



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-4456/1
MDK:ah&amn

2019 SENATE BILL 472

October 4, 2019 - Introduced by Senators RINGHAND, CARPENTER, ERPENBACH, LARSON, MILLER, SHILLING and L. TAYLOR, cosponsored by Representatives SPREITZER, KURTZ, KOLSTE, CONSIDINE, VRUWINK, ANDERSON, BILLINGS, BOWEN, DOYLE, EDMING, HAYWOOD, HESSELBEIN, KITCHENS, KULP, B. MEYERS, L. MYERS, NEUBAUER, NOVAK, POPE, SARGENT, SKOWRONSKI, STUCK, SUBECK, ZAMARRIPA and C. TAYLOR. Referred to Committee on Universities, Technical Colleges, Children and Families.

1 **AN ACT to create** 15.137 (7), 20.235 (1) (em), 39.52, 71.05 (6) (a) 30. and 71.05 (6)
2 (b) 54. of the statutes; **relating to:** creating a program for reimbursing the
3 higher education debt of beginning farmers, creating an individual income tax
4 deduction for certain amounts received from such a program, granting
5 rule-making authority, making an appropriation, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill requires the Department of Agriculture, Trade and Consumer Protection to establish a program for the Higher Educational Aids Board to reimburse beginning farmers for their higher educational debt, except for debt that is reimbursed, assumed, or paid for under any other public or private program. The bill defines "beginning farmer" as an individual who satisfies all of the following: 1) manages a farm or a component of a farm in this state as his or her primary occupation; 2) has produced farm products for no more than ten consecutive years; and 3) at the time he or she first applies for reimbursement, has an annual adjusted gross income that is not more than 500 percent of the federal poverty guidelines.

To obtain reimbursement from HEAB, the bill requires an individual to apply to the Beginning Farmer Higher Education Debt Council, which is created in DATCP. The council consists of the secretary of agriculture, trade and consumer protection or his or her designee and the dean and director of the UW-Madison division of extension or his or her designee. The secretary appoints the following other members for three-year terms: 1) an individual who administers or

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participates or cooperates in programs of the Farm Service Agency of the U.S. Department of Agriculture; 2) a representative of agricultural lenders; and 3) a representative of higher education loan providers or servicers. The council must advise HEAB on carrying out its duties and promulgating rules under the bill. DATCP is required to provide administrative support to the council.

To be eligible for reimbursement, an individual must be a state resident who is a beginning farmer as defined above. In addition, the individual must intend to manage a farm or component of a farm in this state as his or her primary occupation for at least five years after applying for reimbursement. Also, the individual must have completed one of the following educational requirements: 1) graduated from an accredited public or nonprofit institution with an associate or baccalaureate degree; 2) completed a farm and industry short course offered by the University of Wisconsin System; or 3) obtained a technical college diploma or certificate in agriculture or a field related to agriculture. The council must advise HEAB on whether an applicant is eligible for reimbursement. If there are insufficient funds to make payments to all eligible applicants, the council must advise HEAB to give priority to applicants in specified categories, including financial need, likelihood to successfully continue farming in this state, progress toward farm ownership, and use of sustainable best practices.

The bill requires HEAB to enter into reimbursement agreements with eligible individuals. An agreement must express an individual's commitment to pursue a long-term career in farming in this state and to make a good faith effort to comply with the requirements of the program. An individual must also agree to annually submit documentation to HEAB showing that the individual continues to be a state resident who is managing a farm or a component of a farm in this state as his or her primary occupation. The documentation must also show that in the preceding year the individual has made all required payments on outstanding higher education debt in amounts not less than amounts reimbursed under the program. The individual must also agree to notify HEAB within 60 days if he or she ceases to be a state resident or ceases to manage a farm or farm component in this state as his or her primary occupation. The agreement must also describe the grounds for terminating an agreement, which are described below, and the penalties for intentionally providing false information to HEAB or the council, which are a civil forfeiture of no more than \$500, and, for individuals with agreements with HEAB, liability under the clawback provision described below.

The bill requires HEAB to make five annual payments of equal amounts to individuals who satisfy the bill's requirements. HEAB must make the first payment as soon as practicable after entering into the agreement and the subsequent payments annually thereafter after receiving the documentation described above. The total amount of payments over five years is \$30,000, which is adjusted for inflation, or the total amount of an individual's outstanding higher education debt, whichever is less. The bill appropriates the following maximum amounts for the program: in fiscal year 2019-20, \$120,000; in fiscal year 2020-21, \$240,000; in fiscal year 2021-22, \$360,000; in fiscal year 2022-23, \$480,000; and in fiscal year 2023-24

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and each fiscal year thereafter, \$600,000. The Department of Administration must adjust the foregoing amounts based on inflation.

The bill specifies four grounds for terminating agreements. First, if an individual ceases to be a state resident or ceases to manage a farm or component of a farm in this state as his or her primary occupation, the agreement and payments terminate, except as provided in rules that HEAB must promulgate. Under those rules, an individual's agreement is suspended, instead of terminated, if, due to circumstances beyond the individual's control, including deployment in the U.S. armed forces or national guard, the individual ceases to be a state resident or ceases engaging in the required farm management. The rules must provide for suspending the payments until an individual resumes state residency or engaging in the required farm management. Second, an agreement terminates if an individual fails to submit the required annual documentation by a due date determined by HEAB. However, the bill allows HEAB, at its discretion, to grant an extension for submitting the documentation. The bill allows an individual whose agreement is terminated on this basis to reapply for reimbursement under the program. If an individual's agreement terminates under the first or second grounds, he or she is liable to HEAB under a clawback provision for a portion of his or her most recent annual payment that corresponds to the portion of the year that the agreement is no longer in effect. For example, for termination under the first ground, the liability corresponds to the portion of the year the individual was no longer a state resident or did not engage in farming.

Third, if an individual intentionally provides false information to HEAB or the council, HEAB must terminate the agreement and the individual is liable to HEAB under a clawback provision for the total amount of payments made to the individual at a 10 percent interest rate. Fourth, if an individual fails to comply with a requirement in an agreement to notify HEAB within 60 days of ceasing to be a state resident or ceasing the required farm management activities, HEAB must terminate the agreement and the individual is liable to HEAB for the most recent payment received at a 5 percent interest rate.

The bill also does the following:

1. Provides that no more than 30 percent of the amount appropriated for the program in a fiscal year may be used to reimburse individuals who completed a farm and industry short course or obtained the technical college diploma or certificate described above.

2. To the extent funding is available in a fiscal year, allows HEAB to make total annual payments that are less than \$30,000 to additional eligible individuals.

3. Creates an individual income tax subtract modification (deduction) for payments made to an individual under the bill. The deduction first applies to taxable years beginning after December 31, 2018.

4. Requires the Legislative Audit Bureau to evaluate the effectiveness of the program and, no later than July 1, 2026, and every ten years thereafter, submit a report to the legislature regarding its evaluation.

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Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 15.137 (7) of the statutes is created to read:

2 15.137 (7) BEGINNING FARMER HIGHER EDUCATION DEBT COUNCIL. There is created
3 in the department of agriculture, trade and consumer protection a beginning farmer
4 higher education debt council consisting of the secretary of agriculture, trade and
5 consumer protection or his or her designee, the dean and director of the University
6 of Wisconsin-Madison division of extension or his or her designee, and the following
7 members appointed by the secretary of agriculture, trade and consumer protection
8 for 3-year terms:

9 (a) An individual who administers or participates or cooperates in programs
10 of the farm service agency of the U.S. department of agriculture. The secretary may
11 consult with the farm service agency in making the appointment.

12 (b) An individual representing agricultural lenders.

13 (c) An individual representing higher education loan providers or servicers.

14 **SECTION 2.** 20.235 (1) (em) of the statutes is created to read:

15 20.235 (1) (em) *Beginning farmers.* A sum sufficient to make reimbursement
16 payments to beginning farmers under the program under s. 39.52. Subject to s. 39.52
17 (6), the amount appropriated under this paragraph in fiscal year 2019-20 may not
18 exceed \$120,000, in fiscal year 2020-21 may not exceed \$240,000, in fiscal year

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1 2021-22 may not exceed \$360,000, in fiscal year 2022-23 may not exceed \$480,000,
2 and in fiscal year 2023-24 and each fiscal year thereafter may not exceed \$600,000.

3 **SECTION 3.** 39.52 of the statutes is created to read:

4 **39.52 Beginning farmers. (1) FINDINGS.** The legislature finds that farming
5 is central to this state's traditions and economy and essential for feeding residents
6 of this state and beyond. The legislature also finds that as the population of farmers
7 ages, this state faces a challenge recruiting and retaining beginning farmers. The
8 legislature believes that higher education debt is a significant barrier for beginning
9 farmers who work towards economic viability during the early years of their careers.
10 The legislature therefore finds it in the best interest of the state to establish a
11 program to provide financial assistance to beginning farmers carrying student debt
12 in their first years of farming in exchange for a commitment to farming in this state.
13 The purpose of the program is to recruit and retain beginning farmers of diverse
14 backgrounds who have completed postsecondary education, regardless of field of
15 study, previous state residency, or background in agriculture, and who are committed
16 to a career of farming in Wisconsin, in order to sustain this state's farmers, family
17 farms, and agricultural economy while fostering innovation in sustainable best
18 practices.

19 **(2) DEFINITIONS.** In this section:

20 (a) "Beginning farmer" means an individual who manages a farm or a
21 component of a farm in this state as his or her primary occupation, has produced farm
22 products, as defined in s. 93.01 (5), for no more than 10 consecutive years, and has
23 an annual adjusted gross income of not more than 500 percent of the federal poverty
24 guidelines at the time the individual first applies for reimbursement payments
25 under this section.

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1 (b) "Council" means the beginning farmer higher education debt council.

2 (c) "Department" means the department of agriculture, trade and consumer
3 protection.

4 (d) "Higher education debt" means debt, including interest, incurred in pursuit
5 of a certificate, diploma, or degree from an institution of higher education or to
6 complete a farm and industry short course offered by the University of Wisconsin
7 System, but does not include any debt reimbursed, assumed, or otherwise paid for
8 under any public or private program other than the program established under sub.
9 (3).

10 (e) "Institution of higher education" means a nonprofit or public educational
11 institution that awards an associate or baccalaureate degree and that is accredited
12 by an accrediting agency that is recognized by the secretary of the federal
13 department of education.

14 **(3) REIMBURSEMENT PROGRAM; ELIGIBILITY.** (a) The department shall establish
15 a program for the board to reimburse the higher education debt under sub. (5) or (9)

16 (b) of an individual who applies to the council and satisfies all of the following:

17 1. The individual is a beginning farmer and state resident.

18 2. The individual satisfies one of the following:

19 a. The individual has graduated from an institution of higher education with
20 an associate or baccalaureate degree.

21 b. The individual has completed a farm and industry short course offered by
22 the University of Wisconsin System.

23 c. The individual has obtained a technical college diploma or certificate in
24 agriculture or a field related to agriculture from an institution of higher education.

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1 3. The individual intends to manage a farm or component of a farm in this state
2 as his or her primary occupation for at least 5 years after applying to the council for
3 reimbursement.

4 (b) The program established under par. (a) shall allow an individual to apply
5 for reimbursement prior to satisfying the requirement under par. (a) 2.

6 **(4) AGREEMENTS.** (a) The board shall enter into an agreement for making
7 payments under sub. (5) or (9) (b) to an individual who satisfies the requirements
8 under sub. (3).

9 (b) An agreement under par. (a) shall do all of the following:

10 1. Express the individual's commitment to pursue a long-term career in
11 farming in this state and to make a good faith effort to comply with the requirements
12 of this section during the 5-year period in which the individual receives payments
13 under sub. (5) or (9) (b).

14 2. Require the individual to annually submit documentation showing to the
15 board's satisfaction that the individual continues to be a state resident who is
16 managing a farm or a component of a farm in this state as his or her primary
17 occupation and that the individual has in the preceding year made payments to the
18 individual's outstanding higher education debt in an amount no less than the
19 amount of the preceding year's reimbursement payment under sub. (5).

20 3. Except as otherwise provided in this section, require the board to make
21 annual payments under sub. (5).

22 4. Require the individual to notify the board within 60 days if the individual
23 ceases to be a state resident or ceases to manage a farm or a component of a farm in
24 this state as his or her primary occupation.

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1 5. Require the individual to provide the board with any information the board
2 determines is necessary for administering this section.

3 6. Identify the higher education debt to be reimbursed.

4 7. Describe the grounds for terminating the agreement and an individual's
5 liability to the board upon termination.

6 8. Identify the penalty under sub. (10) (a) and (b) 1. for intentionally providing
7 false information to the board or council.

8 **(5) REIMBURSEMENT PAYMENTS.** Except as otherwise provided in this section, for
9 each individual with whom the board enters into an agreement under sub. (4) (a), the
10 board shall make 5 annual payments of equal amounts to the individual that in total
11 equal the total amount of the individual's outstanding higher education debts, or
12 \$30,000, whichever is less. The board shall make the first payment as soon as
13 practicable after entering into the agreement and the subsequent payments
14 annually thereafter upon receipt of the documentation required under sub. (4) (b) 2.

15 **(6) ADJUSTMENTS.** The department of administration shall annually on July 1
16 adjust the amounts appropriated under s. 20.235 (1) (em) and the amount specified
17 in sub. (5) to reflect any changes in the U.S. consumer price index for all urban
18 consumers, U.S. city average, as determined by the U.S. department of labor, for the
19 12-month period ending on the preceding December 31.

20 **(7) LIMITS.** In a fiscal year, no more than 30 percent of the amount appropriated
21 under s. 20.235 (1) (em) for the fiscal year may be used to make payments under subs.
22 (5) and (9) (b) to individuals who satisfy sub. (3) (a) 2. b. or c.

23 **(8) TERMINATION; SUSPENSION.** (a) *Grounds.* 1. Except as provided in par. (c),
24 on the date that an individual ceases to be a state resident or manage a farm or
25 component of a farm in this state as his or her primary occupation, the board shall

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1 terminate the individual's agreement under sub. (4) (a) on that date and the
2 individual is not eligible to receive any remaining payments under the agreement.

3 2. If an individual fails to annually submit documentation to the board as
4 required under sub. (4) (b) 2. by a due date determined by the board, the board shall
5 terminate the individual's agreement under sub. (4) (a) and the individual is not
6 eligible to receive any remaining payments under the agreement, unless the board
7 at its discretion grants the individual an extension for submitting the required
8 documentation. An individual whose agreement is terminated under this
9 subdivision may reapply for reimbursement under sub. (3).

10 (b) *Clawback.* Upon termination of an agreement under par. (a), an individual
11 is liable to the board for an amount equal to the product obtained by multiplying the
12 amount of the most recent annual payment received by the individual under sub. (5)
13 or (9) (b) by a fraction in which the denominator is 365 and the numerator is the
14 number of days after the termination date that remain in the year immediately
15 following the most recent annual payment.

16 (c) *Suspension.* The board shall promulgate rules that allow for suspension of
17 an individual's agreement under sub. (4) (a) if, due to circumstances beyond the
18 individual's control, the individual ceases to be a state resident or ceases to manage
19 a farm or component of a farm in this state as his or her primary occupation for a
20 limited period. The circumstances shall include deployment in the U.S. armed
21 services or national guard. The rules shall provide for each of the following:

22 1. Suspending payments during the period the individual ceases to be a state
23 resident and reinstating payments when the individual is a state resident.

24 2. Suspending payments during the period the individual ceases managing a
25 farm or component of a farm in this state as his or her primary occupation and

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1 reinstating payments when the individual resumes managing a farm or component
2 of a farm in this state as his or her primary occupation.

3 (9) APPLICANTS; FUNDING. (a) The council shall advise the board whether an
4 applicant for reimbursement payments satisfies the requirements under sub. (3). If
5 there is not sufficient funding to make reimbursement payments to all applicants for
6 reimbursement, the council shall advise the board to give priority to applicants
7 under the following categories:

8 1. Applicants with the greatest financial need.

9 2. Applicants who are most likely to successfully continue managing a farm or
10 a component of a farm in this state based on factors including an applicant's interest
11 in a farming career, demonstrated training and experience, farm business plan, and
12 relationship with a mentor.

13 3. Applicants who own or who are working toward ownership of a farm.

14 4. Applicants who manage a farm or component of a farm that employs
15 sustainable best practices for farming that are identified in the list of approved
16 conservation enhancements and practices under the Conservation Stewardship
17 Program of the U.S. department of agriculture.

18 5. Applicants who are members of groups that are underrepresented in farming
19 in this state.

20 (b) If funding is available due to agreement terminations under sub. (8) (a) or
21 (10) (b), or if funding is available because the total amount of grants made by the
22 board under sub. (5) in a fiscal year does not exceed the limit specified in s. 20.235
23 (1) (em), the council shall advise the board of other individuals who are eligible for
24 reimbursement under sub. (3). Based on the amount of funding that is available, the

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1 board may make payments to eligible individuals for a total amount that is less than
2 the amount required under sub. (5).

3 **(10) PENALTIES.** (a) *Forfeiture.* Any individual who intentionally provides false
4 information to the board or council under this section may be required to forfeit no
5 more than \$500.

6 (b) *Clawback.* 1. If an individual with whom the board has entered into an
7 agreement under sub. (4) (a) intentionally provides false information to the board or
8 council under this section, the board shall terminate the agreement and the
9 individual is liable to the board for the total amount of payments made to the
10 individual under sub. (5) together with interest at the rate of 10 percent per year from
11 the date of the payments.

12 2. If an individual with whom the board has entered into an agreement under
13 sub. (4) (a) fails to comply with a requirement under sub. (4) (b) 4., the board shall
14 terminate the agreement and the individual is liable to the board for the most recent
15 payment made to the individual under sub. (5) together with interest at the rate of
16 5 percent per year from the date of the payment.

17 **(11) RULES.** The board and department may promulgate rules to carry out their
18 respective duties under this section.

19 **(12) COUNCIL.** The council shall advise the board on carrying out the board's
20 duties and promulgating rules under this section. The department shall provide
21 administrative support to the council.

22 **(13) AUDITS.** The legislative audit bureau shall evaluate the effectiveness of the
23 program established under this section in accomplishing the purposes specified in
24 sub. (1). No later than July 1, 2026, and every 10 years thereafter, the legislative
25 audit bureau shall submit a report of its evaluation to the chief clerk of each house

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1 of the legislature for distribution to the appropriate standing committees under s.
2 13.172 (3). The report shall include the legislative audit bureau's recommendations
3 on terminating, continuing, revising, or expanding the program, including any
4 recommendations regarding funding the program.

5 **SECTION 4.** 71.05 (6) (a) 30. of the statutes is created to read:

6 71.05 (6) (a) 30. The amount of student loan interest taken as a deduction under
7 section 221 of the Internal Revenue Code, to the extent student loan interest was
8 reimbursed under s. 39.52 and subtracted under par. (b) 54.

9 **SECTION 5.** 71.05 (6) (b) 54. of the statutes is created to read:

10 71.05 (6) (b) 54. For taxable years beginning after December 31, 2018, any
11 amount received by an individual under the program under s. 39.52.

12 **SECTION 6. Nonstatutory provisions.**

13 (1) INITIAL COUNCIL MEMBERS. Notwithstanding the length of term for certain
14 members of the beginning farmer higher education debt council that is specified in
15 s. 15.137 (7) (intro.), the initial member appointed under s. 15.137 (7) (a) shall have
16 a term expiring on July 1, 2021, the initial member appointed under s. 15.137 (7) (b)
17 shall have a term expiring on July 1, 2022, and the initial member appointed under
18 s. 15.137 (7) (c) shall have a term expiring on July 1, 2023.

19 (END)