



# Student Debt Reform in the 2019 State Legislative Sessions

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## Key Trends

Reining in abuses at for-profit institutions

Reining in student loan industry

Helping current student loan holders

Creating a better environment for current and future borrowers

**Tuition and fees at both public and private colleges and universities have never been higher, and the cost of loans taken out by American students for higher education has never been greater.** Close to 70 percent of college students graduate with debt, and the collective student loan debt in the United States in 2019 is now over \$1.5 trillion. Many of the student debt holders face financial instability, hold down multiple jobs to make ends meet, and are forced to delay financial investments like homeownership and retirement savings. This debt has a wide effect not just on the student debt holders, but across the economy.

Adding to concerns over the student debt crisis are widespread reports of potential predatory lending practices (including the use of subprime loans with expected default rates as high as 92 percent) by student loan providers across the United States. In addition, borrowers face potentially unethical behavior from for-profit colleges and universities, which account for a disproportionately high share of student debt. Students who attend for-profit institutions are at higher risk of defaulting on their loans. In fact, 44 percent of borrowers at these schools faced some type of loan distress five years into repayment. These for-profit institutions are also much more likely to declare bankruptcy (95.5% of colleges that have closed since 2013 were for-profit), leaving students without access to a higher education or even credits that can be transferred to other schools.

Despite evidence that predatory lenders and for-profit institutions need more oversight, the Trump administration is rolling back oversight and regulation. In May 2018, they announced the closure of the Consumer Financial Protection Bureau's office focused on student lending protections, and the Department of Education delayed the implementation of the Obama-era "gainful employment" rule that required private, for-profit universities to examine and report the debt-to-earnings ratio of their alumni and tied their access to Federal funds to maintaining a reasonable debt-to-earnings ratio.

Given the severity of the crisis and the urgency with which action is needed, state legislatures across the country are taking action. These laws **rein in the abuses** by for-profit institutions and student loan service providers, **help current loan holders**, and **create a better environment** for current and future borrowers. This brief summarizes some of the most important developments at the state level, including highlights from the 2019 legislative session.



## Reining in Abuses at For-Profit Institutions

Lawmakers are creating more transparency and accountability to rein in abuses through:

- gainful employment rules;
- regulated revenue;
- regulated expenses; and
- non-profit status determination.

### State Gainful Employment Rules

**California** legislation ([2019 CA AB 1340](#)) would incorporate the Obama Administration's gainful employment rules, but for enrollment. For schools falling between a [passing debt-to-earnings \(D/E\) rate](#) and a [failing D/E rate](#), this would effectively freeze the new enrollment of California residents at the same number who enrolled last year. For those schools with some combination of failing D/E rates over the last three or four years, no new California residents would be allowed to enroll.

**Maine** enacted legislation ([2019 ME LD 103/Chapter 157](#)) that requires for-profit institutions to report on the percentage of graduates who have been employed in their field of study, received federal student loans, and defaulted on or deferred their student loan payments. If the Commissioner of Education determines that the institution has not received the necessary accreditations to allow graduates to meet professional licensing or other career standards related to their field of study, the commissioner must find that the for-profit institution fails to meet adequate education standards.

## Regulated Revenue

**Washington** enacted legislation ([2017 WA HB 1439/Chapter 203](#)) which prohibits for-profit colleges from engaging in any practice regarding the sale of consumer student loan products that financially benefit any person with ownership interest in the institution, unless the student has exhausted all federal aid options and has been denied non-institutional private commercial loan products.

In **California**, a bill moving through the legislature ([2019 CA AB 1343](#)) would prohibit a for-profit college from newly enrolling California residents unless the for-profit institution either (1) has no more than 85% of its tuition revenue derived from student financial aid and loans; or (2) dedicates at least 50% of its tuition revenue to student instruction.

## Regulated Expenses

**Maine** enacted legislation ([2019 ME LD 103/Chapter 157](#)) that requires for-profit institutions to report the amount of funds spent on educational instruction, advertising, and executive salaries. If the Commissioner of Education determines that the for-profit institution spends less than 50% of total spending on instruction or more than 15% on advertising, the commissioner must find that the for-profit institution fails to meet adequate education standards.

## Non-Profit Status Determination

**California** legislation now in the Senate ([2019 CA AB 1341](#)) would establish a range of new criteria for the state's attorney general to consider when making non-profit determination. For example, it requires the institution to be subject to the same financial oversight and open public records laws as any public agency, and it prohibits a non-profit status determination for a school whose net earnings benefit any person (as determined by a tax incidence reportable to the IRS).







## Reining in the Student Loan Industry

State lawmakers are taking action to provide necessary oversight to protect consumers by:

- Creating advocates for student borrowers;
- Cracking down on predatory practices by loan servicers, consultants, and for-profit colleges; and
- Providing a public option for student loans and stakeholder supports.

### Creating Advocates

State lawmakers have created an ombudsman or advocate position with the power to review and report on student lending practices. Through these laws, states provide student borrowers with support in the review, analysis, and resolution of complaints against student loan servicers. Some states require the reporting of any abusive, unfair, deceptive, or fraudulent activity by student loan servicers to the state attorney general.

**Illinois** (2017 IL SB 1351/Public Act 540), **Maryland** (2018 MD SB 1068/Chapter 732), **Washington** (2018 WA SB 6029/Chapter 62), **Virginia** (2018 VA HB 1138/Chapter 489 and 2018 VA SB 394/Chapter 755), **Colorado** (2019 CO SB 2), **Nevada** (2019 NV AB 383/Chapter 402), **Maine** (2019 ME LD 995/Chapter 431), and **Rhode Island** (2019 RI SB 737 and 2019 RI HB 5936) have all enacted variations on this legislation, and a similar bill is pending in **New Jersey** (2019 NJ SB 1149).

### Cracking Down on Predatory Practices

State lawmakers have taken action to better regulate the student loan industry. Many of these state laws clarify the professional requirements necessary for student loan servicers, including but not limited to licensure requirements, grounds for suspension and/or revocation, examinations, and penalties.

**Illinois** (2017 IL SB 1351/Public Act 540), **Washington** (2018 WA SB 6029/Chapter 62), **Colorado** (2019 CO SB 2), **New York** (2019 NY SB 1508/Chapter 58), **Maine** (2019 ME LD 995/Chapter 431), and **Rhode Island** (2019 RI SB 737 and 2019 RI HB 5936) have all passed this type of legislation, and a related bill is pending in **New Jersey** (2019 NJ SB 1149).

Lawmakers have also taken steps to prohibit student loan servicers from engaging in unfair or deceptive practices and misapplying payments made by borrowers. Many of these state laws clarify the accountability of the loan servicers or any third party they may engage with when it comes to debt collection, the accuracy of information provided to a credit bureau, the failure to report to a credit bureau, the failure to make an effort to communicate with a borrower, and the misrepresentation of facts to obtain property.

**HELLO**

my name is

**\$293,440**

*Medical School Loan*

**HELLO**

my name is

**\$97,110**

*English Major*

**HELLO**

my name is

**\$53,407**

*Art School Loan*

**Illinois** (2017 IL SB 1351/Public Act 540), **Washington** (2018 WA SB 6029/Chapter 62), **Colorado** (2019 CO SB 2), **Maryland** (2019 MD HB 594/Chapter 546), **Maine** (2019 ME LD 995/Chapter 431), and **Rhode Island** (2019 RI SB 737 and 2019 RI HB 5936) have all passed variations on these consumer protections, and a bill with similar provisions is pending in **New Jersey** (2019 NJ SB 1149).

State lawmakers have created guidelines to regulate student loan debt repayment counseling and to reduce costs to the borrower.

**Minnesota** enacted a new law (2019 MN SF 2415/Chapter 64) that establishes a grant program for non-profit debt counseling organizations to provide individual student loan debt repayment counseling to Minnesota residents.

**New York** introduced, but did not pass legislation (2018 NY AB 10629 and 2019 NY AB 3408) that would have prohibited student debt consultants from engaging in unfair or deceptive practices, charging payment for student debt consulting services before they are fully completed, taking power of attorney from a borrower, retaining original loan documents, asking for a borrower's federal student aid ID, implying that a borrower cannot obtain relief on their own, or misrepresenting that the consultant is affiliated or endorsed by the government in any way or that any portion of the borrower's payments to the consultant will be applied to the borrower's student loans.



## Providing a Public Option and Stakeholder Supports

**Illinois** passed legislation out of both chambers (2019 IL SB 1524) which would provide a public option of student loan financing and work with eligible lenders and educational institutions to lower the cost to borrowers through a system of investment programs, including income-sharing agreements, linked deposits, and origination of student loans.





## Helping Current Student Loan Holders

State lawmakers created ways for borrowers to consolidate and reduce their debt burden by:

- Adjusting state tax codes;
- Allowing for repayment or loan forgiveness;
- Implementing refinancing options; and
- Putting in place default protections for borrowers.

### Adjustments to State Tax Codes

**California** enacted a law ([2017 CA AB 461/Chapter 525](#)) that excludes student loan debt repaid under income contingent repayment plans for public service from gross income for taxable years 2017–21.

**Colorado** enacted legislation ([2018 CO HB 1217](#)) that created a temporary income tax credit, for income tax years 2019–21, for employers who make contributions to 529 qualified state tuition program accounts owned by their employees in an amount equal to 20% of the contribution, but not to exceed \$500.

**Maryland** enacted a law ([2018 MD HB 593/Chapter 382](#)) that expanded the state's student loan tax credit on student debt repayment to include graduate student loan debt.

**Connecticut** enacted a law ([2019 CT SB 72/Public Act 86](#)) to establish a business tax credit for an employer who makes education loan payments on an employee's behalf. The credit equals 50% of all eligible payments made on behalf of a qualified employee to the Connecticut Higher Education Supplemental Loan Authority (CHESLA) on loans the authority issued.

### Repayment or Loan Forgiveness

**North Dakota** recently enacted legislation ([2019 North Dakota HB 1171](#)) to attract and retain individuals with professional or technical skills in high demand by analyzing labor market information annually and creating a skilled workforce student loan repayment program fund consisting of monies appropriated, matching funds received, and loan repayments.

**New Hampshire** passed legislation out of both chambers ([2019 NH SB 12](#)) to create a loan forgiveness program that is based on employer demand. This bill would establish the New Hampshire college graduate retention incentive partnership (NH GRIP) to provide financial incentives to college graduates who are hired by participating employers.

**New Hampshire** also enacted legislation ([2019 NH SB 139/Chapter 72](#)) to establish a committee to study, in addition to other topics, tax credits for businesses that offer tuition forgiveness.

**California** has advanced the discourse around college affordability by introducing legislation ([2019 CA AB 140](#)) that would broadly tackle loan forgiveness.



## Refinance Options

**Maryland** enacted legislation ([2018 MD HB 605/Chapter 620](#)) to commission a market-specific study to determine the costs of, demand for, and long-term viability of a student loan refinancing program.

**New Hampshire** enacted legislation ([2019 NH SB 139/Chapter 72](#)) to establish a committee to study, in addition to other topics, a state guarantee of refinancing student loans.

**Washington** enacted legislation ([2019 WA Senate HB 2158/Chapter 406](#)) to authorize the Washington Student Achievement Council to contract with up to five private financial institutions to refinance student loans in order to provide more favorable loan terms.

**New Jersey** enacted legislation ([2019 NJ SB 3125/Chapter 62](#)) to create a Repayment Assistance Program for eligible borrowers to pay a reduced monthly loan payment equal to 10 percent of the total household income (includes all loan co-signers) that exceeds 150 percent of the federal poverty level, with a minimum monthly payment of \$5.

**New York** introduced, but did not pass, legislation ([2019 NY SB 250](#)) to establish a private student loan refinance task force to study and report on ways private student lenders could be encouraged to establish student loan refinancing programs.

**Illinois** passed legislation out of both chambers ([2019 IL SB 1524](#)) to assist qualified residents to attend and pay for post-secondary education through a state-run student investment account, which may be used to refinance and service student loans.

## Default Protections

Lawmakers have enacted legislation to repeal current powers or prevent a licensing authority from suspending or revoking occupational licenses based solely on default or delinquency on student loans.

**Arkansas** ([2019 AR HB 1296/Act 250](#)), **Hawaii** ([2019 HI SB 385/Act 279](#)), **Iowa** ([2019 IA Senate File 304](#)), **Kentucky** ([2019 KY HB 118/Chapter 6](#)), **Louisiana** ([2019 LA HB 423/Act 227](#)), and **Texas** ([2019 TX SB 37](#)) have enacted variations on this legislation.

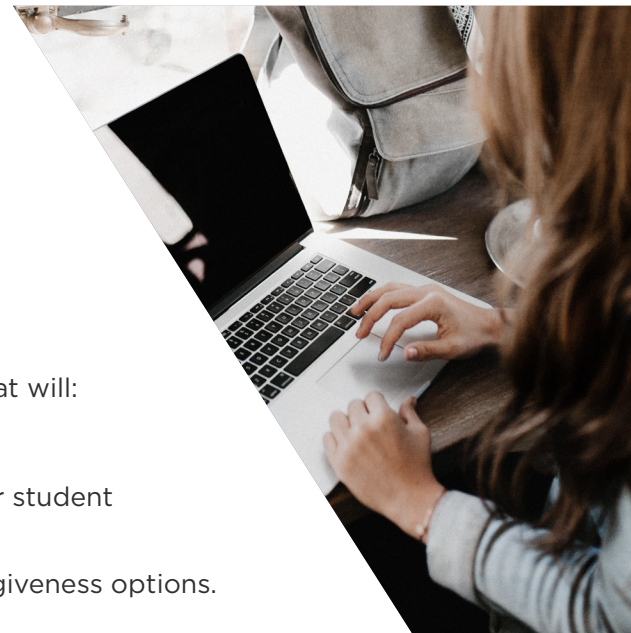
**Washington** enacted a law ([2018 WA HB 1169/Chapter 199](#)) which, in addition to preventing the suspension or revocation of occupational licenses, limits the judgment interest rate for unpaid private student loan debt to two percentage points above the prime rate, unless specified in the loan contract and set forth in the judgment. This law also increases asset exemptions in private student loan default cases and increases the amount of wages exempt from garnishment.

# Creating a Better Environment for Current and Future Borrowers

Information is power, and having better educated consumers with more access to information will help create a better environment for current and future borrowers.

State lawmakers are closing the information gap by enacting laws that will:

- Educate consumers on financial literacy;
- Require institutions to disclose information to students about their student loans; and
- Require public employees receive information on student loan forgiveness options.



## Educate Consumers

**Louisiana** enacted legislation ([2019 LA HB 239/Act 116](#)) to make information about student borrowing for college a required component in public K-12 personal financial management instruction.

The **Texas** legislature introduced, but did not pass, bills ([2019 TX HB 1182](#) and [2019 TX SB 686](#)) that would require students to take a personal financial literacy class in order to graduate from public high school. Included in the curriculum was instruction on completing the application for federal student aid, the financial consequences of failing to make timely student loan payments, the effect of student loan debt on a person's finances, and the circumstances in which student loans are dischargeable in bankruptcy.

**Utah** enacted a bill ([2019 UT HB 286/Chapter 226](#)) that includes a requirement for the state board of education to address "the costs of going to college, student loans, scholarships, and the Free Application for Federal Student Aid" in general financial literacy courses for high school students.



## Institutional Disclosure on Loans

**Maryland** enacted a bill ([2019 MD HB 464/Chapter 516](#)) that requires for-profit colleges to disclose to borrowers the placement rate for programs, whether the program satisfies the applicable educational prerequisites for professional licensure in the state, and the median earnings of former students who received federal financial aid at 10 years after entering the school.

**Indiana** enacted legislation ([2015 IN HB 1042/Public Law 15](#)) requiring colleges to provide students with annual disclosure of total loans, total payoff, monthly repayment amounts, and proximity to the federal borrowing limit.

**California** ([2017 CA AB 1178/Chapter 448](#)) and **Texas** ([2017 TX SB 887](#)) enacted legislation which requires that disclosures be sent out annually and include: (a) the total cumulative principal amount of the education loan; (b) the total payoff amount; and (c) estimates of monthly repayment amounts, including principal and interest.

**Washington** enacted a bill ([2017 WA SB 5022/Chapter 154](#)) that requires disclosure every time institutions certify a new financial package that includes loans. The law also requires the disclosure of the percentage of the aggregate federal direct loan borrowing limit that the student has reached, and the notification must also include information on how to access resources for student loan borrowers from federal and state agencies.



## Loan Forgiveness Information

**Colorado** enacted legislation ([2019 CO SB 57](#)) that requires the Department of Personnel & Administration to develop and annually distribute informational materials to state employees concerning federal student loan repayment programs and loan forgiveness programs for which state employees may be eligible.

**Utah** legislation ([2019 UT HB 213/Chapter 220](#)) instructs the Division of Antidiscrimination and Labor to develop and make publicly available informational materials that describe the Public Service Loan Forgiveness Program, and requires public service organizations to annually provide an electronic copy of these materials to all of their employees.



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