their respective states.

An old common law doctrine, which arose from sovereign immunity,[400] may permit state agencies to ignore statute of limitations when it comes to debt collection actions. The doctrine *nullum tempus occurrit regi* (no time runs against the king) allows states to bring lawsuits outside of statutes of limitations. In non-student debt contexts, attorneys have encouraged litigants to try to avoid the application of this doctrine by either contracting around it or by removing their case to federal court.[401]

While the doctrine has been limited or abolished in many states,[402] it is alive and well in others, including in some states that lend student loans.[403] In 2012, the Connecticut Supreme Court upheld the *nullum tempus* doctrine and recognized it as part of the State's common law.[404] In Pennsylvania, the Pennsylvania Supreme Court has not only recently noted that the *nullum tempus* is alive in the state,[405] but Pennsylvania statute states that there is no statute of limitations on claims "of the agency to recover any defaulted student loans or any moneys owed to the agency."[406] Other states have confirmed the continued existence of the *nullum tempus* doctrine, while acknowledging certain limitations on the doctrine when it comes to political subdivisions and whether or not the action at issue is governmental or proprietary.[407] Some states, like Connecticut, prohibit the state from waiving the *nullum tempus* absent explicit legislation.[408] Some courts have also limited the doctrine depending on the type of agency or political subdivision, action, or rights at stake.[409]

If state agencies are able to benefit from *nullum tempus*, borrowers lose out on an important defense normally available in private student loan debt collection cases. In private student loan cases and other consumer debt cases, creditors lose the right to sue and collect from borrowers if no activity has happened on the account for years. This can be an important defense to protect borrowers when lenders or debt buyers attempt to sue on decades-old debt, which often happens. Applying *nullum tempus* to state student loan collection cases makes state student loans significantly riskier and potentially more harmful to borrowers than private student loans would be, as they no longer have access to a statute of limitations defense.

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Student loan default and subsequent collections can have devastating effects on borrowers, pushing them further into financial distress and even impacting their livelihoods. As states lend their own student loans, they create the types of circumstances their laws simultaneously punish. Instead of offering student loans that are more consumer-friendly to their residents, many states offer loans that open borrowers up to more, and harsher, debt collection powers than they would experience with traditional private student loans. Furthermore, these various collection powers are illustrative of a larger picture of how states compound the harm of student loan debt by offering these state student loans that are marketed as safer, more trustworthy options.

IV. Policy Recommendations

Student loan borrowers are struggling. Loan defaults are up,[410] and new federal repayment caps mean that borrowers will have to turn to alternative loan products to fill in funding gaps.[411] State student loan lenders are already advertising their loans as safer and better than traditional private loans, and ramping up their lending to meet the moment.[412] They purport to have borrowers' best interests in mind, as local nonprofits. But the advertising is misleading. Instead of combining the consumer-friendly parts of federal and private loans, they combine the worst parts of both loan products, putting borrowers in a risky position. If state student loan lenders want to advertise their loans as meaningfully better than private loans, they need to make significant changes to their loans, including by: offering lower interest rates for all borrowers, providing long-term income-sensitive repayment plan options, creating disability and health related discharge and forbearance programs, and forgoing aggressive state collection powers when borrowers fall behind.

A. Interest Rates

State student loan lenders tout low interest rates, but low interest rates are not a reality for most state student loan borrowers: only a handful of programs offer 0-1% interest rate loans.[413] Additionally, low interest rates are often out of reach for most borrowers due to their credit scores. For example, Arkansas Student Loan Authority (ASLA) advertises 2.74% to 7.71% APR for its undergraduate student loans.[414] In small print, it notes that the 2.74% APR rate takes into account an auto-debit reduction of .25%.[415] Furthermore, the lowest 2.99% APR is only available for borrowers with FICO scores of 810 or more who enroll in immediate repayment (as opposed to interest-only or deferred payment).[416] The average credit score for an Arkansan is 693, which puts the lowest APR for an ASLA student loan at 7.48%.[417] For AY 2025-2026, federal student loan interest rates are 6.52% for undergraduate Direct loans, 8.07% for Graduate or Professional Direct Loans, and 9.07% for Direct PLUS loans.[418] Private student loan rates currently range from 2.39% to 17.9%.[419] The 2026 fixed APR rates for state student loans range from 2.7% to 12.47%.[420] Some state student loans have variable rates, which can go even higher, squeezing borrowers during already hard financial times and making repayment more difficult and unpredictable. The benefits of lower interest rates are more affordable monthly payments and a payment structure that, if the borrower has access to Income-Based Repayment, is hopefully not negatively amortizing. Offering actual lower interest rates, between 0-2%, would mean that state student loans would be meaningfully different, and better, than traditional private student loans (as well as current federal loans).

B. Income-Sensitive Repayment Plans

State student loan lenders must offer meaningful income-sensitive repayment plans to borrowers. Currently, only two state agencies offer income-sensitive repayment plans: NJ Higher Education Student Assistance Authority (HESAA) and Rhode Island Student Loan Authority (RISLA).[421] But even these plans fall short. Both NJ HESAA and RISLA's income-driven repayment plans take into account co-signer income, and do not permit $0 per month payments.[422] Additionally, borrowers who are more than 60 days delinquent are not eligible for the NJ plan.[423] The RISLA plan provides forgiveness after 25 years, and NJ's plans provide forgiveness after 27.[424] Long-term income-driven repayment plans, mirroring (or improving upon) federal Income-Driven Repayment plans should be provided by state student loan lenders. These plans also need eventual forgiveness, or else borrowers will be indefinitely saddled with debt.[425]

C. Disability and Health-Related Discharge and Forbearance Programs

State student loans will never be preferable to federal or private loans if they fail to offer relief programs to borrowers struggling the most. If state student lenders have their state residents' wellbeing and success in mind, they would provide programs like Disability Discharge, borrower-friendly co-signer releases, School Misconduct Discharge Applications, and other forbearances, discharges, and deferments when borrowers hit hard times.

D. Forgoing Aggressive State Collection Powers

Additionally, state student loan lenders are not borrower-friendly, or a good option for students, when they combine the lack of discharge and relief options with aggressive state collection tactics. If states want to advertise their loans as good for borrowers, and as friendlier, safer options, they should not then take the most aggressive collection tactics of the state to deny borrowers chances to raise defenses, negotiate affordable repayment plans, or rehabilitate their loans. Employing state collection tools, like offsets and garnishments that bypass the judicial system, leaves borrowers in financial distress with little ability to negotiate or rehabilitate their financial situations.

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There are numerous other changes that could make these loans a better experience for student loan borrowers, including improved servicing, clearer financial disclosures (particularly with forgivable loans), and easier co-signer releases. But these three would start to transform state student loans so that they actually provide the best of both worlds to borrowers.

Conclusion

Skyrocketing higher education costs are crushing students who have no other option than to take on debt to finance their education. Whether people take out private student loans, federal student loans, or both, they are often struggling to manage this debt after graduation. New federal loan limits only exacerbate borrowers' struggle. Unfortunately, for many states, the response is likely to be an increase in state-based lending. However, providing students with a different form of debt, even if the interest rate is slightly better, does not necessarily help students in the long run. It does not combat the rising cost of higher education nor the cost-shifting to individuals, nor does it address the existing consumer protection concerns in the private student loan market.

Existing student loan literature has failed to comprehensively analyze and document state student loan options and the state student loan borrower experience. State agencies promote their student loan programs to students and their families by leaning into their state affiliations, implicitly or explicitly telling students that their loans are safer, more borrower-friendly, and sometimes cheaper options. In reality, most state student loans combine some of the worst qualities of private and federal student loans, while withholding many benefits of both loan types. While some of these loans may have slightly lower interest rates and fees, borrowers will run into many of the same issues they experience with traditional private student loans, such as inflexible repayment options and limited opportunities for cancellation or forgiveness. Borrowers may be additionally harmed should they fall behind on their loans, or run into issues with their loan servicer or lender, due to advantages like sovereign immunity, *nullum tempus*, and enhanced debt collection powers that many of these state agencies possess.

State student loans are not going away: tuition continues to rise and federal lending threatens to shrink. But these loans pose unique harms to students that cannot be ignored.

Appendix

Table 1: State Student Loan Lenders

AGENCY	STATE	WEBSITE	TYPES OF LOANS
Alaska Commission on Postsecondary Education	Alaska	https://acpe.alaska.gov/	Undergraduate, Graduate, Parent/Family Loans
Arizona Board of Regents	Arizona	https://www.azregents.edu/programs/scholarships-assistance/arizona-teacher-student-loan-program	Forgivable Loan
Arkansas Student Loan Authority	Arkansas	https://asla.info/Home	Undergraduate, Graduate, Parent/Family, Profession-specific Loans
Connecticut Higher Education Supplemental Loan Authority	Connecticut	https://www.chesla.org/	Undergraduate, Graduate, Profession-specific (refinancing only) Loans
Georgia Student Finance Commission	Georgia	https://gsfc.georgia.gov/	Undergraduate, Forgivable, Profession-specific Loans
Illinois State Treasurer (in partnership with Iowa Student Loan Liquidity Corporation and Funding U)	Illinois	https://www.il-sef.com/	Undergraduate, Graduate, Parent/Family
INvestEd (Indiana Secondary Market for Education Loans, Inc.)	Indiana	https://www.investedindiana.org/	Undergraduate, Parent/Family Loans
Iowa Student Loan Liquidity Corporation	Iowa	https://www.iowastudentloan.org/	Undergraduate, Graduate, Parent/Family Loans

AGENCY	STATE	WEBSITE	TYPES OF LOANS
Kentucky Higher Education Assistance Authority	Kentucky	https://www.kheaa.com/website/kheaa/home	Undergraduate, Graduate, Parent/Family Loans
Louisiana Education Loan Authority (Division of the Louisiana Public Facilities Authority)	Louisiana	https://lela.org/	Undergraduate, Graduate, Parent/Family Loans
Finance Authority of Maine	Maine	https://www.famemaine.com/	Undergraduate, Graduate, Forgivable, Profession-specific Loans
Massachusetts Educational Finance Authority	Massachusetts	https://www.mefa.org/	Undergraduate, Graduate Loans
Massachusetts Office of Student Financial Assistance	Massachusetts	https://www.mass.edu/osfa/home/home.asp	Undergraduate Loan (No Interest Loan Program)
Michigan Department of Treasury	Michigan	https://www.michigan.gov/treasury/finance/college/loan	Undergraduate Loans (Discontinued)
Minnesota Office of Higher Education	Minnesota	https://www.ohe.state.mn.us/	Undergraduate, Graduate Loans
Mississippi Office of Financial Aid	Mississippi	https://www.msfinancialaid.org/	Forgivable, Profession-specific Loans
Missouri Grant & Loan Foundation (branch of MOHELA)	Missouri	https://www.moslf.org/programs.aspx	Undergraduate Loans (loans being phased out)
New Jersey Higher Education Student Assistance Authority	New Jersey	https://www.hesaa.org/Pages/Default.aspx	Undergraduate, Graduate, Parent/Family, Forgivable, Profession-specific Loans

AGENCY	STATE	WEBSITE	TYPES OF LOANS
New Mexico Educational Assistance Foundation	New Mexico	https://www.nmeaf.org/	Undergraduate, Graduate, Profession-specific Loans
New Mexico Higher Education Department	New Mexico	https://hed.nm.gov/financial-aid/loan-service-programs	Forgivable, Profession-specific Loans
Higher Education Services Corporation	New York	https://www.hesc.ny.gov/	NYHELPS Undergraduate, Graduate, Parent/Family Loans Discontinued; Forgivable Loan Active (Excelsior Scholarship)
College Foundation of North Carolina	North Carolina	https://www.cfnc.org/	Undergraduate, Graduate, Parent/Family, Forgivable, Profession-specific Loans
Bank of North Dakota	North Dakota	https://bnd.nd.gov/	Undergraduate, Graduate, Parent/Family, Profession-specific Loans
Ohio Department of Higher Education	Ohio	https://highered.ohio.gov/students/pay-for-college/ohio-grants-scholarships/nealp/nealp	Forgivable Loans
Oklahoma Higher Education Program	Oklahoma	https://okhelp.org/index	Undergraduate, Graduate, Parent Loans
Pennsylvania Higher Education Assistance Authority	Pennsylvania	https://www.pheaa.org/	Undergraduate, Graduate, Parent/Family Loans
Rhode Island Student Loan Authority	Rhode Island	https://www.risla.com/home-page	Undergraduate, Parent/Family Loans
South Carolina Student Loan	South Carolina	https://www.scstudentloan.org/	Undergraduate, Graduate, Parent/Family, Forgivable, Profession-specific Loans

AGENCY	STATE	WEBSITE	TYPES OF LOANS
Tennessee Student Assistance Corporation	Tennessee	https://www.collegefortn.org/	Forgivable, Profession-specific Loans
Texas Higher Education Coordinating Board	Texas	https://www.highered.texas.gov/	Undergraduate, Graduate Loans
Vermont Student Assistance	Vermont	https://www.vsac.org/	Undergraduate, Graduate, Parent/Family Loans
Washington Student Achievement Council	Washington	https://wsac.wa.gov/aerospace-loan-program	Profession-specific Loans (currently not accepting new applicants)
West Virginia Higher Education Policy Commission	West Virginia	https://www.wvhepc.edu/	Forgivable Loans
Higher Educational Aids Board	Wisconsin	https://heab.state.wi.us/	Forgivable, Profession-specific Loans

Table 2: Financial Statements and Annual Reports

AGENCY	DOCUMENT TITLE	REPORTED VOLUME, LENDING, OTHER RELEVANT DETAILS
Alaska Commission on Postsecondary Education	Corporation Meeting (Nov. 6, 2025)	FY25: $84,725 total gross state loans, loans and interest receivable[426] FY24: $91,256 total gross state loans, loans and interest receivable[427]
Arizona Board of Regents	FY 2025 Arizona Teachers Academy Annual Report	FY25: 2,890 students took out $19.7 million in scholarships (average scholarship $6,800)[428]
Arkansas Student Loan Authority	Arkansas Development Finance Authority- Annual Report of Program Activity- July 1, 2024-June 30, 2025	FY25: Private student loan portfolio reached $10,354,223, "increase of 78% over the previous fiscal year." Project volume of $16 million for FY26.[429]
Connecticut Higher Education Supplemental Loan Authority	Annual Report, Fiscal Year End June 30, 2025	FY25: disbursed $26.4 million to students and families in MyCHESLA Student Loan; disbursed $1.8 million through refinanced student loan programs.[430]
Finance Authority of Maine	Maine Educational Loan Program-FY 2025 Annual Legislative Report	Total loans in repayment (including delinquency): $88,785,565.[431]
Georgia Student Finance Commission	2025 Annual Report 2022 Annual Report	FY25: $7,074,514 in Military Programs (including grants and forgivable loans).[432] FY22: $25,859,959 Student Access Loan.[433]
Illinois State Treasurer (in partnership with Iowa Student Loan Liquidity Corporation and Funding U)	N/A	N/A

AGENCY	DOCUMENT TITLE	REPORTED VOLUME, LENDING, OTHER RELEVANT DETAILS
INvestEd	Mackenzi Klemann, *What is INvestEd?*, Indiana Capital Chronicle (May 19, 2026) Indiana State Board of Accounts	2026: $120 million in active loans; $240 million in assets and liabilities; $6.75 million awarded in grants.[434] FY24: $21 million lent to borrowers.[435] FY25: $114,570,000 student loans receivable-net; $5,555,000 Income-Share Agreements net.[436]
Iowa Student Loan Liquidity Corporation	2025 Annual Report	FY25: 68,689 borrowers with 153,148 private student loans owned by ISL and serviced by its servicer subsidiary.[437]
Kentucky Higher Education Assistance Authority	Annual Report Fiscal Year 2025	FY25: $36 million originated through the Advantage Education Loan, Advantage Parent Loan, and Advantage Refinance Loan programs. 5% increase in colleges including these loans on preferred lender lists. Total outstanding portfolio of $250 million.[438]
Louisiana Education Loan Authority	N/A	N/A
Massachusetts Educational Finance Authority	Financial Statements with Management's Discussion and Analysis and Supplemental Information: June 30, 2025 and 2024	FY25: disbursed $348 million in education loans[439]
Massachusetts Office of Student Financial Assistance	Overview of the Department of Higher Education	FY16: 2,416 students awarded No-Interest Loans, totaling $5,859,001.[440]

AGENCY	DOCUMENT TITLE	REPORTED VOLUME, LENDING, OTHER RELEVANT DETAILS
Michigan Department of Treasury	Annual Comprehensive Financial Report Audit Report: Financial Audit of the Michigan Higher Education Student Loan Authority	FY24: MI-LOAN program balance outstanding was $18.8M. MI-LOAN program was suspended on Feb. 15, 2008.[441] FY2009: 17 MI-LOANs issued, totaling $42,250. Since the inception of the MI-LOAN program in 1990, through 2009, MFA disbursed 50,510 MI-LOANs for $361.1 million.[442]
Minnesota Office of Higher Education	Financial Statements and Supplementary Information	FY24: 5,954 new SELF loans disbursed (average loan amount $10,376); $484,000 in SELF Refi loans disbursed[443]
Mississippi Office of Financial Aid	2025 Annual Report of the State-Supported Student Financial Aid Programs	1,366 total managed accounts (undergraduate, graduate, and inactive forgivable loans), totaling $18,155,013.[444]
Higher Education Loan Authority of the State of Missouri	Financial Statements, as of and for the years ended June 30, 2025 and 2024	FY25: $30,129,000 (MOFELP, total student loans receivable); $14,018,000 (supplemental loans, student loans receivable; program discontinued in 2008).[445]
EDVestinU/Granite Edvance	Annual Impact Report	$17.3 million in private student and parent loans to 778 NH students and families; $52.8 million in refinance loans.[446]
New Jersey Higher Education Student Assistance Authority	Fiscal Years 24 & 25 Annual Report NJClass Loan Program- Annual Report FY25	FY 24-25: total in-school NJ Class loans: 8,916 students, $187,991,724; total consolidation & refi loans: 307 students, $22,633,060.[447] 373,174 NJClass loans (total principal $5,438,259,271) have been issued since the program's inception in 1991.[448]
New Mexico Higher Education Department	2025 Annual Report	FY25: $3,097,335 awarded through forgivable loan programs; 129 students served.[449]

AGENCY	DOCUMENT TITLE	REPORTED VOLUME, LENDING, OTHER RELEVANT DETAILS
New Mexico Educational Assistance Foundation	2020 Annual Report	FY20: over $1.17 million private student loans since 2015.[450]
New York Higher Education Services Corporation	2024-2025 Annual Report	AY 24-25: 24,644 estimated Excelsior Scholarships awarded.[451] AY 23-24: 25,803 Excelsior Scholarships awarded.[452]
North Carolina State Education Assistance Authority	2024-25 Annual Report	FY 24-25: 2,468 loans approved (student and parent), average student loan amount $14,814, average parent loan amount $17,265; 2,828 forgivable loans awarded, totaling $28,249,379.[453]
Bank of North Dakota	Strong Banking 2025: Bank of North Dakota Annual Report	2025: Student loan portfolio decreased by $61 million. Disbursed $52 million in DEAL loans to 6,546 students.[454]
Ohio Department of Higher Education	N/A	N/A
Oklahoma Higher Education Loan Program	N/A	N/A
Pennsylvania Higher Education Assistance Authority	Annual Financial Report, June 30, 2025 and 2024	FY25: $591,270,000 in PA Forward Student Loans (receivable, net); $10,197,000 in other private student loans (receivable, net).[455] FY24: $441,424,000 in PA Forward Student Loans (receivable, net); $10,629,000 in other private student loans (receivable, net).[456]
Rhode Island Student Loan Authority	Annual Report, Fiscal Year Ended June 30, 2025	FY25: originated $94.8 million in student and parent loans (increase of 7% in loan volume from FY24); refinanced $29 million in student loans (average refi loan was $54,485).[457]

AGENCY	DOCUMENT TITLE	REPORTED VOLUME, LENDING, OTHER RELEVANT DETAILS
South Carolina Student Loan	Report on Consolidated Financial Statements, for the fiscal year ended June 30, 2025	F25: $119,060,165 Student Loan Receivable (likely includes FFELP).[458]
Tennessee Student Assistance Corporation	N/A	N/A
Texas Higher Education Coordinating Board	Report on Student Financial Aid in Texas Higher Education: Fiscal Year 2024	FY24: $122,892,700 in College Access Loans disbursed for 6,357 recipients (average loan amount $19,256); $2,4435,626 in FORWARD Loans disbursed for 217 recipients (average loan amount $11,173); $3,701,146 in Texas Armed Services [Conditional] Scholarships disbursed for 315 recipients (average amount $11,750).[459]
Vermont Student Assistance	Annual Report 2025	FY25: $48 million originated in student and parent loans; serviced $382.7 million in loans; $21.6 million in scholarships and forgivable loans.[460]
Washington Student Achievement Commission	Aerospace Training Student Loan: Annual Report - December 2024	2023-24: 7 applicants (out of 9) funded. 36 total applicants funded since 2019-20.[461]
West Virginia Higher Education Policy	N/A	N/A
Wisconsin Higher Educational Aids Board	Biennial Budget Report (2023-2025)	2024-25: 276 forgivable loans awarded, totaling $4,019,637.[462] 2023-24: 309 forgivable loans awarded, totaling $5,106,807.[463]

Table 3: Loan Terms

AGENCY	CO-SIGNER RELEASE?[464]	DISABILITY AND/OR DEATH DISCHARGE?	INCOME-DRIVEN REPAY-MENT PLANS?	OFFERS REFINANC-ING?	2026 INTEREST OR APR RATES (FOR UNDERGRADUATE LOANS UNLESS NOTED OTHERWISE)
Alaska Commission on Postsecondary Education	Information not available on website.	Information not available on website.	No	Yes[465]	4.50%-9.75%[466]
Arizona Board of Regents	N/A	Yes[467]	No	No	0% for forgivable loan[468] (prior to 2023 the forgivable loan had a 7% interest rate)[469]
Arkansas Student Loan Authority	Yes, 48 months consecutive payments.[470]	Yes[471]	No	Yes[472]	Fixed: 2.74%-7.71% APR[473]
Connecticut Higher Education Supplemental Loan Authority	Yes, for loans disbursed on or after June 23, 2014.[474]	Information not available on website.	No	Yes[475]	Fixed: 6.75% APR[476]
Georgia Student Finance Commission	Information not available on website.	Information not available on website.	No	No	Fixed: 1% for Student Access Loan[477]; Capped at 10% for graduate forgivable loans.[478]
INvestEd	Yes, for the Refinance Loan, 12 months consecutive payments.[479]	N/A	No	Yes[480]	Fixed: 5.03%-9.28%[481] Variable: Current APR range of 5.84%-10.13% (maximum 18%)[482]

AGENCY	CO-SIGNER RELEASE?[464]	DISABILITY AND/OR DEATH DISCHARGE?	INCOME-DRIVEN REPAY-MENT PLANS?	OFFERS REFINANC-ING?	2026 INTEREST OR APR RATES (FOR UNDERGRADUATE LOANS UNLESS NOTED OTHERWISE)
Iowa Student Loan Liquidity Corporation	Yes, after first 24 months consecutive payments if borrower meets the underwriting and credit criteria.[483]	Yes[484]	No	Yes[485]	Fixed: 2.70%-8.70% APR[486]
Kentucky Higher Education Assistance Authority	Yes, 36 months consecutive payments for loans disbursed prior to 7/1/21 (12 months consecutive payments for Refinance Loans disbursed on or after 7/1/21).[487]	Yes[488]	No	Yes[489]	3.43%-10.75% APR[490]
Louisiana Education Loan Authority	Yes, after first 24 months consecutive payments if borrower meets the underwriting and credit criteria.[491]	N/A[492]	No	Yes[493]	Fixed: 2.94-6.37% APR with autopay[494]
Finance Authority of Maine	Information not available on website.	Information not available on website.	No	No	Fixed: 6.24%-7.99%[495]
Massachusetts Educational Finance Authority	Yes, however details not available on website.[496]	Yes[497]	No	Yes[498]	Fixed: 4.95%-8.90%[499]

AGENCY	CO-SIGNER RELEASE?[464]	DISABILITY AND/OR DEATH DISCHARGE?	INCOME-DRIVEN REPAY-MENT PLANS?	OFFERS REFINANC-ING?	2026 INTEREST OR APR RATES (FOR UNDERGRADUATE LOANS UNLESS NOTED OTHERWISE)
Massachusetts Office of Student Financial Assistance	N/A	Information not available on website.	No	No	0%[500]
Michigan Finance Authority (division of Michigan Department of Treasury)	Yes, 24 months consecutive payments.[501]	Yes[502]	No	No	Information not available on website.
Minnesota Office of Higher Education	No[503]	Yes[504]	No	Yes[505]	Fixed: 6%-6.95%[506] Variable: 5.75%-6.20%[507]
Mississippi Office of Financial Aid	N/A	N/A	No	No	Fixed - Current unsubsidized Federal Direct Loan Rate at time of default on Forgivable Loan.[508]
Missouri Grant & Loan Foundation	Yes, 24 consecutive on-time payments (for the CASHLoan).[509]	Yes (CASHLoan)[510]	No	No	N/A
New Jersey Higher Education Student Assistance Authority	Only if cosigner or borrower (as student beneficiary) dies or becomes totally and permanently disabled.[511]	Yes[512]	Yes[513]	Yes[514]	Fixed: 5.95%-8.65% APR[515]

AGENCY	CO-SIGNER RELEASE?[464]	DISABILITY AND/OR DEATH DISCHARGE?	INCOME-DRIVEN REPAYMENT PLANS?	OFFERS REFINANCING?	2026 INTEREST OR APR RATES (FOR UNDERGRADUATE LOANS UNLESS NOTED OTHERWISE)
New Mexico Educational Assistance Foundation	Yes, 24 months on-time payments.[516]	Information not available on website.	No	Yes[517]	Fixed: 5.75%[518]
New Mexico Higher Education Department	N/A	N/A	No	No	Fixed: 7% or 18% for forgivable loans.[519]
Higher Education Services Corporation	Yes, 48 months consecutive payments (NYHELPs loans).[520]	Yes (Excelsior Scholarship)[521]	No	No	0% for Forgivable Loan (Excelsior Scholarship)[522] 7.55%-8.75% for NYHELPs Loans in AY2018-19[523]
College Foundation of North Carolina	No[524]	No[525]	No	No	Fixed: 7.75% (7.26% APR) with auto-draft[526]
Bank of North Dakota	Yes, 24-48 months consecutive payments[527]	Yes[528]	No	Yes[529]	Fixed: 6.44% (6.07% APR)[530] Variable: 5.125% (maximum 10.00%)[531]
Ohio Department of Higher Education	N/A	N/A	N/A	No	Information not available on website.
Oklahoma Higher Education Loan Program	Yes, 48 months consecutive payments[532]	Information not available on website.	No	No	Fixed: 2.74-9.84% APR[533]

AGENCY	CO-SIGNER RELEASE?[464]	DISABILITY AND/OR DEATH DISCHARGE?	INCOME-DRIVEN REPAY-MENT PLANS?	OFFERS REFINANC-ING?	2026 INTEREST OR APR RATES (FOR UNDERGRADUATE LOANS UNLESS NOTED OTHERWISE)
Pennsylvania Higher Education Assistance Authority	Yes, 48 months consecutive payments[534]	Information not available on website.	No	Yes[535]	Fixed: 2.78-9.94% APR
Rhode Island Student Loan Authority	Yes, 24 months consecutive payments; Not available to CO, CT, NV, ME, or Washington, D.C. residents[536]	Yes[537]	Yes[538]	Yes[539]	Fixed: 3.24%- 9.49%[540]
South Carolina Student Loan	Information not available on website.	Information not available on website.	No	Yes[541]	Fixed: 4.000-12.468% APR[542] Variable: Quarterly adjustment based on Current Index, capped at 18%[543]
Tennessee Student Assistance Corporation	N/A	Information not available on website.	N/A	No	Information not available on website.
Texas Higher Education Coordinating Board	Information not available on website.	N/A	No	No	Fixed: 6.30%[544]
Vermont Student Assistance	Yes, 24-48 months consecutive payments[545]	Yes[546]	No	Yes[547]	Fixed: 4.25%-8.34% APR (includes auto debit discount)[548]
Washington Student Achievement Council	N/A	N/A	No	No	Information not available on website.

AGENCY	CO-SIGNER RELEASE?[464]	DISABILITY AND/OR DEATH DISCHARGE?	INCOME-DRIVEN REPAY-MENT PLANS?	OFFERS REFINANC-ING?	2026 INTEREST OR APR RATES (FOR UNDERGRADUATE LOANS UNLESS NOTED OTHERWISE)
West Virginia Higher Education Policy Commission	N/A	Information not available on website.	No	No	Information not available on website.
Wisconsin Higher Educational Aids Board	N/A	N/A	No	No	5% for forgivable loans (graduate and undergraduate)[549]

Endnotes

1 Thank you to the Consumer Law Scholars Conference at U.C. Berkeley School of Law, Dalié Jiménez, John Hunt, Matthew Bruckner, Kate Sablosky Elengold, Kaitlin Caruso, and Clare Elizondo for their invaluable feedback.

2 *See infra* Part I, tbl. 1.

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12 *Id.*

13 *Federal Student Loan Programs Data Book - Fiscal Years 1997-2000*, U.S. Dep't Educ., https://www.ed.gov/sites/ed/files/finaid/prof/resources/data/fslpdata97-01/loandatabook.pdf.

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15 Josh Mitchell, The Debt Trap 60 (2021) ("By 1986, 50 state and local government agencies across 39 states performed these tasks. They collectively held 12% of the $39 billion in total outstanding student loan debt across the U.S. that year.")

16 *Id.*

17 *Id.; Getting to Know Guaranty Agencies*, New America (Mar. 17, 2009), https://www.newamerica.org/education-policy/higher-education/higher-ed-watch/getting-to-know-guaranty-agencies/.

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19 Shireman, *supra* note 14.

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23 Shireman, *supra* note 14.

24 *Id.*

25 There have been various issues with how these guarantor agencies have operated. *See id.* (explaining how USA Funds overspent $40 million in federal money due to conflicts of interest, how ISL took advantage of its reputation to sell private loans, and how ECMC had an unusual practice of paying their trustees, employed "aggressive" tactics in collecting student loans, and purchased a chain of for-profit colleges); Natalie Kitroeff, *Loan Monitor Is Accused of Ruthless Tactics on Student Debt*, N.Y. Times (Jan. 1, 2014), https://www.nytimes.com/2014/01/02/us/loan-monitor-is-accused-of-ruthless-tactics-on-student-debt.html?_r=1; Charlene Wear Simmons, *Student Loans for Higher Education*, Calif. Research Bureau (Jan. 2008), https://files.eric.ed.gov/fulltext/ED501509.pdf (explaining how Rhode Island's agency permitted Nelnet to run a call center that supposedly offered counseling to students and instead encouraged them to take out more Nelnet loans); *Inspector General Finds HESC Played Favorites With Student Loan Payments*, ReadMedia (Aug. 19, 2010), http://readme.readmedia.com/Inspector-General-Finds-HESC-Played-Favorites-With-Student-Loan-Payments/1696359 (explaining that, in 2010, the NY State Inspector General found that the assistant vice president of collection and default at New York's Higher Education Services Corporation was involved in special treatment for a former Albany prosecutor by reducing student loan payments, blocking garnishment of wages, and other benefits).

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60 *See, e.g.*, the New Mexico Educational Assistance Foundation, which advertises itself to potential borrowers by saying: "Unlike other private loan providers, we don't issue variable interest rate loans because we care about your financial future…We understand New Mexico's students, universities, and other post-secondary education choices better than any other student loan provider." *New Student Loans,* N.M. Educ. Assistance Found., https://www.nmeaf.org/pay-for-college/private-student-loans.

61 For example, under the Truth in Lending Act definition, state student loans are private loans. But in the Bankruptcy Code, state student loans are treated distinctly from private student loans. *See* 11 U.S.C. § 523(8) (separately defining loans "made, insured, or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution"); 15 U.S.C. § 1603(8) (defining "private education loan as a loan provided by a private education lender that is not made, insured, or

guaranteed under the Higher Education Act"); 15 U.S.C. § 1603(7) (defining "private education lender," as "any other person engaged in the business of soliciting, making, or extending private education loans").

62 *Private Student Loans*, Consumer Fin. Prot. Bureau, *supra* note 3.

63 *Id.*

64 EFC's voting membership currently includes Alaska Student Loan Corporation, Arkansas Student Loan Authority, Connecticut Higher Education Student Loan Authority, Connecticut Student Loan Foundation, Midwestern University (Illinois), Indiana INvestEd, the Strada Education Foundation (Indiana), Iowa Student Loan Liquidity Corporation, Kentucky Higher Education Student Loan Corporation, Louisiana Education Loan Authority, Massachusetts Higher Educational Financing Authority, Minnesota Office of Higher Education, ECMC, Knowledge Finance (Missouri), MOHELA, Nebraska Student Loan Program, Inc., Granite Edvance, New Jersey Higher Education Student Assistance Authority, New Mexico Educational Assistance Foundation, Bank of North Dakota, Oklahoma College Assistance Program, Oklahoma Student Loan Servicing, Pennsylvania Higher Education Assistance Agency, Rhode Island Student Loan Authority, South Carolina Student Loan, Brazos Higher Education Corporation, Inc., North Texas Higher Education Authority, Inc., Trellis Company, and Vermont Student Assistance Corporation. *Voting Members*, Educ. Fin. Council, https://www.efc.org/voting-members/ (archived at https://perma.cc/9L5X-EBCR).

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66 *See infra,* Appendix, tbl 1. This Article does not capture all state student loan programs or agencies that have ever existed; rather, it focuses on current programs. It also does not include in its analysis California's DREAM loan program, a state student loan program only available to undocumented students, funded by the state but administered by schools. *California DREAM Loan Program*, Univ. Calif., https://admission.universityofcalifornia.edu/tuition-financial-aid/types-of-aid/dream-loan-program.html.

67 Georgia, Maine, Mississippi, New Jersey, New Mexico, New York, North Carolina, South Carolina, Tennessee, and Wisconsin all offer one or more forgivable loans. *See infra,* Appendix, tbl 1.

68 Arkansas, Connecticut, Georgia, Maine, Mississippi, New Jersey, New Mexico, North Carolina, North Dakota, South Carolina, Tennessee, Washington, and Wisconsin have these types of loans. *See infra,* Appendix,

tbl 1. Though not included in this Article's analysis, California also offers a state student loan to undocumented students. *California DREAM Loan Program*, Univ. Calif., https://admission.universityofcalifornia.edu/tuition-financial-aid/types-of-aid/dream-loan-program.html.

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312 *Id.*

313 *See infra* Appendix, tbl. 3; Melanie Hansen, *State-Affiliated Student Loan Refinancing*, Educ. Data Init. (Feb. 16, 2026), https://educationdata.org/state-student-loan-refinancing (identifying state-affiliated student loan refinancing programs in seventeen states, including New Hampshire nonprofit Granite Edvance, which is excluded from this Article); Texas Higher Education Coordinating Board does not refinance loans, but large Texas nonprofit lenders Brazos and the Higher Education Servicing Corporation do. *Student Loan Refinance,* Brazos Higher Educ., https://studentloans.com/student-loan-refinance.html; *Refinance Loan Program,* Higher Educ. Servicing Corp., https://www.hescloans.com/refinance-loans (archived at https://perma.cc/JH8K-TGDH); The Finance Authority of Maine does not refinance loans, but it provides information on refinancing and directs borrowers to Maine lenders the prospective borrower "knows and trusts." *Apply for a Refinance or Consolidation Loan with a Maine Lender*, Fin. Auth. Me., https://www.famemaine.com/affording-education/pay-for-school/repaying-student-loans/consolidation-refinancing/apply-for-a-refinance-loan/ (archived at https://perma.cc/JJ7F-ZNXE).

314 Dustin Weeden, *Refinancing Student Loans*, Nat'l Conf. State Legis. (Feb. 2017), https://web.archive.org/web/20220420134052/https://www.ncsl.org/research/education/refinancing-student-loans.aspx.

315 Maryland and Oregon passed such legislation in 2016. According to the 2017 National Conference of State Legislatures report, Montana, Nevada, and New York were also considering legislation to create refinancing authorities. *Id.*

316 California created a student loan refinancing program in 2014, which only allowed private student loan refinancing. *Id.*

317 *What are the pros and cons of loan consolidation?*, U.S. Dep't Educ., *supra* note 306.

318 It is possible that some of these agencies offer opportunities beyond full payment to get a loan out of default. However, these options are not clearly advertised on their websites. For example, in 2019 New Jersey passed a bill providing a rehabilitation option to defaulted borrowers. But the rehabilitation program is not easily located on HESAA's website. *See Governor Murphy Signs Legislation to Make Student Loans More Affordable*, N.J. Gov. Phil Murphy, (Apr. 25, 2019), https://www.nj.gov/governor/news/news/562019/20190425b.shtml; N.J. Admin Code § 9A:10-6.16.

319 For example, AES services MEFA loans, while VSAC services its own loans. *MEFA Partners*, Mass. Educ. Fin. Auth., https://www.mefa.org/partners/ (archived at https://perma.cc/6HFS-SUXD); *Frequently Asked Questions,* Vt. Stud. Assistance Corp., https://www.vsac.org/faqs/online-payments.

320 Consumer Fin. Prot. Bureau, Complaint No. 2955836 (July 6, 2018).

321 *Id.*

322 *Id.; See also* Consumer Fin. Prot. Bureau, Complaint No. 2927509 (June 5, 2018) (reporting similar issues with MEFA was consistently misapplying funds across five MEFA accounts, leading to threatening collection calls even though the borrower was current on payments).

323 Consumer Fin. Prot. Bureau, Complaint No. 1350041 (Apr. 28, 2015).

324 *Id.*

325 Consumer Fin. Prot. Bureau, Complaint No. 2298180 (Jan. 19, 2017).

326 *Id.*

327 Consumer Fin. Prot. Bureau, Complaint No. 3067751 (Nov. 7, 2018) (complaining of persistent collection attempts despite continued enrollment in school); Consumer Fin. Prot. Bureau, Complaint No. 1713836 (Dec. 22, 2015) (complaining that VSAC requires paperwork and calls every three months to renew in-school deferments); Consumer Fin. Prot. Bureau, Complaint No. 2940246 (June 19, 2018) (complaining of difficulties re-enrolling in in-school deferment after a leave of absence); Consumer Fin. Prot. Bureau, Complaint No. 3210639 (Apr. 12, 2019) (complaining of loans going into default despite borrower being enrolled in school).

328 *See, e.g.*, Consumer Fin. Prot. Bureau, Complaint No. 5749295 (July 8, 2022) (complaining of past due reporting despite making a monthly payment and confirming payment over the phone); Consumer Fin. Prot. Bureau, Complaint No. 3217277 (Apr. 19, 2019) (complaining of negative credit reporting despite being in an unemployment deferment); Consumer Fin. Prot. Bureau, Complaint No. 5440387 (Apr. 12, 2022) (complaining of negative credit reporting despite hardship forbearance request); Consumer Fin. Prot. Bureau, Complaint No. 4069057 (Jan. 14, 2021) (reporting statute of limitations concerns due to the fact that RISLA updated borrower's account as current despite not having made a payment); Consumer Fin. Prot. Bureau, Complaint

No. 4040397 (Dec. 31 2020) (complaining about payment and credit reporting issues due to multiple and sometimes inaccurate account and loan numbers).

329 *See, e.g.*, Consumer Fin. Prot. Bureau, Complaint No. 3122602 (Jan. 11, 2019) (complaining of receiving conflicting information across repeated phone calls on a payment and account issue); Consumer Fin. Prot. Bureau, Complaint No. 2382365 (Mar. 9, 2017) ("MEFA is unwilling to work with me at all. I have spoken to various representatives who have promised to see what they can do and none of them have ever called me back"); Consumer Fin. Prot. Bureau, Complaint No. 1894386 (Apr. 25, 2016) (complaining of harassment and threats regarding defaulted loan, problems with processing paperwork, and account mix-ups); Consumer Fin. Prot. Bureau, Complaint No. 5907994 (Aug. 23, 2022) (complaining of inability to reach the state agency for information about consolidation); Consumer Fin. Prot. Bureau, Complaint No. 1642457 (Nov. 5, 2015) (complaining of "a nasty customer service representative who refused to help," and additional customer service representatives who were unresponsive to requests for assistance with errors on the account).

330 *See, e.g.*, Consumer Fin. Prot. Bureau, Complaint No. 2810242 (Feb. 11, 2018) (complaining of technical errors with the agency's payment portal); Consumer Fin. Prot. Bureau, Complaint No. 2297207 (Jan. 19, 2017) (complaining of an antiquated website that makes it "extremely hard to track progress and understand loan payback"); Consumer Fin. Prot. Bureau, Complaint No. 1628184 (Oct. 28, 2015) (complaining of "website errors, extremely slow page load times, and unsecure connection warnings"); Consumer Fin. Prot. Bureau, Complaint No. 2472308 (May 2, 2017) (complaining of payments not showing up on statements and difficulty logging into the online account); Consumer Fin. Prot. Bureau, Complaint No. 2020970 (July 20, 2016) (reporting never receiving copies of the loan promissory notes, despite repeated requests); Consumer Fin. Prot. Bureau, Complaint No. 2469923 (Apr. 28, 2017) (reporting making repeated requests for a full transaction history but failing to receive said paperwork).

331 *Federal Versus Private Loans*, U.S. Dep't Educ., *supra* note 3; *Collections*, U.S. Dep't Educ., https://studentaid.gov/manage-loans/default/collections.

332 *Private Student Loans*, Consumer Fin. Prot. Bureau, *supra* note 3; *Federal Versus Private Loans*, U.S. Dep't Educ., *supra* note 3.

333 Lola Duffort, *Behind on your VSAC student loans? You could lose your property tax credit*, Vt. Digger (Aug. 13, 2019), https://vtdigger.org/2019/08/13/behind-on-your-vsac-student-loans-you-could-lose-your-property-tax-credit/; Minsky, *supra* note 91.

334 Minsky, *supra* note 91; Jennifer McKim & Camille Bugayong, *A State Agency that Issues Student Loans Sued Thousands of Borrowers* (Dec. 16, 2024), https://www.wgbh.org/news/local/2024-12-16/a-state-agency-that-issues-student-loans-has-sued-thousands-of-borrowers.

335 Waldman, *In New Jersey Student Loan Program, Even Death May Not Bring a Reprieve*, *supra* note 22.

336 3 Tex. Stat. § 52.39.

337 *Id.*

338 *Id.*

339 *See, e.g.*, Me. Rev. Stat. Ann. tit. 36, § 185-A(2) (permitting offsets by state agencies with notice and right to request hearing within 60 days); Vt. Stat. Ann. tit. 32 § 5934 (permitting offsets by state agencies with notice and right to request hearing within 30 days).

340 *See, e.g.*, Me. Rev. Stat. Ann. tit. 36, § 185-A(1) (permitting "an agency of the State, including the University of Maine System and Maine Community College System" to apply to offset tax refunds); Vt. Stat. Ann. tit. 32 § 5932(1) (explicitly including the Vermont Student Assistance Corporation within the definition of claimant agency within its offset statute).

341 *2025 Annual Report of the State-Supported Student Financial Aid Programs* 20, Miss. Office of Student Fin. Aid (June 30, 2025).

342 Vt. Stat. Ann. tit. 32, § 5932(1).

343 Duffort, *supra* note 333.

344 Me. Rev. Stat. Ann. tit. 36, § 185-A.

345 S.C. Code § 12-56.

346 R.I. Gen. Laws § 44-30.1.

347 Minn. Stat. §§ 270A.03-12.

348 Alaska Stat. § 14.43.145(2) (permitting the Alaska Postsecondary Higher Education Commission to offset a borrower's permanent fund dividend upon default on a student loan); Alaska Stat. § 14.43.147 (permitting the commission to issue order to withhold and deliver and/or garnish to third parties upon the borrower's default).

349 *See, e.g.*, Vt. Stat. Ann. tit. 32, § 5942(a).

350 *How the Treasury Offset Program (TOP) Collects Money for State Agencies*, U.S. Dep't Treas., https://fiscal.treasury.gov/debt-management/treasury-offset-program-top (archived at https://perma.cc/37FJ-7CS8).

351 Waldman, *In New Jersey Student Loan Program, Even Death May Not Bring a Reprieve*, *supra* note 22.

352 *Justice Department Settles with the State of New Jersey's Student Lending Authority for Alleged Violations of the Servicemembers Civil Relief Act*, U.S. Dep't Just. (Sept. 20, 2021), https://www.justice.gov/opa/pr/justice-department-settles-state-new-jersey-s-student-lending-authority-alleged-violations.

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354 Complaint, Zambrano v. Iowa Student Loan Liquidity Corp., Case No. 3:2023cv00086 (S.D. Iowa Nov. 20, 2023).

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357 *Id.*

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359 *FY 2023 Annual Report*, Federal Student Aid, U.S. Dep't Educ. at 198 (Nov. 16, 2023), https://www.ed.gov/sites/ed/files/about/reports/annual/2023report/fsa-report.pdf.

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362 Adam S. Minsky, *Millions Covered by Multi-State Agreement to Stop Private Student Loan Payments*, Forbes (May 4, 2020), https://www.forbes.com/sites/adamminsky/2020/05/04/millions-covered-by-multi-state-agreement-to-stop-private-student-loan-payments/?sh=33e20d7f5416.

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368 This is also an issue for state loans and debt lent by public institutions of higher education. *See* Matthew A. Bruckner, *Special Purpose Municipal Entities and Bankruptcy: The Case of Public Colleges*,

36 Emory Bankr. Developments J. 341 (2020); Krista M. Mooney, *The Evolution and Expansion of Eleventh Amendment Immunity: Legal Implications for Public Institutions of Higher Education* (Oct. 7, 2005) (unpublished Ph.D. dissertation, Florida State University), available at http://diginole.lib.fsu.edu/islandora/object/fsu%3A180539.

369 *See, e.g.*, Minn. Off. Higher Educ., https://selfloan.mn.gov/selfloan (archived at https://perma.cc/9BDB-UQJM); Miss. Off. Stud. Fin. Aid, https://www.msfinancialaid.org/ (archived at https://perma.cc/4UR8-66ZF); Mich. Dep't Treas., https://www.michigan.gov/treasury. The Bank of North Dakota, the only state-run bank in the country, also lends student loans. *Money for College,* Bank N.D., *supra* note 29.

370 *See, e.g.*, Mass. Educ. Fin. Auth., https://www.mefa.org/ (archived at https://perma.cc/345H-4PR2); Conn. Higher Educ. Supp. Loan Auth., https://chesla.org/ (archived at https://perma.cc/DR56-AHMD); N.J. Higher Educ. Stud. Assistance Auth., https://www.hesaa.org/Pages/Default.aspx (archived at https://perma.cc/ZYH4-53PG); Vt. Stud. Assistance Corp., https://www.vsac.org/ (archived at https://perma.cc/4DFB-KCF2). Some states have standalone nonprofits not connected to the state that lend student loans. *See, e.g.*, Brazos Student Loans and the Minnie Stevens Piper Foundation, both located in Texas, and Granite Edvance (formerly the New Hampshire Higher Education Foundation). *Education Loans for Texans,* Brazos Higher Educ., https://studentloans.com/; *Student Loan Program*, Tex. Comp., https://comptroller.texas.gov/programs/education/msp/funding/programs/studentloan.php; Granite Edvance, https://graniteedvance.org/.

371 Moultrie, *supra* note 218; McKim, *supra* note 334.

372 Galette v. N.J. Transit Corp., 607 U.S. 509, 515 (2026); Lang v. Pa. Higher Educ. Assistance Agency, 610 Fed.Appx. 158, 160 (2015).

373 U.S. ex. rel Oberg v. Ky. Higher Educ. Student Loan Corp., 681 F.3d 575, 580 (4th Cir. 2012) (quoting S.C. Dep't of Disabilities & Special Needs v. Hoover Universal, 535 F.3d 300, 303 (4th Cir. 2008)).

374 Lang, 610 Fed.Appx. at 160. The first factor looks to "the entity's potential legal liability, rather than its ability or inability to require a third party to reimburse it, or to discharge the liability in the first instance." *Id.* at 160, fn 4 (quoting Benn v. First Judicial Dist. of Pa., 426 F.3d 233, 239-40 (3d Cir. 2005)).

375 *Id.* at 160.

376 Oberg, 681 F.3d at 580.

377 Biden v. Nebraska, 600 U.S. 477 (2023).

378 Memorandum of Opinion, Pellegrino v. Equifax Information Services, LLC, Case No. 1:23-cv-1166 (LMB/LRV) (E.D. Va. Jan. 2, 2024).

379 U.S. ex rel. Oberg v. Pa. Higher Educ. Assistance Agency, 745 F.3d 131, 135 (4th Cir. 2014).

380 *Id.*

381 *Id.* at 136 (quoting *Oberg*, 681 F.3d at 579).

382 *Id.* at 141. The Court found that Vermont had disclaimed legal liability for some VSAC debts, but only explicitly for debt obligations to issue finance loans. State law provided "no definite guidance" on who might pay a judgment against VSAC. Although the Court determined that it was unclear whether or not "Vermont would be legally or functionally liable for a judgment" in the case, the issue was being considered on appeal of a Rule 12(b)(6) motion to dismiss, and therefore the court "construe[d] all facts in the light most favorable to the plaintiff." *Id.*

383 *Id.* at 141-42. The Court declined to put much weight behind the fact that VSAC receives state money or the fact that VSAC's enabling statute charged the state with a duty to "support and maintain" the entity. *Id.*

384 *Id.* at 142.

385 *Id.* at 143-45. Similarly to Vermont law, the Arkansas statute "disavow[ed] liability for debt obligations issued to finance student loans," but said "nothing about liability for *other* debts like a judgement obligation." However, unlike in Vermont, other Arkansas statutes "indicate[d] that state revenue would be used to satisfy a judgement against ASLA," and provided that the moneys received by the agency from its student loan lending are "specifically declared to be cash funds," which are "revenues of the state." Because of these close financial entanglements, the Court came to the conclusion that "it follows that the state would foot the bulk of any judgment against ASLA." *Id.*

386 *Id.* at 143-45. The Court found that ASLA "operates with little autonomy from Arkansas despite its corporate powers." Unlike Vermont and VSAC, Arkansas provides "substantial funding" to ASLA, the Arkansas Attorney General represents the agency in litigation, and state law limits ASLA's powers in matters such as its

use of cash funds and ability to sell bonds. The entire board, unlike that of VSAC, is appointed by the Governor. When it came to the third and fourth factors of the arm-of-the-state analysis, like for VSAC, these weighed in favor of the agency qualifying as an arm of the state. Although ASLA does some out-of-state lending, the Court found that ASLA was primarily involved with state financing of higher education. Lastly, the Court found that, similarly to VSAC's treatment in Vermont law, ASLA is treated as an arm of the state under Arkansas law. It was established as an "instrumentality of the state," its lending revenues defined as "revenues of the state," and the Arkansas Supreme Court had described ASLA as "a state agency. . ." *Id.* at 143, 145.

387 Memorandum and Order Denying Defendant's Motion to Dismiss, Massachusetts v. Pa. Higher Educ. Assistance Agency, Sup. Ct. 1784CV02682-BLS2 (Feb. 28, 2018); Pele v. Pa. Higher Educ. Assistance Agency, 628 Fed. Appx. 870 (4th Cir. 2015); Oberg, 745 F.3d; Lang, 610 Fed. Appx.

388 Good v. U.S. Dept. Educ. & Higher Educ. Loan Authority of the State of Missouri, 121 F.4th 177 (10th Cir. 2024); Castro v. Ky. Higher Educ. Student Loan Corp., 2017 WL 588379 (S.D. Fla. Feb. 14, 2017); Gaffney v. Ky. Higher Educ. Student Loan Corp., 2016 WL 3688934 (M.D. Tenn. July 12, 2016).

389 Skidmore v. Access Grp., Inc., 149 F.Supp. 3d 807 (E.D. Mich. 2015).

390 Banks v. ACS Educ., 638 Fed. Appx. 587 (9th Cir. 2016).

391 N.J. Transit, 607 U.S. at 524.

392 *Id.* at 523-27.

393 *Id.* at 526 (internal citations removed).

394 *Id.* at 529.

395 *See, e.g.*, Iowa Code § 261.38(4)(b); Mich. Comp. Laws § 390.1154(4)(g); NJ Stat. Ann. § 18A:71A-18; N.C. Gen. Stat. § 116-202; 24 Pa. Cons. Stat. § 5105.1(b).

396 Tennessee Stud. Assistance Corp., v. Hood, 541 U.S. 440 (2004).

397 Mooney, *supra* note 368, at 170.

398 *Can Debt Collectors Collect a Debt That's Several Years Old?* Consumer Fin. Prot. Bureau (Dec. 9, 2024), https://www.consumerfinance.gov/ask-cfpb/can-debt-collectors-collect-a-debt-thats-several-years-old-en-1423/.

399 *Collections on Defaulted Loans*, U.S. Dep't Educ., *supra* note 88.

400 Joseph Mack, *Nullum Tempus: Governmental Immunity to Statutes of Limitation, Laches, and Statutes of Repose*, 73 Def. Couns. J. 180, 180 (2006); *See also* Kevin E. McCarthy, *Applicability of Statutes of Limitations to the State*, 2013-R-0454, Office Legis. Rsch. (Dec. 18, 2013), https://www.cga.ct.gov/2013/rpt/2013-R-0454.htm#:~:text=The%20most%20common%20limitation%2C%20which,but%20not%20its%20political%20subdivisions.

401 Daphne Morduchowitz, et al., *Reviving Time-Barred Financial Litigation in State Courts*, Arnold & Porter (Feb. 29, 2016), https://www.arnoldporter.com/en/perspectives/publications/2016/02/20160229_reviving_time_barred_financial__12709.

402 McCarthy, *supra* note 400 (listing the states that, as of 2013, had "substantially or entirely abolished the doctrine by legislation or court decision": Colorado, Florida, Georgia, Kentucky, Massachusetts, Minnesota, Missouri, Montana, Nebraska, New York, North Dakota, South Carolina, South Dakota, West Virginia, and Wisconsin).

403 Sigmond D. Schutz, *Time to Reconsider Nullum Tempus Occurrit Regi*, 55 Me. L. Rev. 373, 375 (June 2003); Mack, *supra* note 400, at 186-88.

404 State v. Lombardo Broz. Mason Contractors, 54 A.3d 1005, 1019 (Conn. 2012).

405 Township of Salem v. Miller Penn Dev. LLC, 142 A.3d 912, 918 (Pa. 2016); Delaware County v. First Union Corp., 929 A.2d 1258 (Commonwealth Court Pa. 2007).

406 72 Pa. Cons. Stat. § 1738-E.

407 Fennelly v. A-1 Machine & Tool Co., 728 N.W.2d 168 (Iowa 2006); Rowan County Bd. of Educ. v. U.S. Gypsum Co., 418 S.E.2d 648 (1992).

408 Lombardo, 54 A.3d at 1021-22.

409 McCarthy, *supra* note 400 (describing differences in *nullum tempus* application depending on the type of agency or political subdivision as well as the type of governmental activity, such as public versus private or proprietary); Mack, *supra* note 400, at 188-89 (describing limitations to the *nullum tempus* doctrine for municipalities, and distinctions made based on whether or not public or private rights are at issue).

410 Cory Turner, *Millions of Student Loan Borrowers Aren't Repaying Their Loans - and Defaults Are Up*, NPR (Feb. 10, 2026), https://www.npr.org/2026/02/10/nx-s1-5690186/student-loan-default-repayment.

411 Amy Fan, *What the New Loan Caps Will Mean for Grad Students This Fall*, N.Y. Times (Apr. 15, 2026), https://www.nytimes.com/2026/04/15/upshot/student-debt-graduate-school.html.

412 *Id.*; Sheffey, *supra* note 43.

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414 *Student Loan*, Ark. Stud. Loan Auth., *supra* note 249.

415 *Id.*

416 *Id.*

417 *Id.;* Chris Horymski & Samuel Mountjoy, *What is the Average Credit Score in the US?*, Experian (May 30, 2026), https://www.experian.com/blogs/ask-experian/what-is-the-average-credit-score-in-the-u-s/.

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419 Richard Richtmyer & Renee Fleck, *Best Private Student Loans and Interest Rates for July 2026*, Credible (June 16, 2026), https://www.credible.com/student-loans.

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423 Stanley Tate, *NJ Class Income-Based Repayment Program*, Tate Law (July 10, 2026) https://www.tateesq.com/learn/nj-class-ibr.

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425 Michele Shepard Zampini & Ellie Bruecker, *IDR Without Loan Discharge Can Be a Lifetime Debt Sentence for Low-Income Borrowers*, Inst. Coll. Access & Success (July 2, 2024), https://ticas.org/affordability-2/idr-without-loan-discharge-can-be-a-lifetime-debt-sentence-for-low-income-borrowers/.

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427 *Id.*

428 *FY 2025 Arizona Teachers Academy*, Ariz. Bd. Regents, https://www.azregents.edu/sites/default/files/reports/2025-arizona-teachers-academy-annual-report-r3.pdf (archived at https://perma.cc/K97M-NH9Y).

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432 *2025 Annual Report*, Ga. Stud. Fin. Comm'n, https://gsfc.georgia.gov/about-gsfc/annual-reports (archived at https://perma.cc/MH6E-R6P9).

433 *Annual Report*, Ga. Stud. Fin. Comm'n (2022) (on file with author).

434 Klemann, *supra* note 47 ("Rep. Greg Porter, D-Indianapolis, looks at the INvestEd's tax filings — the $240 million in assets and liabilities reported to the IRS in 2024 dwarf the $6.75 million it awarded grants that year, and executive salaries that 'would make Wall Street blush' — and wonders if INvestEd could do more to assist low-income Hoosiers.").

435 *Id.*

436 *Financial Statements and Supplementary Information for the Years Ended June 30, 2025 and 2024, and Independent Auditor's Report,* INvestEd, https://audit.sboa.in.gov/WebReports/33360A.pdf (archived at https://perma.cc/423C-CL4G).

437 *2025 Annual Report*, Iowa Stud. Loan Liquidity Corp., https://www.legis.iowa.gov/docs/publications/DF/1595159.pdf (archived at https://perma.cc/VS4A-AQUM). Iowa Student Loan Liquidity Corporation is also the lending partner for the Illinois State Treasurer's state student loan program, however there are no publicly available reports about the volume or loans made through this partnership. This partnership replaced Illinois's previous state student loan program with the Illinois Student Assistance Commission. This earlier program included many of the harmful provisions discussed herein, including the use of Administrative Wage Garnishment in debt collection. *See* Ill. Admin Code. tit. 23 § 2722.20.

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