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**SUBSTITUTE SENATE BILL 5953**

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**State of Washington**

**68th Legislature**

**2024 Regular Session**

**By** Senate Human Services (originally sponsored by Senators C. Wilson, Frame, Hasegawa, Kuderer, Lovelett, Nguyen, Nobles, Salomon, Trudeau, and Valdez)

READ FIRST TIME 01/26/24.

1 AN ACT Relating to financial aid grants for incarcerated  
2 students; and amending RCW 72.09.460 and 72.09.465.

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

4 **Sec. 1.** RCW 72.09.460 and 2021 c 200 s 4 are each amended to  
5 read as follows:

6 (1) Recognizing that there is a positive correlation between  
7 education opportunities and reduced recidivism, it is the intent of  
8 the legislature to offer appropriate postsecondary degree or  
9 certificate opportunities to incarcerated individuals.

10 (2) The legislature intends that all incarcerated individuals be  
11 required to participate in department-approved education programs,  
12 work programs, or both, unless exempted as specifically provided in  
13 this section. Eligible incarcerated individuals who refuse to  
14 participate in available education or work programs available at no  
15 charge to the incarcerated individuals shall lose privileges  
16 according to the system established under RCW 72.09.130. Eligible  
17 incarcerated individuals who are required to contribute financially  
18 to an education or work program and refuse to contribute shall be  
19 placed in another work program. Refusal to contribute shall not  
20 result in a loss of privileges.

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

6 (4)(a) The department shall, to the extent possible and  
7 considering all available funds, prioritize its resources to meet the  
8 following goals for incarcerated individuals in the order listed:

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

14 (ii) Achievement of vocational skills necessary for purposes of  
15 work programs and for an incarcerated individual to qualify for work  
16 upon release;

17 (iii) Additional work and education programs necessary for  
18 compliance with an incarcerated individual's individual reentry plan  
19 under RCW 72.09.270, including special education services and  
20 postsecondary degree or certificate education programs; and

21 (iv) Other appropriate vocational, work, or education programs  
22 that are not necessary for compliance with an incarcerated  
23 individual's individual reentry plan under RCW 72.09.270 including  
24 postsecondary degree or certificate education programs.

25 (b)(i) If programming is provided pursuant to (a)(i) through  
26 (iii) of this subsection, the department shall pay the cost of such  
27 programming, including but not limited to books, materials, and  
28 supplies for adult basic education programs and any postsecondary  
29 education program that is not financial aid eligible at the time the  
30 individual is enrolled or paid for by the department or third party.

31 (ii) For financial aid eligible postsecondary programming  
32 provided pursuant to (a)(i) through (iii) of this subsection, the  
33 department may require the individual to apply for any federal and  
34 state financial aid grants available to the individual as a condition  
35 of participation in such programming. The individual may elect to use  
36 available financial aid grants, self-pay, or any other available  
37 third-party funding, or use a combination of these methods to cover  
38 the cost of attendance for financial aid eligible postsecondary  
39 programming provided under this subsection (4)(b)(ii). If an  
40 individual elects to self-pay or utilize third-party funding, the

1 individual is not subject to the postaward formula described in (c)  
2 of this subsection. If the cost of attendance exceeds any financial  
3 grant awards that may be available to the individual, or the person  
4 is not eligible for federal or state financial aid grants, the  
5 department shall pay the cost of attendance not otherwise covered by  
6 third-party funding. All regulations and requirements set forth by  
7 the United States department of education for federal pell grants for  
8 prison education programs apply to financial aid eligible  
9 postsecondary programming.

10 (c) If programming is provided pursuant to (a)(iv) of this  
11 subsection, incarcerated individuals shall be required to pay all or  
12 a portion of the costs, including books, fees, and tuition, for  
13 participation in any vocational, work, or education program as  
14 provided in department policies. The individual may apply for and  
15 utilize federal and state financial aid grants available to the  
16 individual. If the individual is not eligible for federal financial  
17 aid grants, the individual may apply for and utilize state financial  
18 aid grants available to the individual. Department policies shall  
19 include a postaward formula for determining how much an incarcerated  
20 individual shall be required to pay after deducting any amount from  
21 available financial aid or other available sources. The postaward  
22 formula shall include steps which correlate to an incarcerated  
23 individual's average monthly income or average available balance in a  
24 personal savings account and which are correlated to a prorated  
25 portion or percent of the per credit fee for tuition, books, or other  
26 ancillary educational costs. Any postaward formula offsets and funds  
27 paid for by the department for educational programming shall not  
28 result in the reduction of any gift aid. The postaward formula shall  
29 be reviewed every two years. A third party, including but not limited  
30 to nonprofit entities or community-based postsecondary education  
31 programs, may pay directly to the department all or a portion of  
32 costs and tuition for any programming provided pursuant to (a)(iv) of  
33 this subsection on behalf of an incarcerated individual. Such  
34 payments shall not be subject to any of the deductions as provided in  
35 this chapter.

36 (d) All incarcerated individuals shall receive financial aid and  
37 academic advising from an accredited institution of higher education  
38 prior to enrollment in a financial aid eligible postsecondary  
39 education program. Eligible individuals who choose not to participate  
40 or choose to cease participation in a financial aid eligible

1 postsecondary education program shall not result in a loss of  
2 privileges.

3 (e) 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 community-  
6 based postsecondary education programs, and may receive, utilize, and  
7 dispose of same to complete the purposes of this section.

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

13 (5) The department shall provide access to a program of education  
14 to all incarcerated individuals who are under the age of eighteen and  
15 who have not met high school graduation requirements or requirements  
16 to earn a high school equivalency certificate as provided in RCW  
17 28B.50.536 in accordance with chapter 28A.193 RCW. The program of  
18 education established by the department and education provider under  
19 RCW 28A.193.020 for incarcerated individuals under the age of  
20 eighteen must provide each incarcerated individual a choice of  
21 curriculum that will assist the incarcerated individual in achieving  
22 a high school diploma or high school equivalency certificate. The  
23 program of education may include but not be limited to basic  
24 education, prevocational training, work ethic skills, conflict  
25 resolution counseling, substance abuse intervention, and anger  
26 management counseling. The curriculum may balance these and other  
27 rehabilitation, work, and training components.

28 (6) (a) In addition to the policies set forth in this section, the  
29 department shall consider the following factors in establishing  
30 criteria for assessing the inclusion of education and work programs  
31 in an incarcerated individual's individual reentry plan and in  
32 placing incarcerated individuals in education and work programs:

33 (i) An incarcerated individual's release date and custody level.  
34 An incarcerated individual shall not be precluded from participating  
35 in an education or work program solely on the basis of his or her  
36 release date, except that incarcerated individuals with a release  
37 date of more than one hundred twenty months in the future shall not  
38 comprise more than ten percent of incarcerated individuals  
39 participating in a new class I correctional industry not in existence  
40 on June 10, 2004;

1 (ii) An incarcerated individual's education history and basic  
2 academic skills;

3 (iii) An incarcerated individual's work history and vocational or  
4 work skills;

5 (iv) An incarcerated individual's economic circumstances,  
6 including but not limited to an incarcerated individual's family  
7 support obligations; and

8 (v) Where applicable, an incarcerated individual's prior  
9 performance in department-approved education or work programs;

10 (b) The department shall establish, and periodically review,  
11 incarcerated individual behavior standards and program outcomes for  
12 all education and work programs. Incarcerated individuals shall be  
13 notified of applicable behavior standards and program goals prior to  
14 placement in an education or work program and shall be removed from  
15 the education or work program if they consistently fail to meet the  
16 standards or outcomes.

17 (7) Eligible incarcerated individuals who refuse to participate  
18 in available education or work programs available at no charge to the  
19 incarcerated individuals shall lose privileges according to the  
20 system established under RCW 72.09.130. Eligible incarcerated  
21 individuals who are required to contribute financially to an  
22 education or work program and refuse to contribute shall be placed in  
23 another work program. Refusal to contribute shall not result in a  
24 loss of privileges.

25 (8) The department shall establish, by rule, a process for  
26 identifying and assessing incarcerated individuals with learning  
27 disabilities, traumatic brain injuries, and other cognitive  
28 impairments to determine whether the person requires accommodations  
29 in order to effectively participate in educational programming,  
30 including general educational development tests and postsecondary  
31 education. The department shall establish a process to provide such  
32 accommodations to eligible incarcerated individuals.

33 (9) The department shall establish, and periodically review,  
34 goals for expanding access to postsecondary degree and certificate  
35 education programs and program completion for all incarcerated  
36 individuals, including persons of color. The department may contract  
37 and partner with any accredited educational program sponsored by a  
38 nonprofit entity, community-based postsecondary education program, or  
39 institution with historical evidence of providing education programs  
40 to people of color.

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

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

34 (12) Notwithstanding any other provision in this section, an  
35 incarcerated individual (~~(sentenced to death under chapter 10.95 RCW~~  
36 ~~or~~)) subject to the provisions of 8 U.S.C. Sec. 1227:

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

1 (b) May not participate in a postsecondary degree education  
2 program offered by the department or its contracted providers, unless  
3 the incarcerated individual's participation in the program is paid  
4 for by a third party or by the individual;

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

7 (d) Shall be subject to the (~~applicable provisions of this~~  
8 ~~chapter~~) requirements relating to incarcerated individual financial  
9 responsibility for programming under subsection (4) of this section.

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

22 (14) For the purposes of this section (~~,"third party"~~):

23 (a) "Third party" includes a nonprofit entity or community-based  
24 postsecondary education program that partners with the department to  
25 provide accredited postsecondary education degree and certificate  
26 programs at state correctional facilities.

27 (b) "Gift aid" has the meaning provided in RCW 28B.145.010.

28 **Sec. 2.** RCW 72.09.465 and 2021 c 200 s 5 are each amended to  
29 read as follows:

30 (1)(a) The department may implement postsecondary degree or  
31 certificate education programs at state correctional institutions.

32 (b) The department may consider for inclusion in any  
33 postsecondary degree or certificate education program, any education  
34 program from an accredited community or technical college, college,  
35 or university that is limited to no more than a bachelor's degree.  
36 Washington state-recognized preapprenticeship programs may also be  
37 included as appropriate postsecondary education programs.

38 (2) Incarcerated individuals not meeting the department's  
39 priority criteria for the (~~state-funded~~) postsecondary degree

1 education program offered by the department or its contracted  
2 providers shall be required to pay the costs for participation in a  
3 postsecondary education degree program if (~~he or she elects~~) they  
4 elect to participate through self-pay, including costs of books,  
5 fees, tuition, or any other appropriate ancillary costs, by one or  
6 more of the following means:

7 (a) (~~The~~) For a postsecondary degree education program that is  
8 eligible for financial aid, the incarcerated individual who is  
9 participating in the (~~postsecondary education degree~~) program may,  
10 during confinement, provide the required payment or payments to the  
11 (~~department~~) school; (~~or~~)

12 (b) For a postsecondary degree education program that is not  
13 eligible for financial aid, the incarcerated individual who is  
14 participating in the program may, during confinement, provide the  
15 required payment or payments to the department; or

16 (c) A third party (~~shall~~) may provide the required payment or  
17 payments directly to the department on behalf of an incarcerated  
18 individual, and such payments shall not be subject to any of the  
19 deductions as provided in this chapter.

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

25 (4) An incarcerated individual may be selected to participate in  
26 a state-funded postsecondary degree or certificate education program,  
27 based on priority criteria determined by the department, in which the  
28 following conditions may be considered:

29 (a) Priority should be given to incarcerated individuals who do  
30 not already possess a postsecondary education degree; and

31 (b) Incarcerated individuals with individual reentry plans that  
32 include participation in a postsecondary degree or certificate  
33 education program that is:

34 (i) Offered at the incarcerated individual's state correctional  
35 institution;

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

38 (iii) Limited to a postsecondary degree or certificate program.

39 (5) The department shall work with the college board as defined  
40 in RCW 28B.50.030 to develop a plan to assist incarcerated



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

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

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