
SECOND SUBSTITUTE SENATE BILL 5774

State of Washington

66th Legislature

2019 Regular Session

By Senate Ways & Means (originally sponsored by Senators Lias, Palumbo, Mullet, Randall, Wellman, Darneille, Conway, Keiser, Kuderer, Nguyen, and Wilson, C.)

READ FIRST TIME 03/01/19.

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) Subject to receipt of grants,
22 contributions, or amounts appropriated specifically for this purpose,
23 the Washington income share agreement pilot program is created.

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

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

29 (b) Publicizing the program;

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

32 (d) Distributing income share agreement program funds;

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

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

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

38 (h) Formulating and adopting all other policies and rules
39 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) The council may solicit and accept grants and contributions
14 from private sources for deposit into the income share agreement
15 account.

16 (6) On a biennial basis beginning July 1, 2020, the council must
17 report to the appropriate committees of the legislature the:

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

20 (b) Number of income share agreements by institutions of higher
21 education;

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

24 (d) Demographic information regarding income share agreement
25 participants that includes gender, race or ethnicity, income level,
26 and geography; and

27 (e) Total expected lifetime payments from income share agreements
28 to the income share agreement account.

29 (7) This section expires July 1, 2029.

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

31 (1) Specify the percentage of future income that the individual
32 is obligated to pay to the person with whom the individual has
33 entered into an income share agreement and that the maximum future
34 income an individual must repay may not exceed two and one-half times
35 the total amount of the original contracted amount paid to the
36 institution of higher education;

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

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

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

7 (a) Is unable to engage in any substantial gainful activity by
8 reason of any medically determinable physical or mental impairment
9 that:

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

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

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

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

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

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

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

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

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

31 (6) Specify the terms and conditions by which the individual may
32 extinguish the individual's obligations under the income share
33 agreement before the end of the payment period specified in the
34 income share agreement, based upon the remaining term of the payment
35 period;

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

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

1 (b) The percentage of income the individual is committed to
2 paying under the income share agreement and the number of payments
3 required per year;

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

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

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

11 (f) That the income share agreement represents the obligation by
12 the individual to pay a specific percentage of the individual's
13 income and does not give the contract holder any rights regarding the
14 individual's actions regarding educational or employment pursuits;
15 and

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

19 NEW SECTION. **Sec. 5.** No individual may enter into an income
20 share agreement if the total percentage of the individual's future
21 income obligated under the income share agreement and any other
22 income share agreement entered into by the individual exceeds fifteen
23 percent of the individual's future income.

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

29 NEW SECTION. **Sec. 7.** In the event of the sale of an income
30 share agreement by the originator of the income share agreement, the
31 buyer of the income share agreement is subject to the requirements of
32 this chapter.

33 NEW SECTION. **Sec. 8.** (1) The income share agreement account is
34 created in the custody of the state treasurer. Moneys received from
35 private contributions, state moneys, and funds collected under income
36 share agreements may be deposited in the account. All receipts from

1 the income share agreement pilot program must be deposited in the
2 account.

3 (2) Expenditures from the account may be used only for the income
4 share agreement pilot program. Only the executive director of the
5 student achievement council or the executive director's designee may
6 authorize expenditures from the account. The account is subject to
7 the allotment procedures under chapter 43.88 RCW, but an
8 appropriation is not required for expenditures.

9 NEW SECTION. **Sec. 9.** A state match may be earned for private
10 contributions made on or after August 1, 2019. The state may provide
11 matching funds equal to the amount of private contributions received
12 by the council for the purposes of this act on the January 1st
13 following the end of the fiscal year in which the private
14 contributions are received. The state match may not exceed amounts
15 appropriated specifically for this purpose.

16 NEW SECTION. **Sec. 10.** Sections 1 through 9 of this act
17 constitute a new chapter in Title 28B RCW.

18 NEW SECTION. **Sec. 11.** A new section is added to chapter 19.52
19 RCW to read as follows:

20 This chapter does not apply to income share agreements under
21 chapter 28B.--- RCW (the new chapter created in section 10 of this
22 act).

23 NEW SECTION. **Sec. 12.** The definitions in this section apply
24 throughout this chapter unless the context clearly requires
25 otherwise.

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

27 (2) "Financial institution" has the same meaning as in RCW
28 7.88.010.

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

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

1 (5) "Program" means the Washington student loan refinancing
2 program.

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

5 (a) Resident of the state of Washington;

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

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

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

17 (a) Carry a contractual interest rate at least one-quarter of one
18 percentage point lower than the loan being refinanced, and may be
19 made with the interest rates, fees, and other terms and conditions
20 agreed upon by the financial institution and the qualified borrower;
21 and

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

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

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

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

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

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

36 NEW SECTION. **Sec. 13.** (1) Subject to amounts appropriated
37 specifically for this purpose, the Washington student loan
38 refinancing program is created.

1 (2) The program shall be administered by the council. To execute
2 the program the council shall contract with up to five financial
3 institutions. The financial institutions, in consultation with the
4 council, may leverage the interest rate buy down incentive or the
5 loan loss reserve coverage, or some combination thereof, to refinance
6 existing student loans. In administering the program, the council
7 may:

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

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

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

12 (d) Establish minimum reporting requirements for financial
13 institutions participating in the program;

14 (e) Establish minimum required disclosures by financial
15 institutions for qualified loans. At a minimum, the disclosures must
16 notify qualified borrowers of the:

17 (i) Loss of borrower protections including income contingent
18 repayment and public service loan forgiveness options if the
19 qualified borrower is refinancing a federal student loan under this
20 chapter; and

21 (ii) Estimated total cost of the qualified loan, including
22 accrued interest under this chapter;

23 (f) Appoint and use advisory committees and the department of
24 financial institutions as needed to provide program guidance and
25 direction;

26 (g) Formulate and adopt all other policies and rules necessary
27 for the efficient administration of the program;

28 (h) Make, execute, and deliver contracts, conveyances, and other
29 instruments necessary to the exercise and discharge of its powers and
30 duties under this chapter; and

31 (i) Perform all acts necessary and proper to carry out the duties
32 and responsibilities of the program under this chapter.

33 (3) On a biennial basis beginning July 1, 2020, the council must
34 report to the appropriate committees of the legislature the:

35 (a) Number of financial institutions currently under contract
36 through the program;

37 (b) Number of qualified student loans successfully refinanced
38 under the program;

39 (c) Qualified borrower requirements established by the council
40 and the financial institutions;

1 (d) Demographic information for borrowers that includes gender,
2 race or ethnicity, income level, and geography; and

3 (e) Estimated total savings by qualified borrowers with qualified
4 loans as defined by the difference between what the student would
5 have paid under the existing loan and what the student would pay when
6 given the option to refinance.

7 (4) This section expires July 1, 2029.

8 NEW SECTION. **Sec. 14.** Sections 12 and 13 of this act constitute
9 a new chapter in Title 28B RCW.

10 NEW SECTION. **Sec. 15.** This act may be known and cited as the
11 student loan relief and reform act.

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