

2SHB 1044 - S COMM AMD

By Committee on Human Services, Reentry & Rehabilitation

ADOPTED AND ENGROSSED 04/09/2021

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. 2019 c 397 s 1 (uncodified) is amended to read as
4 follows:

5 (1) The legislature finds that incarceration is both a rural and
6 urban issue in the state. According to one recent report, the highest
7 rates of prison admissions are in rural counties. In addition, since
8 1980, the number of women in prison has increased more than eight
9 hundred percent. Additionally, people of color are overrepresented in
10 the prison system. The legislature finds that studies clearly and
11 consistently demonstrate that postsecondary education in prisons
12 improves safety in facilities, and incarcerated adults who obtain
13 postsecondary education and training are more likely to be employed
14 following release, which leads to a ~~((dramatic))~~ significant
15 reduction in recidivism rates, ~~((significant))~~ improvements in public
16 safety, and a major return on investment. The legislature finds that
17 reducing recidivism ~~((would))~~ decreases the financial burden to
18 taxpayers and the emotional burden of victims.

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

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

32 (4) The legislature further finds that correctional education is
33 cost-effective. A 2014 study by the Washington state institute for

1 public policy estimated that ~~((the state received))~~, based on a
2 review of national research literature and cost-benefit analysis,
3 there is a return on investment of twenty dollars for every dollar
4 invested in correctional education.

5 (5) It is the intent of the legislature to enhance public safety,
6 including the safety of prison workers as findings show that violence
7 rates are reduced in institutions where there are educational
8 programs, to reduce crime, and to increase employment rates in a
9 cost-effective manner by exploring benefits and costs associated with
10 providing postsecondary education degree opportunities and training
11 to incarcerated adults through expanded partnerships between ~~((the~~
12 community and technical colleges)) postsecondary institutions,
13 nonprofit entities and community-based postsecondary education
14 programs, and the department of corrections.

15 (6) It is the intent of the legislature to support exploring the
16 use of secure internet connections expressly for the purposes of
17 furthering postsecondary education degree opportunities and training
18 of incarcerated adults, including providing assistance to
19 incarcerated adults with completing financial aid materials. The
20 legislature intends for the department to be able to provide complete
21 assurance that all ~~((offender-used))~~ internet connections used by
22 incarcerated individuals are secure.

23 (7) It is the intent of the legislature to support expanded
24 access and opportunities to postsecondary degree and certificate
25 education programs for persons of color by setting goals and
26 partnering with nonprofit entities and community-based postsecondary
27 education programs with historical evidence of providing education
28 programs for people of color.

29 (8) It is also the intent of the legislature, by requiring the
30 study under section 2 of this act, to examine the effects of
31 providing postsecondary education while incarcerated on enrollment in
32 the postsecondary education system postrelease.

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

38 (b) The goal of the study is to understand whether participation
39 in postsecondary education while incarcerated contributes to greater

1 enrollment and completion of postsecondary education and reduced
2 recidivism postrelease. The scope of the study shall focus on
3 postrelease enrollment and completion trends in the community and
4 technical college sector for formerly incarcerated individuals of all
5 ages. The timeline of the study may include data from 2015 to the
6 present, to the extent possible. The study's findings shall be
7 divided into a preliminary and final report. The reports shall
8 complement similar studies conducted at the University of Washington
9 or elsewhere. To the extent that it is not duplicative of other
10 studies, the Washington state institute for public policy shall study
11 the following:

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

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

18 (B) Differential outcomes for individuals participating in
19 different types of postsecondary education courses, certificate
20 programs, and degree programs.

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

23 (A) Changes in enrollment and completion of postsecondary
24 education courses, certificate programs, and degree programs due to
25 the changes and expansion of educational programming in this act, to
26 the extent possible; and

27 (B) Recidivism outcomes beyond incarceration for those
28 incarcerated individuals that participated in postsecondary
29 certificate and degree programs while incarcerated, including
30 arrests, charges, and convictions.

31 (iii) The preliminary and final reports shall be submitted to the
32 appropriate committees of the legislature and in accordance with RCW
33 43.01.036.

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

38 (2) This section expires January 1, 2029.

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

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

7 (a) ~~((offenders))~~ incarcerated individuals who are sentenced to
8 life without the possibility of release or sentenced to death under
9 chapter 10.95 RCW; and

10 (b) ~~((offenders))~~ incarcerated individuals who are subject to the
11 provisions of 8 U.S.C. Sec. 1227.

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

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

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

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

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

33 (a) A plan to maintain contact with the ~~((inmate's))~~ incarcerated
34 individual's children and family, if appropriate. The plan should
35 determine whether parenting classes, or other services, are
36 appropriate to facilitate successful reunification with the
37 ~~((offender's))~~ incarcerated individual's children and family;

38 (b) An individualized portfolio for each ~~((offender))~~
39 incarcerated individual that includes the ~~((offender's))~~ incarcerated
40 individual's education achievements, certifications, employment, work

1 experience, skills, and any training received prior to and during
2 incarceration; and

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

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

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

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

20 (b) If the department recommends partial confinement in an
21 ((~~offender's~~)) incarcerated individual's individual reentry plan, the
22 department shall maximize the period of partial confinement for the
23 ((~~offender~~)) incarcerated individual as allowed pursuant to RCW
24 9.94A.728 to facilitate the ((~~offender's~~)) incarcerated individual's
25 transition to the community.

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

31 (8) (a) In determining the county of discharge for an ((~~offender~~))
32 incarcerated individual released to community custody, the department
33 may ((~~not~~)) approve a residence location that is not in the
34 ((~~offender's~~)) incarcerated individual's county of origin ((~~unless it~~
35 ~~is determined by~~)) if the department determines that the ((~~offender's~~
36 ~~return to his or her county of origin would be inappropriate~~
37 ~~considering~~)) residence location would be appropriate based on any
38 court-ordered condition of the ((~~offender's~~)) incarcerated
39 individual's sentence, victim safety concerns, ((~~negative influences~~
40 ~~on the offender in the community, or the~~)) and factors that increase

1 opportunities for successful reentry and long-term support including,
2 but not limited to, location of family or other sponsoring persons or
3 organizations that will support the ((~~offender~~)) incarcerated
4 individual, ability to complete an educational program that the
5 incarcerated individual is enrolled in, availability of appropriate
6 programming or treatment, and access to housing, employment, and
7 prosocial influences on the person in the community.

8 (b) In implementing the provisions of this subsection, the
9 department shall approve residence locations in a manner that will
10 not cause any one county to be disproportionately impacted.

11 (c) If the ((~~offender~~)) incarcerated individual is not returned
12 to his or her county of origin, the department shall provide the law
13 and justice council of the county in which the ((~~offender~~))
14 incarcerated individual is placed with a written explanation.

15 ((~~e~~)) (d)(i) For purposes of this section, except as provided
16 in (d)(ii) of this subsection, the ((~~offender's~~)) incarcerated
17 individual's county of origin means the county of the ((~~offender's~~))
18 incarcerated individual's residence at the time of the incarcerated
19 individual's first felony conviction in Washington state.

20 (ii) If the incarcerated individual is a homeless person as
21 defined in RCW 43.185C.010, or the incarcerated individual's
22 residence is unknown, then the incarcerated individual's county of
23 origin means the county of the incarcerated individual's first felony
24 conviction in Washington state.

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

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

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

34 (2) The legislature intends that all ((~~inmates~~)) incarcerated
35 individuals be required to participate in department-approved
36 education programs, work programs, or both, unless exempted as
37 specifically provided in this section. Eligible ((~~inmates~~))
38 incarcerated individuals who refuse to participate in available
39 education or work programs available at no charge to the ((~~inmates~~))

1 incarcerated individuals shall lose privileges according to the
2 system established under RCW 72.09.130. Eligible ((~~inmates~~))
3 incarcerated individuals who are required to contribute financially
4 to an education or work program and refuse to contribute shall be
5 placed in another work program. Refusal to contribute shall not
6 result in a loss of privileges.

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

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

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

21 (ii) Achievement of vocational skills necessary for purposes of
22 work programs and for an ((~~inmate~~)) incarcerated individual to
23 qualify for work upon release;

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

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

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

38 (c) If programming is provided pursuant to (a)(iv) of this
39 subsection, ((~~inmates~~)) incarcerated individuals shall be required to
40 pay all or a portion of the costs, including books, fees, and

1 tuition, for participation in any vocational, work, or education
2 program as provided in department policies. Department policies shall
3 include a formula for determining how much an (~~offender~~)
4 incarcerated individual shall be required to pay. The formula shall
5 include steps which correlate to an (~~offender~~) incarcerated
6 individual's average monthly income or average available balance in a
7 personal (~~inmate~~) savings account and which are correlated to a
8 prorated portion or percent of the per credit fee for tuition, books,
9 or other ancillary educational costs. The formula shall be reviewed
10 every two years. A third party, including but not limited to
11 nonprofit entities or community-based postsecondary education
12 programs, may pay directly to the department all or a portion of
13 costs and tuition for any programming provided pursuant to (a)(iv) of
14 this subsection on behalf of an (~~inmate~~) incarcerated individual.
15 Such payments shall not be subject to any of the deductions as
16 provided in this chapter.

17 (d) The department may accept any and all donations and grants of
18 money, equipment, supplies, materials, and services from any third
19 party, including but not limited to nonprofit entities and community-
20 based postsecondary education programs, and may receive, utilize, and
21 dispose of same to complete the purposes of this section.

22 (e) Any funds collected by the department under (c) and (d) of
23 this subsection and subsections (~~(9) and (10)~~) (11) and (12) of
24 this section shall be used solely for the creation, maintenance, or
25 expansion of (~~inmate~~) incarcerated individual educational and
26 vocational programs.

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

1 curriculum may balance these and other rehabilitation, work, and
2 training components.

3 (6) (a) In addition to the policies set forth in this section, the
4 department shall consider the following factors in establishing
5 criteria for assessing the inclusion of education and work programs
6 in an ((~~inmate's~~)) incarcerated individual's individual reentry plan
7 and in placing ((~~inmates~~)) incarcerated individuals in education and
8 work programs:

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

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

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

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

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

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

34 (7) Eligible ((~~inmates~~)) incarcerated individuals who refuse to
35 participate in available education or work programs available at no
36 charge to the ((~~inmates~~)) incarcerated individuals shall lose
37 privileges according to the system established under RCW 72.09.130.
38 Eligible ((~~inmates~~)) incarcerated individuals who are required to
39 contribute financially to an education or work program and refuse to

1 contribute shall be placed in another work program. Refusal to
2 contribute shall not result in a loss of privileges.

3 (8) The department shall establish, by rule, a process for
4 identifying and assessing incarcerated individuals with learning
5 disabilities, traumatic brain injuries, and other cognitive
6 impairments to determine whether the person requires accommodations
7 in order to effectively participate in educational programming,
8 including general educational development tests and postsecondary
9 education. The department shall establish a process to provide such
10 accommodations to eligible incarcerated individuals.

11 (9) The department shall establish, and periodically review,
12 goals for expanding access to postsecondary degree and certificate
13 education programs and program completion for all incarcerated
14 individuals, including persons of color. The department may contract
15 and partner with any accredited educational program sponsored by a
16 nonprofit entity, community-based postsecondary education program, or
17 institution with historical evidence of providing education programs
18 to people of color.

19 (10) The department shall establish, by rule, objective medical
20 standards to determine when an ((inmate)) incarcerated individual is
21 physically or mentally unable to participate in available education
22 or work programs. When the department determines an ((inmate))
23 incarcerated individual is permanently unable to participate in any
24 available education or work program due to a health condition, the
25 ((inmate)) incarcerated individual is exempt from the requirement
26 under subsection (2) of this section. When the department determines
27 an ((inmate)) incarcerated individual is temporarily unable to
28 participate in an education or work program due to a medical
29 condition, the ((inmate)) incarcerated individual is exempt from the
30 requirement of subsection (2) of this section for the period of time
31 he or she is temporarily disabled. The department shall periodically
32 review the medical condition of all ((inmates)) incarcerated
33 individuals with temporary disabilities to ensure the earliest
34 possible entry or reentry by ((inmates)) incarcerated individuals
35 into available programming.

36 ((+9)) (11) The department shall establish policies requiring an
37 ((offender)) incarcerated individual to pay all or a portion of the
38 costs and tuition for any vocational training or postsecondary
39 education program if the ((offender)) incarcerated individual
40 previously abandoned coursework related to ((associate))

1 postsecondary degree or certificate education or vocational training
2 without excuse as defined in rule by the department. Department
3 policies shall include a formula for determining how much an
4 ~~((offender))~~ incarcerated individual shall be required to pay. The
5 formula shall include steps which correlate to an ~~((offender))~~
6 incarcerated individual's average monthly income or average available
7 balance in a personal ~~((inmate))~~ savings account and which are
8 correlated to a prorated portion or percent of the per credit fee for
9 tuition, books, or other ancillary costs. The formula shall be
10 reviewed every two years. A third party may pay directly to the
11 department all or a portion of costs and tuition for any program on
12 behalf of an ~~((inmate))~~ incarcerated individual under this
13 subsection. Such payments shall not be subject to any of the
14 deductions as provided in this chapter.

15 ~~((10))~~ (12) Notwithstanding any other provision in this
16 section, an ~~((inmate sentenced to life without the possibility of~~
17 ~~release))~~ incarcerated individual sentenced to death under chapter
18 10.95 RCW~~((7))~~ or subject to the provisions of 8 U.S.C. Sec. 1227:

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

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

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

28 (d) Shall be subject to the applicable provisions of this chapter
29 relating to ~~((inmate))~~ incarcerated individual financial
30 responsibility for programming.

31 (13) If an incarcerated individual has participated in
32 postsecondary education programs, the department shall provide the
33 incarcerated individual with a copy of the incarcerated individual's
34 unofficial transcripts, at no cost to the individual, upon the
35 incarcerated individual's release or transfer to a different
36 facility. Upon the incarcerated individual's completion of a
37 postsecondary education program, the department shall provide to the
38 incarcerated individual, at no cost to the individual, a copy of the
39 incarcerated individual's unofficial transcripts. This requirement
40 applies regardless of whether the incarcerated individual became

1 ineligible to participate in or abandoned a postsecondary education
2 program.

3 (14) For the purposes of this section, "third party" includes a
4 nonprofit entity or community-based postsecondary education program
5 that partners with the department to provide accredited postsecondary
6 education degree and certificate programs at state correctional
7 facilities.

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

10 (1) (a) The department may implement ~~((associate))~~ postsecondary
11 degree or certificate education programs at state correctional
12 institutions. ~~((During the 2015-2017 fiscal biennium, the department~~
13 ~~may implement postsecondary degree programs within state~~
14 ~~institutions, including the state correctional institution with the~~
15 ~~largest population of females, within its existing funds and under~~
16 ~~the limitations in this section, to include any funding provided~~
17 ~~under subsection (3) of this section.))~~

18 (b) The department may consider for inclusion in any
19 ~~((associate))~~ postsecondary degree or certificate education program,
20 any education program from an accredited community or technical
21 college, college, or university that is ~~((part of an associate~~
22 ~~workforce degree program designed to prepare the inmate to enter the~~
23 ~~workforce))~~ limited to no more than a bachelor's degree. Washington
24 state-recognized preapprenticeship programs may also be included as
25 appropriate postsecondary education programs.

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

33 (a) The ~~((inmate))~~ incarcerated individual who is participating
34 in the postsecondary education degree program may, during
35 confinement, provide the required payment or payments to the
36 department; or

37 (b) A third party shall provide the required payment or payments
38 directly to the department on behalf of an ~~((inmate))~~ incarcerated

1 individual, and such payments shall not be subject to any of the
2 deductions as provided in this chapter.

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

8 (4) An ~~((inmate))~~ incarcerated individual may be selected to
9 participate in a state-funded ~~((associate))~~ postsecondary degree or
10 certificate education program, based on priority criteria determined
11 by the department, in which the following conditions may be
12 considered:

13 (a) Priority should be given to ~~((inmates within five years or~~
14 ~~less of release;~~

15 ~~(b) The inmate does))~~ incarcerated individuals who do not already
16 possess a postsecondary education degree; and

17 ~~((c) The inmate's))~~ (b) Incarcerated individuals with individual
18 reentry ((plan includes)) plans that include participation in ((an
19 associate)) a postsecondary degree or certificate education program
20 that is:

21 (i) Offered at the ~~((inmate's))~~ incarcerated individual's state
22 correctional institution;

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

25 (iii) Limited to ~~((an associate workforce))~~ a postsecondary
26 degree or certificate program.

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

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

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

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

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

38 ~~(ii) Approved by the department as an eligible and effective~~
39 ~~postsecondary education degree program.))~~ The department shall work
40 with the college board as defined in RCW 28B.50.030 to develop a plan

1 to assist incarcerated individuals selected to participate in
2 postsecondary degree or certificate programs with filing a free
3 application for federal student aid or the Washington application for
4 state financial aid.

5 (6) Any funds collected by the department under this section
6 shall be used solely for the creation, maintenance, or expansion of
7 (~~inmate~~) postsecondary education degree programs for incarcerated
8 individuals.

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

11 (1) In determining whether to transfer an incarcerated individual
12 to a different facility in the state, the department shall consider
13 whether the incarcerated individual is enrolled in a vocational or
14 educational program, including those operated by approved outside
15 providers, which cannot be continued at the receiving facility. The
16 department shall work with the incarcerated individual's case
17 manager, counselor, education navigator, or other appropriate person
18 to attempt to meet the needs of the department and the incarcerated
19 individual regarding transfer.

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

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

24 (1) Whenever in its judgment the best interests of the state or
25 the welfare of any (~~prisoner~~) incarcerated individual confined in
26 any penal institution will be better served by his or her transfer to
27 another institution or to a foreign country of which the (~~prisoner~~)
28 incarcerated individual is a citizen or national, the secretary may
29 effect such transfer consistent with applicable federal laws and
30 treaties. The secretary has the authority to transfer (~~offenders~~)
31 incarcerated individuals between in-state correctional facilities or
32 to out-of-state governmental institutions if the secretary determines
33 that transfer is in the best interest of the state or the
34 (~~offender~~) incarcerated individual. The determination of what is in
35 the best interest of the state or (~~offender~~) incarcerated
36 individual may include but is not limited to considerations of
37 overcrowding, emergency conditions, or hardship to the (~~offender~~)
38 incarcerated individual. In determining whether the transfer will

1 impose a hardship on the (~~offender~~) incarcerated individual, the
2 secretary shall consider: (a) The location of the (~~offender's~~)
3 incarcerated individual's family and whether the (~~offender~~)
4 incarcerated individual has maintained contact with members of his or
5 her family; (b) whether, if the (~~offender~~) incarcerated individual
6 has maintained contact, the contact will be significantly disrupted
7 by the transfer due to the family's inability to maintain the contact
8 as a result of the transfer; and (c) whether the (~~offender~~)
9 incarcerated individual is enrolled in a vocational or educational
10 program that cannot reasonably be resumed or completed if the
11 (~~offender~~) incarcerated individual is transferred to another
12 correctional institution or returned to the state.

13 (2) (a) The secretary has the authority to transfer (~~offenders~~)
14 incarcerated individuals to an out-of-state private correctional
15 entity only if:

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

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

21 (iii) The secretary determines that transfer is in the best
22 interest of the state or the (~~offender~~) incarcerated individual;
23 and

24 (iv) The contract with the out-of-state private correctional
25 entity includes requirements for access to public records to the same
26 extent as if the facility were operated by the department, (~~inmate~~)
27 incarcerated individual access to the office of the corrections
28 ombuds, and inspections and visits without notice.

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

32 (3) If directed by the governor, the secretary shall, in carrying
33 out this section and RCW 43.06.350, adopt rules under chapter 34.05
34 RCW to effect the transfer of (~~prisoners~~) incarcerated individuals
35 requesting transfer to foreign countries.

36 NEW SECTION. **Sec. 8.** A new section is added to chapter 72.09
37 RCW to read as follows:

38 (1) The department, the state board for community and technical
39 colleges, the student achievement council, and the Washington

1 statewide reentry council, in collaboration with an organization
2 representing the presidents of the public four-year institutions of
3 higher education, shall submit a combined report, pursuant to RCW
4 43.01.036, by December 1, 2021, and annually thereafter, to the
5 appropriate committees of the legislature having oversight over
6 higher education issues and correctional matters. The state agencies
7 shall consult and engage with nonprofit and community-based
8 postsecondary education providers during the development of the
9 annual report.

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

11 (a) The number of incarcerated individuals served in the
12 department's postsecondary education system, the number of
13 individuals not served, the number of individuals leaving the
14 department's custody without a high school equivalency who were in
15 the department's custody longer than one year, and the number of
16 individuals released without any postsecondary education, each
17 disaggregated by demographics;

18 (b) A review of the department's identification and assessment of
19 incarcerated individuals with learning disabilities, traumatic brain
20 injuries, and other cognitive impairments or disabilities that may
21 limit their ability to participate in educational programming,
22 including general educational development testing and postsecondary
23 education. The report shall identify barriers to the identification
24 and assessment of these individuals and include recommendations that
25 will further facilitate access to educational programming for these
26 individuals;

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

31 (d) A review of policies on transfer, in order to create
32 recommendations to institutions and the legislature that to ensure
33 postsecondary education credits earned while incarcerated transfer
34 seamlessly upon postrelease enrollment in a postsecondary education
35 institution. The review must identify barriers or challenges on
36 transferring credits experienced by individuals and the number of
37 credits earned while incarcerated that transferred to the receiving
38 colleges postrelease;

1 (e) The number of individuals participating in correspondence
2 courses and completion rates of correspondence courses, disaggregated
3 by demographics;

4 (f) An examination of the collaboration between correctional
5 facilities, the educational programs, nonprofit and community-based
6 postsecondary education providers, and the institutions, with the
7 goal of ensuring that roles and responsibilities are clearly defined,
8 including the roles and responsibilities of each entity in relation
9 to ensuring incarcerated individual access to, and accommodations in,
10 educational programming; and

11 (g) A review of the partnerships with nonprofit and community-
12 based postsecondary education organizations at state correctional
13 facilities that provide accredited certificate and degree-granting
14 programs and those that provide reentry services in support of
15 educational programs and goals, including a list of the programs and
16 services offered and recommendations to improve program delivery and
17 access.

18 (3) The report shall strive to include, where possible, the
19 voices and experiences of current or formerly incarcerated
20 individuals.

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

23 (1) Tuition fees shall be established under the provisions of
24 this chapter.

25 (2) Tuition operating fees for resident undergraduates at
26 institutions of higher education as defined in RCW 28B.10.016,
27 excluding applied baccalaureate degrees as defined in RCW 28B.50.030,
28 may increase by no more than the average annual percentage growth
29 rate in the median hourly wage for Washington for the previous
30 fourteen years as the wage is determined by the federal bureau of
31 labor statistics.

32 (3) The governing boards of the state universities, regional
33 universities, and The Evergreen State College; and the state board
34 for community and technical colleges may reduce or increase full-time
35 tuition fees for all students other than resident undergraduates,
36 including nonresident students, summer school students, and students
37 in other self-supporting degree programs. Percentage increases in
38 full-time tuition may exceed the fiscal growth factor. Except during
39 the 2013-2015 fiscal biennium, the state board for community and

1 technical colleges may pilot or institute differential tuition
2 models. The board may define scale, scope, and rationale for the
3 models.

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

7 (5) (a) The tuition fees established under this chapter shall not
8 apply to eligible students enrolling in a dropout reengagement
9 program through an interlocal agreement between a school district and
10 a community or technical college under RCW 28A.175.100 through
11 28A.175.110.

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

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

23 NEW SECTION. Sec. 10. If specific funding for the purposes of
24 this act, referencing this act by bill or chapter number, is not
25 provided by June 30, 2021, in the omnibus appropriations act, this
26 act is null and void."

2SHB 1044 - S COMM AMD
By Committee on Human Services, Reentry & Rehabilitation

ADOPTED 04/09/2021

27 On page 1, line 2 of the title, after "pathways;" strike the
28 remainder of the title and insert "amending RCW 72.09.270, 72.09.460,
29 72.09.465, 72.68.010, and 28B.15.067; amending 2019 c 397 s 1
30 (uncodified); adding a new section to chapter 72.68 RCW; adding a new
31 section to chapter 72.09 RCW; creating new sections; and providing an
32 expiration date."

--- END ---