**5774-S2 AMH CWD H2641.1 - NOT FOR FLOOR USE**

**2SSB 5774** - H COMM AMD

By Committee on College & Workforce Development

**NOT CONSIDERED 12/23/2019**

Strike everything after the enacting clause and insert the following:

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

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

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

(2) "Income" has the same meaning as in section 9 of this act.

(3) "Income share agreement" has the same meaning as in section 9 of this act.

(4) "Income share agreement originator" has the same meaning as in section 9 of this act.

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

NEW SECTION. **Sec.**  (1) Subject to receipt of grants, contributions, or amounts appropriated specifically for this purpose, the Washington income share agreement pilot program is created.

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

(a) Imposing reasonable limits on the terms of income share agreements under the pilot program;

(b) Publicizing the pilot program;

(c) Originating income share agreements or contracting with institutions of higher education or a private entity to originate income share agreements;

(d) Partnering with the institutions of higher education in selecting participants for the pilot program;

(e) Distributing income share agreement pilot program funds;

(f) Contracting with a program administrator for execution of income share agreements;

(g) Establishing minimum reporting requirements for income share agreement originators participating in the pilot program;

(h) Ensuring transparency in investment decisions and processes;

(i) Formulating and adopting all other policies and rules necessary for the efficient administration of the pilot program;

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

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

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

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

(5) The council may solicit and accept grants and contributions from private sources for deposit into the income share agreement account.

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

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

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

(c) Average income share agreement amount, percentage of future income obligated, and duration of obligation by institution of higher education;

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

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

NEW SECTION. **Sec.**  A state match may be earned for private contributions made on or after August 1, 2019. The state may provide matching funds equal to the amount of private contributions received by the council for the purposes of the income share agreement pilot program on the January 1st following the end of the fiscal year in which the private contributions are received. The state match may not exceed amounts appropriated specifically for the pilot program.

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

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

NEW SECTION. **Sec.**  A new section is added to chapter 43.131 RCW to read as follows:

The Washington income share agreement pilot program is terminated July 1, 2027, as provided in section 7 of this act.

NEW SECTION. **Sec.**  A new section is added to chapter 43.131 RCW to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective July 1, 2028:

(1)RCW 28B.--.--- and 2019 c . . . s 1 (section 1 of this act);

(2)RCW 28B.--.--- and 2019 c . . . s 2 (section 2 of this act);

(3)RCW 28B.--.--- and 2019 c . . . s 3 (section 3 of this act);

(4)RCW 28B.--.--- and 2019 c . . . s 4 (section 4 of this act); and

(5)RCW 28B.--.--- and 2019 c . . . s 5 (section 5 of this act).

NEW SECTION. **Sec.**  Sections 1 through 5 of this act constitute a new chapter in Title 28B RCW.

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

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

(2) "Income share agreement" means a written contract between a student and an income share agreement originator in which the student agrees to pay a specified percentage of their future income for a specified period of time in exchange for payment for vocational or postsecondary education.

(3) "Income share agreement originator" means an individual or entity who for the promise of compensation or gain enters into an income share agreement contract and agrees to pay for a student's vocational or postsecondary education in return for a percentage of the student's future income for a specified period of time. "Income share agreement originator" also includes an individual or entity who purchases an existing income share agreement.

NEW SECTION. **Sec.**  Any income share agreement entered into by a resident of this state is subject to the authority and restrictions of this chapter. An income share agreement must clearly specify the following disclosures:

(1)(a) The percentage of future income that the student is obligated to pay to the income share agreement originator and the number of payments required per year; and

(b) The definition of income used to calculate the student's obligation;

(2) The maximum duration of the student's obligation under the income share agreement, including any circumstances under which the duration of the agreement may be extended;

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

(4) That the amount the student is required to pay under the income share agreement may be more or less than the amount paid on behalf of the student for vocational or postsecondary education;

(5) That the income share agreement represents the obligation by the student to pay a specific percentage of future income and does not provide the income share agreement originator any rights regarding the student's educational or employment pursuits;

(6) Whether a student's obligations under an income share agreement may be extinguished by accelerating payments and any terms under which payment may be accelerated;

(7) That a student's obligation under an income share agreement may be forgiven if the student becomes totally and permanently disabled, meaning the student:

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

(i) Can be expected to result in death;

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

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

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

(8) That a student's obligation under an income share agreement must be discharged if the student dies, based on the following:

(a) An original or certified copy of the student's death certificate;

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

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

(d) Verification of the student's death through an authoritative federal or state electronic database approved for use by the student achievement council.

NEW SECTION. **Sec.**  An income share agreement must adhere to the following regulations:

(1) The maximum future income a student is obligated to repay may not exceed two and one-half times the original contracted amount paid on behalf of the student for vocational or postsecondary education.

(2)(a) A student with a household income at or below one hundred percent of the federal poverty level is exempt from income determination for a period of one year; and

(b) The duration of the student's obligation under the income share agreement may be extended for a duration equal to the exemption period.

(3) A student may not have more than fifteen percent of his or her future income obligated under income share agreements. Any income share agreement entered into in which the total percentage of the student's future income obligated exceeds fifteen percent, including any other income share agreements entered into by the student, is void.

NEW SECTION. **Sec.**  In the event of the sale of an income share agreement, the buyer of the income share agreement is subject to the requirements of this chapter.

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

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

This chapter does not apply to income share agreements under chapter 28B.--- RCW (the new chapter created in section 13 of this act).

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

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

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

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

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

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

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

(a) Resident of the state of Washington;

(b) Is enrolled in, or has completed, a certificate, associate's, bachelor's, graduate, or professional degree program; and

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

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

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

(b) Specify that a qualified borrower's obligation under a qualified loan must be discharged if the qualified borrower dies, based on the following:

(i) An original or certified copy of the qualified borrower's death certificate;

(ii) An accurate and complete photocopy of the original or certified copy of the qualified borrower's death certificate;

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

(iv) Verification of the qualified borrower's death through an authoritative federal or state electronic database approved for use by the council.

(8) This section expires July 1, 2029.

NEW SECTION. **Sec.**  (1) Subject to the availability of amounts appropriated for this specific purpose, the Washington student loan refinancing program is created.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Number of qualified loans refinanced under the program;

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

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

(e) Estimated total savings for qualified borrowers with qualified loans as defined by the difference between what the qualified borrower would have paid under the original loan and what the qualified borrower is paying under the qualified loan.

(4) This section expires July 1, 2029.

NEW SECTION. **Sec.**  Sections 15 and 16 of this act constitute a new chapter in Title 28B RCW.

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

Correct the title.

EFFECT: The striking amendment makes the following changes:

(1) Modifies the definitions of "income share agreement" and "income share agreement originator" to specify that income share agreements (ISAs) are written contracts between students and ISA originators in which the ISA originator pays for the student's vocational or postsecondary education in exchange for a specified percentage of the student's future income for a specified time period;

(2) Makes the ISA Pilot Program subject to a sunset review by the Joint Legislative Audit and Review Committee after four years;

(3) Adds that the Student Achievement Council may originate ISAs or contract with institutions of higher education or a private entity to originate ISAs for the ISA Pilot Program;

(4) Clarifies that the ISA disclosures and regulations apply to any ISA entered into by a resident of the state;

(5) Makes the ISA disclosures and regulations a new chapter in Title 28B RCW;

(6) Restructures and reorganizes the ISA disclosures and regulations;

(7) Limits the types of loans eligible for refinancing under the Washington Student Loan Refinancing (WSLR) program to private student loans and federal Direct PLUS loans;

(8) Modifies the definition of "qualified borrower" under the WSLR program to include current students.