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**SECOND SUBSTITUTE SENATE BILL 5774**

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**State of Washington 66th Legislature 2019 Regular Session**

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

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

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

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

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

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

(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 qualified income share agreements;

(b) Publicizing the program;

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

(d) Distributing income share agreement program funds;

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

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

(g) Ensuring transparency in investment decisions and processes;

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

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

(j) Performing all acts necessary and proper to carry out the duties and responsibilities of the 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 currently under contract with the income share agreement originator;

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

(c) Average income share agreement size and rate of commitment of future income by institutions 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.

(7) This section expires July 1, 2029.

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

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

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

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

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

(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;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NEW SECTION. **Sec.**  (1) The income share agreement 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 student achievement council or the executive director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

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 this act 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 this purpose.

NEW SECTION. **Sec.**  Sections 1 through 9 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 10 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 agency 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) Completion of an associate's, bachelor's, graduate, or professional degree and the receipt of a certificate, diploma, or degree from a trade, career, or technical school; 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 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 an individual's obligation under a qualified loan must be discharged if the individual dies, based on the following:

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

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

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

(iv) Verification of the individual'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 amounts appropriated specifically for this 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 on 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 student 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 the:

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

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

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

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

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

(4) This section expires July 1, 2029.

NEW SECTION. **Sec.**  Sections 12 and 13 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.

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