
SUBSTITUTE SENATE BILL 5774

State of Washington

66th Legislature

2019 Regular Session

By Senate Higher Education & Workforce Development (originally sponsored by Senators Liiias, Palumbo, Mullet, Randall, Wellman, Darneille, Conway, Keiser, Kuderer, Nguyen, and Wilson, C.)

READ FIRST TIME 02/21/19.

1 AN ACT Relating to student debt relief; adding a new section to
2 chapter 19.52 RCW; adding new chapters to Title 28B RCW; creating a
3 new section; and providing expiration dates.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that a postsecondary
6 credential is essential to Washingtonians' ability to attain jobs
7 with good salaries and advancement opportunities, and that meeting
8 the increasing demand for credentialed workers to fill jobs in
9 Washington is essential to the future health of the state's economy.
10 The legislature finds that the amount of debt that individual
11 Washingtonians incur in pursuit of postsecondary credentials
12 represents a growing burden on individuals and on the state's economy
13 at large that negatively impacts individuals' ability to obtain a
14 postsecondary credential, as well as their ability to save for
15 retirement, purchase a home, and start a family. The legislature
16 finds that giving Washingtonians new tools to address this burden is
17 necessary to help make higher education more accessible and
18 affordable.

1 NEW SECTION. **Sec. 2.** The definitions in this section apply
2 throughout this chapter unless the context clearly requires
3 otherwise.

4 (1) "Council" means the Washington student achievement council.

5 (2) "Income" means salary, wages, interest, dividends, and other
6 earnings that are reportable for federal income tax purposes.

7 (3) "Income share agreement" means an agreement between an
8 individual and any other person under which the individual commits to
9 pay a specified percentage of the individual's future income, for a
10 specified period of time, in exchange for payments to or on behalf of
11 the individual for postsecondary education, workforce development, or
12 similar purposes.

13 (4) "Income share agreement originator" means a person who for
14 compensation or gain takes an income share agreement application, or
15 offers or negotiates the terms of an income share agreement, or a
16 person who purchases an existing income share agreement. "Income
17 share agreement originator" does not include any individual who
18 performs purely administrative or clerical tasks.

19 (5) "Program administrator" means a private organization with
20 experience designing and administering income share agreements.

21 NEW SECTION. **Sec. 3.** (1) The Washington income share agreement
22 pilot program is created.

23 (2) The council shall provide administrative support to execute
24 the duties and responsibilities provided in this chapter including,
25 but not limited to:

26 (a) Imposing reasonable limits on the terms of qualified income
27 share agreements;

28 (b) Publicizing the program;

29 (c) Partnering with the institutions of higher education in
30 selecting participants for the program;

31 (d) Distributing income share agreement program funds;

32 (e) Contracting with a program administrator for execution of
33 income share agreements;

34 (f) Establishing minimum reporting requirements for income share
35 agreement originators participating in the program;

36 (g) Ensuring transparency in investment decisions and processes;

37 (h) Formulating and adopting all other policies and rules
38 necessary for the efficient administration of the program;

1 (i) Making, executing, and delivering contracts, conveyances, and
2 other instruments necessary to the exercise and discharge of its
3 powers and duties under this chapter; and

4 (j) Performing all acts necessary and proper to carry out the
5 duties and responsibilities of the program under this chapter.

6 (3) The program administrator may be paid an administrative fee
7 as determined by the council.

8 (4) The council shall establish and manage the income share
9 agreement account into which grants and contributions from private
10 sources may be received as well as state funds, and from which income
11 share agreement funds may be disbursed to participants and payments
12 may be remitted.

13 (5) On a biennial basis beginning July 1, 2020, the council must
14 report to the appropriate committees of the legislature the:

15 (a) Number of income share agreements currently under contract
16 with the income share agreement originator;

17 (b) Number of income share agreements by institutions of higher
18 education;

19 (c) Average income share agreement size and rate of commitment of
20 future income by institutions of higher education; and

21 (d) Total expected lifetime payments from income share agreements
22 to the income share agreement account.

23 (6) This section expires July 1, 2029.

24 NEW SECTION. **Sec. 4.** An income share agreement must:

25 (1) Specify the percentage of future income that the individual
26 is obligated to pay to the person with whom the individual has
27 entered into an income share agreement and that the maximum future
28 income an individual must repay may not exceed two and one-half times
29 the total amount of the original contracted amount paid to the
30 institution of higher education;

31 (2) Specify the maximum duration of the individual's obligation
32 under the income share agreement, unless the duration has been
33 extended under section 6 of this act;

34 (3) Specify that household incomes at or below one hundred
35 percent of the federal poverty line are exempt when determining the
36 individual's income for a given year;

37 (4) Specify that an individual's obligation under an income share
38 agreement may be forgiven if the individual becomes totally and
39 permanently disabled, meaning the individual:

1 (a) Is unable to engage in any substantial gainful activity by
2 reason of any medically determinable physical or mental impairment
3 that:

4 (i) Can be expected to result in death;

5 (ii) Has lasted for a continuous period of not less than sixty
6 months; or

7 (iii) Can be expected to last for a continuous period of not less
8 than sixty months; or

9 (b) Has been determined by the United States secretary of
10 veterans affairs to be unemployable due to a service-connected
11 disability;

12 (5) Specify that an individual's obligation under an income share
13 agreement must be discharged if the individual dies, based on the
14 following:

15 (a) An original or certified copy of the individual's death
16 certificate;

17 (b) An accurate and complete photocopy of the original or
18 certified copy of the individual's death certificate;

19 (c) An accurate and complete original or certified copy of the
20 individual's death certificate that is scanned and submitted
21 electronically or sent by facsimile transmission; or

22 (d) Verification of the individual's death through an
23 authoritative federal or state electronic database approved for use
24 by the council.

25 (6) Specify the terms and conditions by which the individual may
26 extinguish the individual's obligations under the income share
27 agreement before the end of the payment period specified in the
28 income share agreement, based upon the remaining term of the payment
29 period;

30 (7) Make the following disclosures regarding the income share
31 agreement in clear and simple language:

32 (a) The definition of income to be used for the purposes of
33 calculating the individual's obligation;

34 (b) The percentage of income the individual is committed to
35 paying under the income share agreement and the number of payments
36 required per year;

37 (c) The duration of the individual's obligations under the income
38 share agreement, including any circumstances under which the duration
39 of the contract may be extended;

40 (d) That the income share agreement is not a debt instrument;

1 (e) That the amount the individual is required to pay under the
2 income share agreement may be more or less than the payments made to
3 or on behalf of the individual;

4 (f) That the income share agreement represents the obligation by
5 the individual to pay a specific percentage of the individual's
6 income and does not give the contract holder any rights regarding the
7 individual's actions regarding educational or employment pursuits;
8 and

9 (g) Whether the obligations of the individual under the income
10 share agreement may be extinguished by accelerating payments and any
11 terms under which payment may be accelerated.

12 NEW SECTION. **Sec. 5.** No individual may enter into an income
13 share agreement if the total percentage of the individual's future
14 income obligated under the income share agreement and any other
15 income share agreement entered into by the individual exceeds fifteen
16 percent of the individual's future income.

17 NEW SECTION. **Sec. 6.** The duration of the individual's
18 obligations under the income share agreement may be extended for a
19 period of time equal to the time that the individual's annual income
20 is less than the exempt amount established in section 4(3) of this
21 act.

22 NEW SECTION. **Sec. 7.** In the event of the sale of an income
23 share agreement by the originator of the income share agreement, the
24 buyer of the income share agreement is subject to the requirements of
25 this chapter.

26 NEW SECTION. **Sec. 8.** The income share agreement account is
27 created in the custody of the state treasurer. All receipts from the
28 income share agreement pilot program must be deposited in the
29 account. Expenditures from the account may be used only for the
30 income share agreement pilot program. Only the executive director of
31 the student achievement council or the executive director's designee
32 may authorize expenditures from the account. The account is subject
33 to the allotment procedures under chapter 43.88 RCW, but an
34 appropriation is not required for expenditures.

1 NEW SECTION. **Sec. 9.** Sections 1 through 8 of this act
2 constitute a new chapter in Title 28B RCW.

3 NEW SECTION. **Sec. 10.** A new section is added to chapter 19.52
4 RCW to read as follows:

5 This chapter does not apply to income share agreements under
6 chapter 28B.--- RCW (the new chapter created in section 9 of this
7 act).

8 NEW SECTION. **Sec. 11.** The definitions in this section apply
9 throughout this chapter unless the context clearly requires
10 otherwise.

11 (1) "Council" means the Washington student achievement council.

12 (2) "Financial institution" has the same meaning as in RCW
13 7.88.010.

14 (3) "Interest rate buy down incentive" means the use of state
15 funds to enable qualified borrowers to receive below market rate
16 interest rates for the purposes of this chapter.

17 (4) "Loan loss reserve coverage" means partial risk coverage to
18 financial institutions to cover losses on qualified loans according
19 to the terms set forth in the contract between the agency and the
20 financial institution for the purposes of this chapter.

21 (5) "Program" means the Washington student loan refinancing
22 program.

23 (6) "Qualified borrower" means an individual meeting all of the
24 following requirements:

25 (a) Resident of the state of Washington;

26 (b) Completion of an associate's, bachelor's, graduate, or
27 professional degree and the receipt of a certificate, diploma, or
28 degree from a trade, career, or technical school; and

29 (c) Other criteria as deemed appropriate by the council.

30 (7) "Qualified loan" means a loan or a portion of a loan made by
31 a financial institution to a qualified borrower to refinance an
32 existing student loan under the program. Only a loan determined by
33 the financial institution to be an educational loan that is
34 nondischargeable in bankruptcy as set forth in 11 U.S.C. Sec. 523 as
35 it existed on January 14, 2019, shall be a qualified loan eligible
36 for refinancing. A qualified loan made under the program shall:

37 (a) Carry a contractual interest rate at least one-quarter of one
38 percentage point lower than the loan being refinanced, and may be

1 made with the interest rates, fees, and other terms and conditions
2 agreed upon by the financial institution and the qualified borrower;
3 and

4 (b) Specify that an individual's obligation under a qualified
5 loan must be discharged if the individual dies, based on the
6 following:

7 (i) An original or certified copy of the individual's death
8 certificate;

9 (ii) An accurate and complete photocopy of the original or
10 certified copy of the individual's death certificate;

11 (iii) An accurate and complete original or certified copy of the
12 individual's death certificate that is scanned and submitted
13 electronically or sent by facsimile transmission; or

14 (iv) Verification of the individual's death through an
15 authoritative federal or state electronic database approved for use
16 by the council.

17 (8) This section expires July 1, 2029.

18 NEW SECTION. **Sec. 12.** (1) The Washington student loan
19 refinancing program is created.

20 (2) The program shall be administered by the council. To execute
21 the program the council shall contract with up to five financial
22 institutions. The financial institutions, in consultation with the
23 council, may leverage the interest rate buy down incentive or the
24 loan loss reserve coverage, or some combination thereof, to refinance
25 existing student loans. In administering the program, the council
26 may:

27 (a) Impose reasonable limits on the terms of qualified loans;

28 (b) Impose reasonable limits on the terms of qualified borrowers;

29 (c) Impose reasonable limits on the use of state funds for the
30 marketing on qualified loan products by financial institutions;

31 (d) Establish minimum reporting requirements for financial
32 institutions participating in the program;

33 (e) Establish minimum required disclosures by financial
34 institutions for qualified loans. At a minimum, the disclosures must
35 notify qualified borrowers of the:

36 (i) Loss of borrower protections including income contingent
37 repayment and public service loan forgiveness options if the
38 qualified borrower is refinancing a federal student loan under this
39 chapter; and

- 1 (ii) Estimated total cost of the qualified loan, including
2 accrued interest under this chapter;
- 3 (f) Appoint and use advisory committees and the department of
4 financial institutions as needed to provide program guidance and
5 direction;
- 6 (g) Formulate and adopt all other policies and rules necessary
7 for the efficient administration of the program;
- 8 (h) Make, execute, and deliver contracts, conveyances, and other
9 instruments necessary to the exercise and discharge of its powers and
10 duties under this chapter; and
- 11 (i) Perform all acts necessary and proper to carry out the duties
12 and responsibilities of the program under this chapter.
- 13 (3) On a biennial basis beginning July 1, 2020, the council must
14 report to the appropriate committees of the legislature the:
- 15 (a) Number of financial institutions currently under contract
16 through the program;
- 17 (b) Number of qualified student loans successfully refinanced
18 under the program;
- 19 (c) Qualified borrower requirements established by the council
20 and the financial institutions; and
- 21 (d) Estimated total savings by qualified borrowers with qualified
22 loans as defined by the difference between what the student would
23 have paid under the existing loan and what the student would pay when
24 given the option to refinance.
- 25 (4) This section expires July 1, 2029.

26 NEW SECTION. **Sec. 13.** Sections 11 and 12 of this act constitute
27 a new chapter in Title 28B RCW.

28 NEW SECTION. **Sec. 14.** This act may be known and cited as the
29 student loan relief and reform act.

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