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SUBSTITUTE HOUSE BILL 1044

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State of Washington

67th Legislature

2021 Regular Session

**By** House College & Workforce Development (originally sponsored by Representatives Leavitt, Simmons, J. Johnson, Eslick, Lovick, Kloba, Lekanoff, Wylie, Bateman, Senn, Goodman, Bronoske, Valdez, Callan, Ramos, Hackney, Morgan, Ormsby, Fey, Frame, Santos, Davis, Pollet, and Bergquist)

1       AN ACT Relating to creating prison to postsecondary education  
2 pathways; amending RCW 72.09.270, 72.09.460, 72.09.465, 72.68.010,  
3 and 28B.15.067; amending 2019 c 397 s 1 (uncodified); adding a new  
4 section to chapter 72.68 RCW; adding a new section to chapter 72.09  
5 RCW; creating a new section; and providing an expiration date.

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

7       **Sec. 1.**     2019 c 397 s 1 (uncodified) is amended to read as  
8 follows:

9       (1) The legislature finds that incarceration is both a rural and  
10 urban issue in the state. According to one recent report, the highest  
11 rates of prison admissions are in rural counties. In addition, since  
12 1980, the number of women in prison has increased more than eight  
13 hundred percent. The legislature finds that studies clearly and  
14 consistently demonstrate that postsecondary education in prisons  
15 improves safety in facilities, and incarcerated adults who obtain  
16 postsecondary education and training are more likely to be employed  
17 following release, which leads to a ~~((dramatic))~~ significant  
18 reduction in recidivism rates, ~~((significant))~~ improvements in public  
19 safety, and a major return on investment. The legislature finds that  
20 reducing recidivism ~~((would))~~ decreases the financial burden to  
21 taxpayers and the emotional burden of victims.

1       (2) The legislature finds that research indicates that  
2 postsecondary education and training is an effective evidence-based  
3 practice for reducing recidivism. An analysis commissioned by the  
4 United States department of justice determined that adults who  
5 received ~~((such))~~ an education while incarcerated were forty-three  
6 percent less likely to recidivate.

7       (3) Ninety-five percent of incarcerated adults ultimately return  
8 to their communities to obtain employment and contribute to society.  
9 The legislature finds that according to the bureau of labor  
10 statistics, unemployment rates for people with only a high school  
11 education are twice that of those with an associate degree. Research  
12 has shown that adults who participated in ~~((such))~~ education programs  
13 while incarcerated were thirteen percent more likely to be employed.

14       (4) The legislature further finds that correctional education is  
15 cost-effective. A 2014 study by the Washington state institute for  
16 public policy estimated that ~~((the state received))~~, based on a  
17 review of national research literature and cost-benefit analysis,  
18 there is a return on investment of twenty dollars for every dollar  
19 invested in correctional education.

20       (5) It is the intent of the legislature to enhance public safety,  
21 including the safety of prison workers as findings show that violence  
22 rates are reduced in institutions where there are educational  
23 programs, to reduce crime, and to increase employment rates in a  
24 cost-effective manner by exploring benefits and costs associated with  
25 providing postsecondary education degree opportunities and training  
26 to incarcerated adults through expanded partnerships between ~~((the~~  
27 ~~community and technical colleges))~~ postsecondary institutions and the  
28 department of corrections.

29       (6) It is the intent of the legislature to support exploring the  
30 use of secure internet connections expressly for the purposes of  
31 furthering postsecondary education degree opportunities and training  
32 of incarcerated adults, including providing assistance to  
33 incarcerated adults with completing financial aid materials. The  
34 legislature intends for the department to be able to provide complete  
35 assurance that all ~~((offender-used))~~ internet connections used by  
36 incarcerated individuals are secure.

37       (7) It is also the intent of the legislature, by requiring the  
38 study under section 2 of this act, to examine the effects of  
39 providing postsecondary education while incarcerated on enrollment in  
40 the postsecondary education system postrelease.

1        NEW SECTION.        **Sec. 2.**        (1)(a) Subject to the availability of  
2 amounts appropriated for this specific purpose, the Washington state  
3 institute for public policy shall study enrollment, completion, and  
4 recidivism rates of incarcerated individuals in the postsecondary  
5 education system postrelease.

6        (b) The goal of the study is to understand whether participation  
7 in postsecondary education while incarcerated contributes to greater  
8 enrollment and completion of postsecondary education and reduced  
9 recidivism postrelease. The scope of the study shall focus on  
10 postrelease enrollment and completion trends in the community and  
11 technical college sector for formerly incarcerated individuals of all  
12 ages. The timeline of the study may include data from 2015 to the  
13 present, to the extent possible. The study's findings shall be  
14 divided into a preliminary and final report. The reports shall  
15 complement similar studies conducted at the University of Washington  
16 or elsewhere. To the extent that it is not duplicative of other  
17 studies, the Washington state institute for public policy shall study  
18 the following:

19        (i) For the preliminary report, which is due October 1, 2024:

20        (A) Patterns and any effects on postrelease enrollment and  
21 participation in the community and technical college system by  
22 individuals who, while incarcerated, participated in postsecondary  
23 education programs, including those individuals that completed some  
24 coursework but did not earn a degree or certificate; and

25        (B) Differential outcomes for individuals participating in  
26 different types of postsecondary education courses, certificate  
27 programs, and degree programs.

28        (ii) For the final report, which is due October 1, 2027, a  
29 continuation of the preliminary report in addition to:

30        (A) Changes in enrollment and completion of postsecondary  
31 education courses, certificate programs, and degree programs due to  
32 the changes and expansion of educational programming in this act, to  
33 the extent possible; and

34        (B) Recidivism outcomes beyond incarceration for those  
35 incarcerated individuals that participated in postsecondary  
36 certificate and degree programs while incarcerated, including  
37 arrests, charges, and convictions.

38        (iii) The preliminary and final reports shall be submitted to the  
39 appropriate committees of the legislature and in accordance with RCW  
40 43.01.036.

(iv) The department of corrections, the student achievement council, the state board for community and technical colleges, and the education research and data center shall provide data necessary to conduct the study.

(2) This section expires January 1, 2029.

**Sec. 3.** RCW 72.09.270 and 2008 c 231 s 48 are each amended to read as follows:

(1) The department of corrections shall develop an individual reentry plan as defined in RCW 72.09.015 for every ~~((offender))~~ incarcerated individual who is committed to the jurisdiction of the department except:

(a) ~~((Offenders))~~ Incarcerated individuals who are sentenced to life without the possibility of release or sentenced to death under chapter 10.95 RCW; and

(b) ~~((Offenders))~~ Incarcerated individuals who are subject to the provisions of 8 U.S.C. Sec. 1227.

(2) The individual reentry plan may be one document, or may be a series of individual plans that combine to meet the requirements of this section.

(3) In developing individual reentry plans, the department shall assess all ~~((offenders))~~ incarcerated individuals using standardized and comprehensive tools to identify the criminogenic risks, programmatic needs, and educational and vocational skill levels for each ~~((offender))~~ incarcerated individual. The assessment tool should take into account demographic biases, such as culture, age, and gender, as well as the needs of the ~~((offender))~~ incarcerated individual, including any learning disabilities, substance abuse or mental health issues, and social or behavior ~~((deficits))~~ challenges.

(4)(a) The initial assessment shall be conducted as early as sentencing, but, whenever possible, no later than forty-five days of being sentenced to the jurisdiction of the department of corrections.

(b) The ~~((offender's))~~ incarcerated individual's individual reentry plan shall be developed as soon as possible after the initial assessment is conducted, but, whenever possible, no later than sixty days after completion of the assessment, and shall be periodically reviewed and updated as appropriate.

(5) The individual reentry plan shall, at a minimum, include:

(a) A plan to maintain contact with the ~~((inmate's))~~ incarcerated individual's children and family, if appropriate. The plan should

determine whether parenting classes, or other services, are appropriate to facilitate successful reunification with the ~~((offender's))~~ incarcerated individual's children and family;

(b) An individualized portfolio for each ~~((offender))~~ incarcerated individual that includes the ~~((offender's))~~ incarcerated individual's education achievements, certifications, employment, work experience, skills, and any training received prior to and during incarceration; and

(c) A plan for the ~~((offender))~~ incarcerated individual during the period of incarceration through reentry into the community that addresses the needs of the ~~((offender))~~ incarcerated individual including education, employment, substance abuse treatment, mental health treatment, family reunification, and other areas which are needed to facilitate a successful reintegration into the community.

(6)(a) Prior to discharge of any ~~((offender))~~ incarcerated individual, the department shall:

(i) Evaluate the ~~((offender's))~~ incarcerated individual's needs and, to the extent possible, connect the ~~((offender))~~ incarcerated individual with existing services and resources that meet those needs; and

(ii) Connect the ~~((offender))~~ incarcerated individual with a community justice center and/or community transition coordination network in the area in which the ~~((offender))~~ incarcerated individual will be residing once released from the correctional system if one exists.

(b) If the department recommends partial confinement in an ~~((offender's))~~ incarcerated individual's individual reentry plan, the department shall maximize the period of partial confinement for the ~~((offender))~~ incarcerated individual as allowed pursuant to RCW 9.94A.728 to facilitate the ~~((offender's))~~ incarcerated individual's transition to the community.

(7) The department shall establish mechanisms for sharing information from individual reentry plans to those persons involved with the ~~((offender's))~~ incarcerated individual's treatment, programming, and reentry, when deemed appropriate. When feasible, this information shall be shared electronically.

(8)(a)(i) In determining the county of discharge for an ~~((offender))~~ incarcerated individual released to community custody, the department may not approve a residence location that is not in the ~~((offender's))~~ incarcerated individual's county of origin unless

1 it is determined by the department that the ((~~offender's~~))  
2 incarcerated individual's return to his or her county of origin would  
3 be inappropriate considering any court-ordered condition of the  
4 ((~~offender's~~)) incarcerated individual's sentence, victim safety  
5 concerns, negative influences on the ((~~offender~~)) incarcerated  
6 individual in the community, or the location of family or other  
7 sponsoring persons or organizations that will support the  
8 ((~~offender~~)) incarcerated individual.

9 (ii) Unless there are victim safety concerns, the department  
10 shall consider the incarcerated individual's return to their county  
11 of origin to be inappropriate if the incarcerated individual is  
12 enrolled in an educational program and a return to their county of  
13 origin would result in the incarcerated individual not being able to  
14 complete the program.

15 (b) If the ((~~offender~~)) incarcerated individual is not returned  
16 to his or her county of origin, the department shall provide the law  
17 and justice council of the county in which the ((~~offender~~))  
18 incarcerated individual is placed with a written explanation.

19 (c) For purposes of this section, the ((~~offender's~~)) incarcerated  
20 individual's county of origin means the county of the ((~~offender's~~))  
21 incarcerated individual's first felony conviction in Washington.

22 (9) Nothing in this section creates a vested right in  
23 programming, education, or other services.

24 **Sec. 4.** RCW 72.09.460 and 2017 c 120 s 3 are each amended to  
25 read as follows:

26 (1) Recognizing that there is a positive correlation between  
27 education opportunities and reduced recidivism, it is the intent of  
28 the legislature to offer appropriate ((~~associate~~)) postsecondary  
29 degree or certificate opportunities to ((~~inmates designed to prepare~~  
30 ~~the inmate to enter the workforce~~)) incarcerated individuals.

31 (2) The legislature intends that all ((~~inmates~~)) incarcerated  
32 individuals be required to participate in department-approved  
33 education programs, work programs, or both, unless exempted as  
34 specifically provided in this section. Eligible ((~~inmates~~))  
35 incarcerated individuals who refuse to participate in available  
36 education or work programs available at no charge to the ((~~inmates~~))  
37 incarcerated individuals shall lose privileges according to the  
38 system established under RCW 72.09.130. Eligible ((~~inmates~~))  
39 incarcerated individuals who are required to contribute financially

1 to an education or work program and refuse to contribute shall be  
2 placed in another work program. Refusal to contribute shall not  
3 result in a loss of privileges.

4 (3) The legislature recognizes more ~~((inmates))~~ incarcerated  
5 individuals may agree to participate in education and work programs  
6 than are available. The department must make every effort to achieve  
7 maximum public benefit by placing ~~((inmates))~~ incarcerated  
8 individuals in available and appropriate education and work programs.

9 (4)(a) The department shall, to the extent possible and  
10 considering all available funds, prioritize its resources to meet the  
11 following goals for ~~((inmates))~~ incarcerated individuals in the order  
12 listed:

13 (i) Achievement of basic academic skills through obtaining a high  
14 school diploma or a high school equivalency certificate as provided  
15 in RCW 28B.50.536, including achievement by those incarcerated  
16 individuals eligible for special education services pursuant to state  
17 or federal law;

18 (ii) Achievement of vocational skills necessary for purposes of  
19 work programs and for an ~~((inmate))~~ incarcerated individual to  
20 qualify for work upon release;

21 (iii) Additional work and education programs necessary for  
22 compliance with an ~~((offender's))~~ incarcerated individual's  
23 individual reentry plan under RCW 72.09.270, including special  
24 education services and postsecondary degree or certificate education  
25 programs; and

26 (iv) Other appropriate vocational, work, or education programs  
27 that are not necessary for compliance with an ~~((offender's))~~  
28 incarcerated individual's individual reentry plan under RCW 72.09.270  
29 including ~~((associate))~~ postsecondary degree or certificate education  
30 programs.

31 (b) If programming is provided pursuant to (a)(i) through (iii)  
32 of this subsection, the department shall pay the cost of such  
33 programming, including but not limited to books, materials, and  
34 supplies.

35 (c) If programming is provided pursuant to (a)(iv) of this  
36 subsection, ~~((inmates))~~ incarcerated individuals shall be required to  
37 pay all or a portion of the costs, including books, fees, and  
38 tuition, for participation in any vocational, work, or education  
39 program as provided in department policies. Department policies shall  
40 include a formula for determining how much an ~~((offender))~~

1 incarcerated individual shall be required to pay. The formula shall  
2 include steps which correlate to an ((~~offender~~)) incarcerated  
3 individual's average monthly income or average available balance in a  
4 personal ((~~inmate~~)) savings account and which are correlated to a  
5 prorated portion or percent of the per credit fee for tuition, books,  
6 or other ancillary educational costs. The formula shall be reviewed  
7 every two years. A third party may pay directly to the department all  
8 or a portion of costs and tuition for any programming provided  
9 pursuant to (a)(iv) of this subsection on behalf of an ((~~inmate~~))  
10 incarcerated individual. Such payments shall not be subject to any of  
11 the deductions as provided in this chapter.

12 (d) The department may accept any and all donations and grants of  
13 money, equipment, supplies, materials, and services from any third  
14 party, including but not limited to nonprofit entities, and may  
15 receive, utilize, and dispose of same to complete the purposes of  
16 this section.

17 (e) Any funds collected by the department under (c) and (d) of  
18 this subsection and subsections ((~~(9) and~~)) (10) and (11) of this  
19 section shall be used solely for the creation, maintenance, or  
20 expansion of ((~~inmate~~)) incarcerated individual educational and  
21 vocational programs.

22 (5) The department shall provide access to a program of education  
23 to all ((~~offenders~~)) incarcerated individuals who are under the age  
24 of eighteen and who have not met high school graduation requirements  
25 or requirements to earn a high school equivalency certificate as  
26 provided in RCW 28B.50.536 in accordance with chapter 28A.193 RCW.  
27 The program of education established by the department and education  
28 provider under RCW 28A.193.020 for ((~~offenders~~)) incarcerated  
29 individuals under the age of eighteen must provide each ((~~offender~~))  
30 incarcerated individual a choice of curriculum that will assist the  
31 ((~~inmate~~)) incarcerated individual in achieving a high school diploma  
32 or high school equivalency certificate. The program of education may  
33 include but not be limited to basic education, prevocational  
34 training, work ethic skills, conflict resolution counseling,  
35 substance abuse intervention, and anger management counseling. The  
36 curriculum may balance these and other rehabilitation, work, and  
37 training components.

38 (6)(a) In addition to the policies set forth in this section, the  
39 department shall consider the following factors in establishing  
40 criteria for assessing the inclusion of education and work programs



1 in an ((~~inmate's~~)) incarcerated individual's individual reentry plan  
2 and in placing ((~~inmates~~)) incarcerated individuals in education and  
3 work programs:

4 (i) An ((~~inmate's~~)) incarcerated individual's release date and  
5 custody level. An ((~~inmate~~)) incarcerated individual shall not be  
6 precluded from participating in an education or work program solely  
7 on the basis of his or her release date, except that ((~~inmates~~))  
8 incarcerated individuals with a release date of more than one hundred  
9 twenty months in the future shall not comprise more than ten percent  
10 of ((~~inmates~~)) incarcerated individuals participating in a new class  
11 I correctional industry not in existence on June 10, 2004;

12 (ii) An ((~~inmate's~~)) incarcerated individual's education history  
13 and basic academic skills;

14 (iii) An ((~~inmate's~~)) incarcerated individual's work history and  
15 vocational or work skills;

16 (iv) An ((~~inmate's~~)) incarcerated individual's economic  
17 circumstances, including but not limited to an ((~~inmate's~~))  
18 incarcerated individual's family support obligations; and

19 (v) Where applicable, an ((~~inmate's~~)) incarcerated individual's  
20 prior performance in department-approved education or work programs;

21 (b) The department shall establish, and periodically review,  
22 ((~~inmate~~)) incarcerated individual behavior standards and program  
23 ((~~goals~~)) outcomes for all education and work programs. ((~~Inmates~~))  
24 Incarcerated individuals shall be notified of applicable behavior  
25 standards and program goals prior to placement in an education or  
26 work program and shall be removed from the education or work program  
27 if they consistently fail to meet the standards or ((~~goals~~))  
28 outcomes.

29 (7) Eligible ((~~inmates~~)) incarcerated individuals who refuse to  
30 participate in available education or work programs available at no  
31 charge to the ((~~inmates~~)) incarcerated individuals shall lose  
32 privileges according to the system established under RCW 72.09.130.  
33 Eligible ((~~inmates~~)) incarcerated individuals who are required to  
34 contribute financially to an education or work program and refuse to  
35 contribute shall be placed in another work program. Refusal to  
36 contribute shall not result in a loss of privileges.

37 (8) The department shall establish, by rule, a process for  
38 identifying and assessing incarcerated individuals with learning  
39 disabilities, traumatic brain injuries, and other cognitive  
40 impairments to determine whether the person requires accommodations

1 in order to effectively participate in educational programming,  
2 including general educational development tests and postsecondary  
3 education. The department shall establish a process to provide such  
4 accommodations to eligible incarcerated individuals.

5 (9) The department shall establish, by rule, objective medical  
6 standards to determine when an ((inmate)) incarcerated individual is  
7 physically or mentally unable to participate in available education  
8 or work programs. When the department determines an ((inmate))  
9 incarcerated individual is permanently unable to participate in any  
10 available education or work program due to a health condition, the  
11 ((inmate)) incarcerated individual is exempt from the requirement  
12 under subsection (2) of this section. When the department determines  
13 an ((inmate)) incarcerated individual is temporarily unable to  
14 participate in an education or work program due to a medical  
15 condition, the ((inmate)) incarcerated individual is exempt from the  
16 requirement of subsection (2) of this section for the period of time  
17 he or she is temporarily disabled. The department shall periodically  
18 review the medical condition of all ((inmates)) incarcerated  
19 individuals with temporary disabilities to ensure the earliest  
20 possible entry or reentry by ((inmates)) incarcerated individuals  
21 into available programming.

22 ((+9)) (10) The department shall establish policies requiring an  
23 ((offender)) incarcerated individual to pay all or a portion of the  
24 costs and tuition for any vocational training or postsecondary  
25 education program if the ((offender)) incarcerated individual  
26 previously abandoned coursework related to ((associate))  
27 postsecondary degree or certificate education or vocational training  
28 without excuse as defined in rule by the department. Department  
29 policies shall include a formula for determining how much an  
30 ((offender)) incarcerated individual shall be required to pay. The  
31 formula shall include steps which correlate to an ((offender))  
32 incarcerated individual's average monthly income or average available  
33 balance in a personal ((inmate)) savings account and which are  
34 correlated to a prorated portion or percent of the per credit fee for  
35 tuition, books, or other ancillary costs. The formula shall be  
36 reviewed every two years. A third party may pay directly to the  
37 department all or a portion of costs and tuition for any program on  
38 behalf of an ((inmate)) incarcerated individual under this  
39 subsection. Such payments shall not be subject to any of the  
40 deductions as provided in this chapter.

1        ~~((10))~~ (11) Notwithstanding any other provision in this  
2 section, an ~~((inmate))~~ incarcerated individual sentenced to life  
3 without the possibility of release, sentenced to death under chapter  
4 10.95 RCW, or subject to the provisions of 8 U.S.C. Sec. 1227:

5        (a) Shall not be required to participate in education programming  
6 except as may be necessary for the maintenance of discipline and  
7 security;

8        (b) May not participate in ~~((an associate))~~ a postsecondary  
9 degree education program offered by the department or its contracted  
10 providers, unless the incarcerated individual's participation in the  
11 program is paid for by a third party;

12        (c) May participate in prevocational or vocational training that  
13 may be necessary to participate in a work program;

14        (d) Shall be subject to the applicable provisions of this chapter  
15 relating to ~~((inmate))~~ incarcerated individual financial  
16 responsibility for programming.

17        (12) If an incarcerated individual has participated in  
18 postsecondary education programs, the department shall provide the  
19 incarcerated individual with a copy of the incarcerated individual's  
20 unofficial transcripts, at no cost to the individual, upon the  
21 incarcerated individual's release or transfer to a different  
22 facility. Upon the incarcerated individual's completion of a  
23 postsecondary education program, the department shall provide to the  
24 incarcerated individual, at no cost to the individual, a copy of the  
25 incarcerated individual's unofficial transcripts. This requirement  
26 applies regardless of whether the incarcerated individual became  
27 ineligible to participate in or abandoned a postsecondary education  
28 program.

29        **Sec. 5.** RCW 72.09.465 and 2017 c 120 s 4 are each amended to  
30 read as follows:

31        (1) (a) The department may implement ~~((associate))~~ postsecondary  
32 degree or certificate education programs at state correctional  
33 institutions. ~~((During the 2015-2017 fiscal biennium, the department~~  
34 ~~may implement postsecondary degree programs within state~~  
35 ~~institutions, including the state correctional institution with the~~  
36 ~~largest population of females, within its existing funds and under~~  
37 ~~the limitations in this section, to include any funding provided~~  
38 ~~under subsection (3) of this section.))~~

1       (b) The department may consider for inclusion in any  
2       (~~associate~~) postsecondary degree or certificate education program,  
3       any education program from an accredited community or technical  
4       college, college, or university that is (~~part of an associate~~  
5       ~~workforce degree program designed to prepare the inmate to enter the~~  
6       ~~workforce~~) limited to no more than a bachelor's degree. Washington  
7       state-recognized preapprenticeship programs may also be included as  
8       appropriate postsecondary education programs.

9       (2) (~~Inmates~~) Incarcerated individuals not meeting the  
10      department's priority criteria for the state-funded (~~associate~~)  
11      postsecondary degree education program shall be required to pay the  
12      costs for participation in a postsecondary education degree program  
13      if he or she elects to participate through self-pay, including costs  
14      of books, fees, tuition, or any other appropriate ancillary costs, by  
15      one or more of the following means:

16      (a) The (~~inmate~~) incarcerated individual who is participating  
17      in the postsecondary education degree program may, during  
18      confinement, provide the required payment or payments to the  
19      department; or

20      (b) A third party shall provide the required payment or payments  
21      directly to the department on behalf of an (~~inmate~~) incarcerated  
22      individual, and such payments shall not be subject to any of the  
23      deductions as provided in this chapter.

24      (3) The department may accept any and all donations and grants of  
25      money, equipment, supplies, materials, and services from any third  
26      party, including but not limited to nonprofit entities, and may  
27      receive, utilize, and dispose of same to provide postsecondary  
28      education to (~~inmates~~) incarcerated individuals.

29      (4) An (~~inmate~~) incarcerated individual may be selected to  
30      participate in a state-funded (~~associate~~) postsecondary degree or  
31      certificate education program, based on priority criteria determined  
32      by the department, in which the following conditions may be  
33      considered:

34      (a) Priority should be given to (~~inmates~~) incarcerated  
35      individuals within (~~five~~) ten years or less of release;

36      (b) The (~~inmate~~) incarcerated individual does not already  
37      possess a postsecondary education degree; and

38      (c) The (~~inmate's~~) incarcerated individual's individual reentry  
39      plan includes participation in (~~an associate~~) a postsecondary  
40      degree or certificate education program that is:

1 (i) Offered at the ((inmate's)) incarcerated individual's state  
2 correctional institution;

3 (ii) Approved by the department as an eligible and effective  
4 postsecondary education degree program; and

5 (iii) Limited to ((an—associate—workforce)) a postsecondary  
6 degree or certificate program.

7 (5) ~~((During the 2015-2017 fiscal biennium, an inmate may be~~  
8 ~~selected to participate in a state-funded postsecondary education~~  
9 ~~degree program, based on priority criteria determined by the~~  
10 ~~department, in which the following conditions may be considered:~~

11 ~~(a) Priority should be given to inmates within five years of~~  
12 ~~release;~~

13 ~~(b) The inmate does not already possess a postsecondary education~~  
14 ~~degree; and~~

15 ~~(c) The inmate's individual reentry plan includes participation~~  
16 ~~in a postsecondary education degree program that is:~~

17 ~~(i) Offered at the inmate's state correctional institution; and~~

18 ~~(ii) Approved by the department as an eligible and effective~~  
19 ~~postsecondary education degree program.)) The department shall assist~~  
20 ~~incarcerated individuals selected to participate in state-funded~~  
21 ~~postsecondary degree or certificate programs with filing a free~~  
22 ~~application for federal student aid or the Washington application for~~  
23 ~~state financial aid.~~

24 (6) Any funds collected by the department under this section  
25 shall be used solely for the creation, maintenance, or expansion of  
26 ((inmate)) postsecondary education degree programs for incarcerated  
27 individuals.

28 NEW SECTION. Sec. 6. A new section is added to chapter 72.68  
29 RCW to read as follows:

30 (1) In determining whether to transfer an incarcerated individual  
31 to a different facility in the state, the department shall consider  
32 whether the incarcerated individual is enrolled in a vocational or  
33 educational program, including those operated by approved outside  
34 providers, which cannot be continued at the receiving facility. The  
35 department shall work with the incarcerated individual's case  
36 manager, counselor, education navigator, or other appropriate person  
37 to attempt to meet the needs of the department and the incarcerated  
38 individual regarding transfer.

1 (2) Nothing in this section creates a vested right in  
2 programming, education, or other services.

3 **Sec. 7.** RCW 72.68.010 and 2020 c 318 s 4 are each amended to  
4 read as follows:

5 (1) Whenever in its judgment the best interests of the state or  
6 the welfare of any ((prisoner)) incarcerated individual confined in  
7 any penal institution will be better served by his or her transfer to  
8 another institution or to a foreign country of which the ((prisoner))  
9 incarcerated individual is a citizen or national, the secretary may  
10 effect such transfer consistent with applicable federal laws and  
11 treaties. The secretary has the authority to transfer ((offenders))  
12 incarcerated individuals between in-state correctional facilities or  
13 to out-of-state governmental institutions if the secretary determines  
14 that transfer is in the best interest of the state or the  
15 ((offender)) incarcerated individual. The determination of what is in  
16 the best interest of the state or ((offender)) incarcerated  
17 individual may include but is not limited to considerations of  
18 overcrowding, emergency conditions, or hardship to the ((offender))  
19 incarcerated individual. In determining whether the transfer will  
20 impose a hardship on the ((offender)) incarcerated individual, the  
21 secretary shall consider: (a) The location of the ((offender's))  
22 incarcerated individual's family and whether the ((offender))  
23 incarcerated individual has maintained contact with members of his or  
24 her family; (b) whether, if the ((offender)) incarcerated individual  
25 has maintained contact, the contact will be significantly disrupted  
26 by the transfer due to the family's inability to maintain the contact  
27 as a result of the transfer; and (c) whether the ((offender))  
28 incarcerated individual is enrolled in a vocational or educational  
29 program that cannot reasonably be resumed or completed if the  
30 ((offender)) incarcerated individual is transferred to another  
31 correctional institution or returned to the state.

32 (2)(a) The secretary has the authority to transfer ((offenders))  
33 incarcerated individuals to an out-of-state private correctional  
34 entity only if:

35 (i) The governor finds that an emergency exists such that the  
36 population of a state correctional facility exceeds its reasonable,  
37 maximum capacity, resulting in safety and security concerns;

38 (ii) The governor has considered all other legal options to  
39 address capacity, including those pursuant to RCW 9.94A.870;

1 (iii) The secretary determines that transfer is in the best  
2 interest of the state or the ((offender)) incarcerated individual;  
3 and

4 (iv) The contract with the out-of-state private correctional  
5 entity includes requirements for access to public records to the same  
6 extent as if the facility were operated by the department, ((inmate))  
7 incarcerated individual access to the office of the corrections  
8 ombuds, and inspections and visits without notice.

9 (b) Should any of these requirements in this subsection not be  
10 met, the contract with the private correctional entity shall be  
11 terminated.

12 (3) If directed by the governor, the secretary shall, in carrying  
13 out this section and RCW 43.06.350, adopt rules under chapter 34.05  
14 RCW to effect the transfer of ((prisoners)) incarcerated individuals  
15 requesting transfer to foreign countries.

16 NEW SECTION. Sec. 8. A new section is added to chapter 72.09  
17 RCW to read as follows:

18 (1) The department, the state board for community and technical  
19 colleges, the student achievement council, and the Washington  
20 statewide reentry council, in collaboration with an organization  
21 representing the presidents of the public four-year institutions of  
22 higher education, shall submit a combined report, pursuant to RCW  
23 43.01.036, by December 1, 2021, and annually thereafter, to the  
24 appropriate committees of the legislature having oversight over  
25 higher education issues and correctional matters.

26 (2) At a minimum, the combined report must include:

27 (a) The number of incarcerated individuals served in the  
28 department's postsecondary education system, the number of  
29 individuals not served, the number of individuals leaving the  
30 department's custody without a high school equivalency who were in  
31 the department's custody longer than one year, and the number of  
32 individuals released without any postsecondary education, each  
33 disaggregated by demographics;

34 (b) A review of the department's identification and assessment of  
35 incarcerated individuals with learning disabilities, traumatic brain  
36 injuries, and other cognitive impairments or disabilities that may  
37 limit their ability to participate in educational programming,  
38 including general educational development testing and postsecondary  
39 education. The report shall identify barriers to the identification

1 and assessment of these individuals and include recommendations that  
2 will further facilitate access to educational programming for these  
3 individuals;

4 (c) An identification of issues related to ensuring that credits  
5 earned in credit-bearing courses are transferable. The report must  
6 also include the number of transferable credits awarded and the  
7 number of credits awarded that are not transferable;

8 (d) A review of policies on transfer, in order to create  
9 recommendations to institutions and the legislature that to ensure  
10 postsecondary education credits earned while incarcerated transfer  
11 seamlessly upon postrelease enrollment in a postsecondary education  
12 institution. The review must identify barriers or challenges on  
13 transferring credits experienced by individuals and the number of  
14 credits earned while incarcerated that transferred to the receiving  
15 colleges postrelease;

16 (e) The number of individuals participating in correspondence  
17 courses and completion rates of correspondence courses, disaggregated  
18 by demographics;

19 (f) An examination of the collaboration between correctional  
20 facilities, the educational programs, and the institutions, with the  
21 goal of ensuring that roles and responsibilities are clearly defined,  
22 including the roles and responsibilities of each entity in relation  
23 to ensuring incarcerated individual access to, and accommodations in,  
24 educational programming; and

25 (g) A review of the partnerships with nonprofit organizations at  
26 state correctional facilities that provide accredited certificate and  
27 degree granting programs and those that provide reentry services in  
28 support of educational programs and goals.

29 (3) The report shall strive to include, where possible, the  
30 voices and experiences of current or formerly incarcerated  
31 individuals.

32 **Sec. 9.** RCW 28B.15.067 and 2020 c 114 s 4 are each amended to  
33 read as follows:

34 (1) Tuition fees shall be established under the provisions of  
35 this chapter.

36 (2) Tuition operating fees for resident undergraduates at  
37 institutions of higher education as defined in RCW 28B.10.016,  
38 excluding applied baccalaureate degrees as defined in RCW 28B.50.030,  
39 may increase by no more than the average annual percentage growth



1 rate in the median hourly wage for Washington for the previous  
2 fourteen years as the wage is determined by the federal bureau of  
3 labor statistics.

4 (3) The governing boards of the state universities, regional  
5 universities, and The Evergreen State College; and the state board  
6 for community and technical colleges may reduce or increase full-time  
7 tuition fees for all students other than resident undergraduates,  
8 including nonresident students, summer school students, and students  
9 in other self-supporting degree programs. Percentage increases in  
10 full-time tuition may exceed the fiscal growth factor. Except during  
11 the 2013-2015 fiscal biennium, the state board for community and  
12 technical colleges may pilot or institute differential tuition  
13 models. The board may define scale, scope, and rationale for the  
14 models.

15 (4) The tuition fees established under this chapter shall not  
16 apply to high school students enrolling in participating institutions  
17 of higher education under RCW 28A.600.300 through 28A.600.400.

18 (5)(a) The tuition fees established under this chapter shall not  
19 apply to eligible students enrolling in a dropout reengagement  
20 program through an interlocal agreement between a school district and  
21 a community or technical college under RCW 28A.175.100 through  
22 28A.175.110.

23 (b) The tuition fees established under this chapter shall not  
24 apply to students incarcerated with the department of corrections who  
25 are participating in credit-eligible postsecondary education courses  
26 and degree programs when the program expenses are funded by  
27 nontuition resources such as, but not limited to, grants, contracts,  
28 and donations.

29 (6) As a result of any changes in tuition under section 3,  
30 chapter 36, Laws of 2015 3rd sp. sess., the governing boards of the  
31 state universities, the regional universities, and The Evergreen  
32 State College shall not reduce resident undergraduate enrollment  
33 below the 2014-15 academic year levels.

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