

E2SSB 6489 - H COMM AMD
By Committee on Appropriations

ADOPTED 03/04/2004

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

3 "Sec. 1. RCW 72.09.070 and 1994 sp.s. c 7 s 535 are each amended
4 to read as follows:

5 (1) There is created a correctional industries board of directors
6 which shall have the composition provided in RCW 72.09.080.

7 (2) Consistent with general department of corrections policies and
8 procedures pertaining to the general administration of correctional
9 facilities, the board shall establish and implement policy for
10 correctional industries programs designed to:

11 (a) Offer inmates meaningful employment, work experience, and
12 training in vocations that are specifically designed to reduce
13 recidivism and thereby enhance public safety by providing opportunities
14 for legitimate means of livelihood upon their release from custody;

15 (b) Provide industries which will reduce the tax burden of
16 corrections and save taxpayers money through production of goods and
17 services for sale and use;

18 (c) Operate correctional work programs in an effective and
19 efficient manner which are as similar as possible to those provided by
20 the private sector;

21 (d) Encourage the development of and provide for selection of,
22 contracting for, and supervision of work programs with participating
23 private enterprise firms;

24 (e) Develop and (~~design~~) select correctional industries work
25 programs that do not unfairly compete with Washington businesses;

26 (f) Invest available funds in correctional industries enterprises
27 and meaningful work programs that minimize the impact on in-state jobs
28 and businesses.

29 (3) The board of directors shall at least annually review the work
30 performance of the director of correctional industries division with
31 the secretary.

1 (4) The director of correctional industries division shall review
2 and evaluate the productivity, funding, and appropriateness of all
3 correctional work programs and report on their effectiveness to the
4 board and to the secretary.

5 (5) The board of directors shall have the authority to identify and
6 establish trade advisory or apprenticeship committees to advise them on
7 correctional industries work programs. The secretary shall appoint the
8 members of the committees.

9 Where a labor management trade advisory and apprenticeship
10 committee has already been established by the department pursuant to
11 RCW 72.62.050 the existing committee shall also advise the board of
12 directors.

13 (6) The board shall develop a strategic yearly marketing plan that
14 shall be consistent with and work towards achieving the goals
15 established in the six-year phased expansion of class I and class II
16 correctional industries established in RCW 72.09.111. This marketing
17 plan shall be presented to the appropriate committees of the
18 legislature by January 17 of each calendar year until the goals set
19 forth in RCW 72.09.111 are achieved.

20 **Sec. 2.** RCW 72.09.100 and 2002 c 175 s 49 are each amended to read
21 as follows:

22 It is the intent of the legislature to vest in the department the
23 power to provide for a comprehensive inmate work program and to remove
24 statutory and other restrictions which have limited work programs in
25 the past. It is also the intent of the legislature to ensure that the
26 correctional industries board of directors, in developing and selecting
27 correctional industries work programs, does not encourage the
28 development of, or provide for selection of or contracting for, or the
29 significant expansion of, any new or existing class I correctional
30 industries work programs that unfairly compete with Washington
31 businesses. The legislature intends that the requirements relating to
32 fair competition in the correctional industries work programs be
33 liberally construed by the correctional industries board of directors
34 to protect Washington businesses from unfair competition.

35 For purposes of establishing such a comprehensive program, the
36 legislature recommends that the department consider adopting any or
37 all, or any variation of, the following classes of work programs:

- 38 (1) CLASS I: FREE VENTURE INDUSTRIES.

1 (a) The employer model industries in this class shall be operated
2 and managed in total or in part by any profit or nonprofit organization
3 pursuant to an agreement between the organization and the department.
4 The organization shall produce goods or services for sale to both the
5 public and private sector.

6 (b) The customer model industries in this class shall be operated
7 and managed by the department to provide Washington state manufacturers
8 or businesses with products or services currently produced or provided
9 by out-of-state or foreign suppliers.

10 (c) The correctional industries board of directors shall review
11 these proposed industries, including any potential new class I
12 industries work program or the significant expansion of an existing
13 class I industries work program, before the department contracts to
14 provide such products or services. The review shall include ~~((an))~~ the
15 analysis ~~((of the potential impact of the proposed products and~~
16 ~~services on the Washington state business community and labor market))~~
17 required under section 4 of this act to determine if the proposed
18 correctional industries work program will compete with any Washington
19 business. An agreement for a new class I correctional industries work
20 program, or an agreement for a significant expansion of an existing
21 class I correctional industries work program, that unfairly competes
22 with any Washington business is prohibited.

23 (d) The department of corrections shall supply appropriate security
24 and custody services without charge to the participating firms.

25 (e) Inmates who work in free venture industries shall do so at
26 their own choice. They shall be paid a wage comparable to the wage
27 paid for work of a similar nature in the locality in which the industry
28 is located, as determined by the director of correctional industries.
29 If the director cannot reasonably determine the comparable wage, then
30 the pay shall not be less than the federal minimum wage.

31 (f) An inmate who is employed in the class I program of
32 correctional industries shall not be eligible for unemployment
33 compensation benefits pursuant to any of the provisions of Title 50 RCW
34 until released on parole or discharged.

35 (2) CLASS II: TAX REDUCTION INDUSTRIES.

36 (a) Industries in this class shall be state-owned and operated
37 enterprises designed to reduce the costs for goods and services for
38 tax-supported agencies and for nonprofit organizations.

1 **(b)** The industries selected for development within this class
2 shall, as much as possible, match the available pool of inmate work
3 skills and aptitudes with the work opportunities in the free community.
4 The industries shall be closely patterned after private sector
5 industries but with the objective of reducing public support costs
6 rather than making a profit. The products and services of this
7 industry, including purchased products and services necessary for a
8 complete product line, may be sold to public agencies, to nonprofit
9 organizations, and to private contractors when the goods purchased will
10 be ultimately used by a public agency or a nonprofit organization.
11 Clothing manufactured by an industry in this class may be donated to
12 nonprofit organizations that provide clothing free of charge to low-
13 income persons.

14 **(c)(i)** Class II correctional industries products and services shall
15 be reviewed by the correctional industries board of directors before
16 offering such products and services for sale to private contractors.

17 **(ii)** The board of directors shall conduct a yearly marketing review
18 of the products and services offered under this subsection. Such
19 review shall include an analysis of the potential impact of the
20 proposed products and services on the Washington state business
21 community. To avoid waste or spoilage and consequent loss to the
22 state((τ)) when there is no public sector market for such goods,
23 byproducts and surpluses of timber, agricultural, and animal husbandry
24 enterprises may be sold to private persons, at private sale. Surplus
25 byproducts and surpluses of timber, agricultural and animal husbandry
26 enterprises that cannot be sold to public agencies or to private
27 persons may be donated to nonprofit organizations. All sales of
28 surplus products shall be carried out in accordance with rules
29 prescribed by the secretary.

30 **(d)** Security and custody services shall be provided without charge
31 by the department of corrections.

32 **(e)** Inmates working in this class of industries shall do so at
33 their own choice and shall be paid for their work on a gratuity scale
34 which shall not exceed the wage paid for work of a similar nature in
35 the locality in which the industry is located and which is approved by
36 the director of correctional industries.

37 **(f)** Subject to approval of the correctional industries board,
38 provisions of RCW 41.06.380 prohibiting contracting out work performed

1 by classified employees shall not apply to contracts with Washington
2 state businesses entered into by the department of corrections through
3 class II industries.

4 (3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES.

5 (a) Industries in this class shall be operated by the department of
6 corrections. They shall be designed and managed to accomplish the
7 following objectives:

8 ((+a)) (i) Whenever possible, to provide basic work training and
9 experience so that the inmate will be able to qualify for better work
10 both within correctional industries and the free community. It is not
11 intended that an inmate's work within this class of industries should
12 be his or her final and total work experience as an inmate.

13 ((+b)) (ii) Whenever possible, to provide forty hours of work or
14 work training per week.

15 ((+c)) (iii) Whenever possible, to offset tax and other public
16 support costs.

17 (b) Class III correctional industries shall be reviewed by the
18 correctional industries board of directors to set policy for work
19 crews. The department shall present to the board of directors
20 quarterly detail statements showing where work crews worked, what
21 correctional industry class, and the hours worked. The board of
22 directors may review any class III program at its discretion.

23 (c) Supervising, management, and custody staff shall be employees
24 of the department.

25 (d) All able and eligible inmates who are assigned work and who are
26 not working in other classes of industries shall work in this class.

27 (e) Except for inmates who work in work training programs, inmates
28 in this class shall be paid for their work in accordance with an inmate
29 gratuity scale. The scale shall be adopted by the secretary of
30 corrections.

31 (4) CLASS IV: COMMUNITY WORK INDUSTRIES.

32 (a) Industries in this class shall be operated by the department of
33 corrections. They shall be designed and managed to provide services in
34 the inmate's resident community at a reduced cost. The services shall
35 be provided to public agencies, to persons who are poor or infirm, or
36 to nonprofit organizations.

37 (b) Class IV correctional industries shall be reviewed by the
38 correctional industries board of directors to set policy for work
39 crews. The department shall present to the board of directors

1 quarterly detail statements showing where work crews worked, what
2 correctional industry class, and the hours worked. The board of
3 directors may review any class IV program at its discretion. Class IV
4 correctional industries operated in work camps established pursuant to
5 RCW 72.64.050 are exempt from the requirements of this subsection
6 (4)(b).

7 (c) Inmates in this program shall reside in facilities owned by,
8 contracted for, or licensed by the department of corrections. A unit
9 of local government shall provide work supervision services without
10 charge to the state and shall pay the inmate's wage.

11 (d) The department of corrections shall reimburse participating
12 units of local government for liability and workers compensation
13 insurance costs.

14 (e) Inmates who work in this class of industries shall do so at
15 their own choice and shall receive a gratuity which shall not exceed
16 the wage paid for work of a similar nature in the locality in which the
17 industry is located.

18 (5) CLASS V: COMMUNITY RESTITUTION PROGRAMS.

19 (a) Programs in this class shall be subject to supervision by the
20 department of corrections. The purpose of this class of industries is
21 to enable an inmate, placed on community supervision, to work off all
22 or part of a community restitution order as ordered by the sentencing
23 court.

24 (b) Employment shall be in a community restitution program operated
25 by the state, local units of government, or a nonprofit agency.

26 (c) To the extent that funds are specifically made available for
27 such purposes, the department of corrections shall reimburse nonprofit
28 agencies for workers compensation insurance costs.

29 **Sec. 3.** RCW 72.09.100 and 2002 c 354 s 238 and 2002 c 175 s 49 are
30 each reenacted and amended to read as follows:

31 It is the intent of the legislature to vest in the department the
32 power to provide for a comprehensive inmate work program and to remove
33 statutory and other restrictions which have limited work programs in
34 the past. It is also the intent of the legislature to ensure that the
35 correctional industries board of directors, in developing and selecting
36 correctional industries work programs, does not encourage the
37 development of, or provide for selection of or contracting for, or the
38 significant expansion of, any new or existing class I correctional

1 industries work programs that unfairly compete with Washington
2 businesses. The legislature intends that the requirements relating to
3 fair competition in the correctional industries work programs be
4 liberally construed by the correctional industries board of directors
5 to protect Washington businesses from unfair competition. For purposes
6 of establishing such a comprehensive program, the legislature
7 recommends that the department consider adopting any or all, or any
8 variation of, the following classes of work programs:

9 (1) CLASS I: FREE VENTURE INDUSTRIES.

10 (a) The employer model industries in this class shall be operated
11 and managed in total or in part by any profit or nonprofit organization
12 pursuant to an agreement between the organization and the department.
13 The organization shall produce goods or services for sale to both the
14 public and private sector.

15 (b) The customer model industries in this class shall be operated
16 and managed by the department to provide Washington state manufacturers
17 or businesses with products or services currently produced or provided
18 by out-of-state or foreign suppliers.

19 (c) The correctional industries board of directors shall review
20 these proposed industries, including any potential new class I
21 industries work program or the significant expansion of an existing
22 class I industries work program, before the department contracts to
23 provide such products or services. The review shall include ~~((an))~~ the
24 analysis ~~((of the potential impact of the proposed products and~~
25 ~~services on the Washington state business community and labor market))~~
26 required under section 4 of this act to determine if the proposed
27 correctional industries work program will compete with any Washington
28 business. An agreement for a new class I correctional industries work
29 program, or an agreement for a significant expansion of an existing
30 class I correctional industries work program, that unfairly competes
31 with any Washington business is prohibited.

32 (d) The department of corrections shall supply appropriate security
33 and custody services without charge to the participating firms.

34 (e) Inmates who work in free venture industries shall do so at
35 their own choice. They shall be paid a wage comparable to the wage
36 paid for work of a similar nature in the locality in which the industry
37 is located, as determined by the director of correctional industries.
38 If the director cannot reasonably determine the comparable wage, then
39 the pay shall not be less than the federal minimum wage.

1 (f) An inmate who is employed in the class I program of
2 correctional industries shall not be eligible for unemployment
3 compensation benefits pursuant to any of the provisions of Title 50 RCW
4 until released on parole or discharged.

5 (2) CLASS II: TAX REDUCTION INDUSTRIES.

6 (a) Industries in this class shall be state-owned and operated
7 enterprises designed to reduce the costs for goods and services for
8 tax-supported agencies and for nonprofit organizations.

9 (b) The industries selected for development within this class
10 shall, as much as possible, match the available pool of inmate work
11 skills and aptitudes with the work opportunities in the free community.
12 The industries shall be closely patterned after private sector
13 industries but with the objective of reducing public support costs
14 rather than making a profit. The products and services of this
15 industry, including purchased products and services necessary for a
16 complete product line, may be sold to public agencies, to nonprofit
17 organizations, and to private contractors when the goods purchased will
18 be ultimately used by a public agency or a nonprofit organization.
19 Clothing manufactured by an industry in this class may be donated to
20 nonprofit organizations that provide clothing free of charge to low-
21 income persons.

22 (c)(i) Class II correctional industries products and services shall
23 be reviewed by the correctional industries board of directors before
24 offering such products and services for sale to private contractors.

25 (ii) The board of directors shall conduct a yearly marketing review
26 of the products and services offered under this subsection. Such
27 review shall include an analysis of the potential impact of the
28 proposed products and services on the Washington state business
29 community. To avoid waste or spoilage and consequent loss to the
30 state, when there is no public sector market for such goods, byproducts
31 and surpluses of timber, agricultural, and animal husbandry enterprises
32 may be sold to private persons, at private sale. Surplus byproducts
33 and surpluses of timber, agricultural and animal husbandry enterprises
34 that cannot be sold to public agencies or to private persons may be
35 donated to nonprofit organizations. All sales of surplus products
36 shall be carried out in accordance with rules prescribed by the
37 secretary.

38 (d) Security and custody services shall be provided without charge
39 by the department of corrections.

1 (e) Inmates working in this class of industries shall do so at
2 their own choice and shall be paid for their work on a gratuity scale
3 which shall not exceed the wage paid for work of a similar nature in
4 the locality in which the industry is located and which is approved by
5 the director of correctional industries.

6 (f) Subject to approval of the correctional industries board,
7 provisions of RCW 41.06.142 shall not apply to contracts with
8 Washington state businesses entered into by the department of
9 corrections through class II industries.

10 (3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES.

11 (a) Industries in this class shall be operated by the department of
12 corrections. They shall be designed and managed to accomplish the
13 following objectives:

14 ~~((a))~~ (i) Whenever possible, to provide basic work training and
15 experience so that the inmate will be able to qualify for better work
16 both within correctional industries and the free community. It is not
17 intended that an inmate's work within this class of industries should
18 be his or her final and total work experience as an inmate.

19 ~~((b))~~ (ii) Whenever possible, to provide forty hours of work or
20 work training per week.

21 ~~((c))~~ (iii) Whenever possible, to offset tax and other public
22 support costs.

23 (b) Class III correctional industries shall be reviewed by the
24 correctional industries board of directors to set policy for work
25 crews. The department shall present to the board of directors
26 quarterly detail statements showing where work crews worked, what
27 correctional industry class, and the hours worked. The board of
28 directors may review any class III program at its discretion.

29 (c) Supervising, management, and custody staff shall be employees
30 of the department.

31 (d) All able and eligible inmates who are assigned work and who are
32 not working in other classes of industries shall work in this class.

33 (e) Except for inmates who work in work training programs, inmates
34 in this class shall be paid for their work in accordance with an inmate
35 gratuity scale. The scale shall be adopted by the secretary of
36 corrections.

37 (4) CLASS IV: COMMUNITY WORK INDUSTRIES.

38 (a) Industries in this class shall be operated by the department of
39 corrections. They shall be designed and managed to provide services in

1 the inmate's resident community at a reduced cost. The services shall
2 be provided to public agencies, to persons who are poor or infirm, or
3 to nonprofit organizations.

4 (b) Class IV correctional industries shall be reviewed by the
5 correctional industries board of directors to set policy for work
6 crews. The department shall present to the board of directors
7 quarterly detail statements showing where work crews worked, what
8 correctional industry class, and the hours worked. The board of
9 directors may review any class IV program at its discretion. Class IV
10 correctional industries operated in work camps established pursuant to
11 RCW 72.64.050 are exempt from the requirements of this subsection
12 (4)(b).

13 (c) Inmates in this program shall reside in facilities owned by,
14 contracted for, or licensed by the department of corrections. A unit
15 of local government shall provide work supervision services without
16 charge to the state and shall pay the inmate's wage.

17 (d) The department of corrections shall reimburse participating
18 units of local government for liability and workers compensation
19 insurance costs.

20 (e) Inmates who work in this class of industries shall do so at
21 their own choice and shall receive a gratuity which shall not exceed
22 the wage paid for work of a similar nature in the locality in which the
23 industry is located.

24 (5) CLASS V: COMMUNITY RESTITUTION PROGRAMS.

25 (a) Programs in this class shall be subject to supervision by the
26 department of corrections. The purpose of this class of industries is
27 to enable an inmate, placed on community supervision, to work off all
28 or part of a community restitution order as ordered by the sentencing
29 court.

30 (b) Employment shall be in a community restitution program operated
31 by the state, local units of government, or a nonprofit agency.

32 (c) To the extent that funds are specifically made available for
33 such purposes, the department of corrections shall reimburse nonprofit
34 agencies for workers compensation insurance costs.

35 NEW SECTION. Sec. 4. A new section is added to chapter 72.09 RCW
36 to read as follows:

37 (1) The department must prepare a threshold analysis for any
38 proposed new class I correctional industries work program or the

1 significant expansion of an existing class I correctional industries
2 work program before the department enters into an agreement to provide
3 such products or services. The analysis must state whether the
4 proposed new or expanded program will impact any Washington business
5 and must be based on information sufficient to evaluate the impact on
6 Washington business.

7 (2) If the threshold analysis determines that a proposed new or
8 expanded class I correctional industries work program will impact a
9 Washington business, the department must complete a business impact
10 analysis before the department enters into an agreement to provide such
11 products or services. The business impact analysis must include:

12 (a) A detailed statement identifying the scope and types of impacts
13 caused by the proposed new or expanded correctional industries work
14 program on Washington businesses; and

15 (b) A detailed statement of the business costs of the proposed
16 correctional industries work program compared to the business costs of
17 the Washington businesses that may be impacted by the proposed class I
18 correctional industries work program. Business costs of the proposed
19 correctional industries work program include rent, water, sewer,
20 electricity, disposal, labor costs, and any other quantifiable expense
21 unique to operating in a prison. Business costs of the impacted
22 Washington business include rent, water, sewer, electricity, disposal,
23 property taxes, and labor costs including employee taxes, unemployment
24 insurance, and workers' compensation.

25 (3) The completed threshold analysis and any completed business
26 impact analysis with all supporting documents must be shared in a
27 meaningful and timely manner with local chambers of commerce, trade or
28 business associations, local and state labor union organizations, and
29 government entities before a finding required under subsection (4) of
30 this section is made on the proposed new or expanded class I
31 correctional industries work program.

32 (4) If a business impact analysis is completed, the department must
33 conduct a public hearing to take public testimony on the business
34 impact analysis. The department must, at a minimum, establish a
35 publicly accessible web site containing information reasonably
36 calculated to provide notice to each Washington business assigned the
37 same three-digit standard industrial classification code, or the
38 corresponding North American industry classification system code, as
39 the organization seeking the class I correctional industries work

1 program agreement of the date, time, and place of the hearing. Notice
2 of the hearing shall be posted at least thirty days prior to the
3 hearing.

4 (5) Following the public hearing, the department shall adopt a
5 finding that the proposed new or expanded class I correctional
6 industries work program: (a) Will not compete with any Washington
7 business; (b) will not compete unfairly with any Washington business;
8 or (c) will compete unfairly with any Washington business and is
9 therefore prohibited under this act.

10 **Sec. 5.** RCW 72.09.460 and 1998 c 244 s 10 are each amended to read
11 as follows:

12 (1) The legislature intends that all inmates be required to
13 participate in department-approved education programs, work programs,
14 or both, unless exempted under subsection (4) of this section.
15 Eligible inmates who refuse to participate in available education or
16 work programs available at no charge to the inmates shall lose
17 privileges according to the system established under RCW 72.09.130.
18 Eligible inmates who are required to contribute financially to an
19 education or work program and refuse to contribute shall be placed in
20 another work program. Refusal to contribute shall not result in a loss
21 of privileges. The legislature recognizes more inmates may agree to
22 participate in education and work programs than are available. The
23 department must make every effort to achieve maximum public benefit by
24 placing inmates in available and appropriate education and work
25 programs.

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

1 (3) The department shall, to the extent possible and considering
2 all available funds, prioritize its resources to meet the following
3 goals for inmates in the order listed:

4 (a) Achievement of basic academic skills through obtaining a high
5 school diploma or its equivalent and achievement of vocational skills
6 necessary for purposes of work programs and for an inmate to qualify
7 for work upon release;

8 (b) Additional work and education programs based on assessments and
9 placements under subsection (5) of this section; and

10 (c) Other work and education programs as appropriate.

11 (4) The department shall establish, by rule, objective medical
12 standards to determine when an inmate is physically or mentally unable
13 to participate in available education or work programs. When the
14 department determines an inmate is permanently unable to participate in
15 any available education or work program due to a medical condition, the
16 inmate is exempt from the requirement under subsection (1) of this
17 section. When the department determines an inmate is temporarily
18 unable to participate in an education or work program due to a medical
19 condition, the inmate is exempt from the requirement of subsection (1)
20 of this section for the period of time he or she is temporarily
21 disabled. The department shall periodically review the medical
22 condition of all temporarily disabled inmates to ensure the earliest
23 possible entry or reentry by inmates into available programming.

24 (5) The department shall establish, by rule, standards for
25 participation in department-approved education and work programs. The
26 standards shall address the following areas:

27 (a) Assessment. The department shall assess all inmates for their
28 basic academic skill levels using a professionally accepted method of
29 scoring reading, math, and language skills as grade level equivalents.
30 The department shall determine an inmate's education history, work
31 history, and vocational or work skills. The initial assessment shall
32 be conducted, whenever possible, within the first thirty days of an
33 inmate's entry into the correctional system, except that initial
34 assessments are not required for inmates who are sentenced to life
35 without the possibility of release, assigned to an intensive management
36 unit within the first thirty days after entry into the correctional
37 system, are returning to the correctional system within one year of a
38 prior release, or whose physical or mental condition renders them
39 unable to complete the assessment process. The department shall track

1 and record changes in the basic academic skill levels of all inmates
2 reflected in any testing or assessment performed as part of their
3 education programming;

4 (b) Placement. The department shall follow the policies set forth
5 in subsection (1) of this section in establishing criteria for placing
6 inmates in education and work programs. The department shall, to the
7 extent possible, place all inmates whose composite grade level score
8 for basic academic skills is below the eighth grade level in a combined
9 education and work program. The placement criteria shall include at
10 least the following factors:

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

18 (ii) An inmate's education history and basic academic skills;

19 (iii) An inmate's work history and vocational or work skills;

20 (iv) An inmate's economic circumstances, including but not limited
21 to an inmate's family support obligations; and

22 (v) Where applicable, an inmate's prior performance in department-
23 approved education or work programs;

24 (c) Performance and goals. The department shall establish, and
25 periodically review, inmate behavior standards and program goals for
26 all education and work programs. Inmates shall be notified of
27 applicable behavior standards and program goals prior to placement in
28 an education or work program and shall be removed from the education or
29 work program if they consistently fail to meet the standards or goals;

30 (d) Financial responsibility. (i) The department shall establish
31 a formula by which inmates, based on their ability to pay, shall pay
32 all or a portion of the costs or tuition of certain programs. Inmates
33 shall, based on the formula, pay a portion of the costs or tuition of
34 participation in:

35 (A) Second and subsequent vocational programs associated with an
36 inmate's work programs; and

37 (B) An associate of arts or baccalaureate degree program when
38 placement in a degree program is the result of a placement made under
39 this subsection;

1 (ii) Inmates shall pay all costs and tuition for participation in:
2 (A) Any postsecondary academic degree program which is entered
3 independently of a placement decision made under this subsection; and
4 (B) Second and subsequent vocational programs not associated with
5 an inmate's work program.

6 Enrollment in any program specified in (d)(ii) of this subsection
7 shall only be allowed by correspondence or if there is an opening in an
8 education or work program at the institution where an inmate is
9 incarcerated and no other inmate who is placed in a program under this
10 subsection will be displaced; and

11 (e) Notwithstanding any other provision in this section, an inmate
12 sentenced to life without the possibility of release:

13 (i) Shall not be required to participate in education programming;
14 and

15 (ii) May receive not more than one postsecondary academic degree in
16 a program offered by the department or its contracted providers.

17 If an inmate sentenced to life without the possibility of release
18 requires prevocational or vocational training for a work program, he or
19 she may participate in the training subject to this section.

20 (6) The department shall coordinate education and work programs
21 among its institutions, to the greatest extent possible, to facilitate
22 continuity of programming among inmates transferred between
23 institutions. Before transferring an inmate enrolled in a program, the
24 department shall consider the effect the transfer will have on the
25 inmate's ability to continue or complete a program. This subsection
26 shall not be used to delay or prohibit a transfer necessary for
27 legitimate safety or security concerns.

28 (7) Before construction of a new correctional institution or
29 expansion of an existing correctional institution, the department shall
30 adopt a plan demonstrating how cable, closed-circuit, and satellite
31 television will be used for education and training purposes in the
32 institution. The plan shall specify how the use of television in the
33 education and training programs will improve inmates' preparedness for
34 available work programs and job opportunities for which inmates may
35 qualify upon release.

36 (8) The department shall adopt a plan to reduce the per-pupil cost
37 of instruction by, among other methods, increasing the use of volunteer
38 instructors and implementing technological efficiencies. The plan
39 shall be adopted by December 1996 and shall be transmitted to the

1 legislature upon adoption. The department shall, in adoption of the
2 plan, consider distance learning, satellite instruction, video tape
3 usage, computer-aided instruction, and flexible scheduling of offender
4 instruction.

5 (9) Following completion of the review required by section 27(3),
6 chapter 19, Laws of 1995 1st sp. sess. the department shall take all
7 necessary steps to assure the vocation and education programs are
8 relevant to work programs and skills necessary to enhance the
9 employability of inmates upon release.

10 **Sec. 6.** RCW 72.09.015 and 1995 1st sp.s. c 19 s 3 are each amended
11 to read as follows:

12 The definitions in this section apply throughout this chapter.

13 (1) "Base level of correctional services" means the minimum level
14 of field services the department of corrections is required by statute
15 to provide for the supervision and monitoring of offenders.

16 (2) "Contraband" means any object or communication the secretary
17 determines shall not be allowed to be: (a) Brought into; (b) possessed
18 while on the grounds of; or (c) sent from any institution under the
19 control of the secretary.

20 (3) "County" means a county or combination of counties.

21 (4) "Department" means the department of corrections.

22 (5) "Earned early release" means earned (~~early~~) release as
23 authorized by RCW 9.94A.728.

24 (6) "Extended family visit" means an authorized visit between an
25 inmate and a member of his or her immediate family that occurs in a
26 private visiting unit located at the correctional facility where the
27 inmate is confined.

28 (7) "Good conduct" means compliance with department rules and
29 policies.

30 (8) "Good performance" means successful completion of a program
31 required by the department, including an education, work, or other
32 program.

33 (9) "Immediate family" means the inmate's children, stepchildren,
34 grandchildren, great grandchildren, parents, stepparents, grandparents,
35 great grandparents, siblings, and a person legally married to an
36 inmate. "Immediate family" does not include an inmate adopted by
37 another inmate or the immediate family of the adopted or adopting
38 inmate.

1 (10) "Indigent inmate," "indigent," and "indigency" mean an inmate
2 who has less than a ten-dollar balance of disposable income in his or
3 her institutional account on the day a request is made to utilize funds
4 and during the thirty days previous to the request.

5 (11) "Inmate" means a person committed to the custody of the
6 department, including but not limited to persons residing in a
7 correctional institution or facility and persons released on furlough,
8 work release, or community custody, and persons received from another
9 state, state agency, county, or federal jurisdiction.

10 (12) "Privilege" means any goods or services, education or work
11 programs, or earned early release days, the receipt of which are
12 directly linked to an inmate's (a) good conduct; and (b) good
13 performance. Privileges do not include any goods or services the
14 department is required to provide under the state or federal
15 Constitution or under state or federal law.

16 (13) "Secretary" means the secretary of corrections or his or her
17 designee.

18 (14) "Significant expansion" includes any expansion into a new
19 product line or service to the class I business that results from an
20 increase in benefits provided by the department, including a decrease
21 in labor costs, rent, or utility rates (for water, sewer, electricity,
22 and disposal), an increase in work program space, tax advantages, or
23 other overhead costs.

24 (15) "Superintendent" means the superintendent of a correctional
25 facility under the jurisdiction of the Washington state department of
26 corrections, or his or her designee.

27 ((+15)) (16) "Unfair competition" means any net competitive
28 advantage that a business may acquire as a result of a correctional
29 industries contract, including labor costs, rent, tax advantages,
30 utility rates (water, sewer, electricity, and disposal), and other
31 overhead costs. To determine net competitive advantage, the
32 correctional industries board shall review and quantify any expenses
33 unique to operating a for-profit business inside a prison.

34 (17) "Washington business" means an in-state manufacturer or
35 service provider subject to chapter 82.04 RCW existing on the effective
36 date of this section.

37 (18) "Work programs" means all classes of correctional industries
38 jobs authorized under RCW 72.09.100.

1 **Sec. 7.** RCW 72.09.111 and 2003 c 379 s 25 and 2003 c 271 s 2 are
2 each reenacted and amended to read as follows:

3 (1) The secretary shall deduct taxes and legal financial
4 obligations from the gross wages, gratuities, or workers' compensation
5 benefits payable directly to the inmate under chapter 51.32 RCW, of
6 each inmate working in correctional industries work programs, or
7 otherwise receiving such wages, gratuities, or benefits. The secretary
8 shall also deduct child support payments from the gratuities of each
9 inmate working in class II through class IV correctional industries
10 work programs. The secretary shall develop a formula for the
11 distribution of offender wages, gratuities, and benefits. The formula
12 shall not reduce the inmate account below the indigency level, as
13 defined in RCW 72.09.015.

14 (a) The formula shall include the following minimum deductions from
15 class I gross wages and from all others earning at least minimum wage:

16 (i) Five percent to the public safety and education account for the
17 purpose of crime victims' compensation;

18 (ii) Ten percent to a department personal inmate savings account;

19 (iii) Twenty percent to the department to contribute to the cost of
20 incarceration; and

21 (iv) Twenty percent for payment of legal financial obligations for
22 all inmates who have legal financial obligations owing in any
23 Washington state superior court.

24 (b) The formula shall include the following minimum deductions from
25 class II gross gratuities:

26 (i) Five percent to the public safety and education account for the
27 purpose of crime victims' compensation;

28 (ii) Ten percent to a department personal inmate savings account;

29 (iii) Fifteen percent to the department to contribute to the cost
30 of incarceration;

31 (iv) Twenty percent for payment of legal financial obligations for
32 all inmates who have legal financial obligations owing in any
33 Washington state superior court; and

34 (v) Fifteen percent for any child support owed under a support
35 order.

36 (c) The formula shall include the following minimum deductions from
37 any workers' compensation benefits paid pursuant to RCW 51.32.080:

38 (i) Five percent to the public safety and education account for the
39 purpose of crime victims' compensation;

1 (ii) Ten percent to a department personal inmate savings account;
2 (iii) Twenty percent to the department to contribute to the cost of
3 incarceration; and
4 (iv) An amount equal to any legal financial obligations owed by the
5 inmate established by an order of any Washington state superior court
6 up to the total amount of the award.
7 (d) The formula shall include the following minimum deductions from
8 class III gratuities:
9 (i) Five percent for the purpose of crime victims' compensation;
10 and
11 (ii) Fifteen percent for any child support owed under a support
12 order.
13 (e) The formula shall include the following minimum deduction from
14 class IV gross gratuities:
15 (i) Five percent to the department to contribute to the cost of
16 incarceration; and
17 (ii) Fifteen percent for any child support owed under a support
18 order.
19 (2) Any person sentenced to life imprisonment without possibility
20 of release or parole under chapter 10.95 RCW or sentenced to death
21 shall be exempt from the requirement under subsection (1)(a)(ii),
22 (b)(ii), or (c)(ii).
23 (3) The department personal inmate savings account, together with
24 any accrued interest, shall only be available to an inmate at the time
25 of his or her release from confinement, unless the secretary determines
26 that an emergency exists for the inmate, at which time the funds can be
27 made available to the inmate in an amount determined by the secretary.
28 The management of classes I, II, and IV correctional industries may
29 establish an incentive payment for offender workers based on
30 productivity criteria. This incentive shall be paid separately from
31 the hourly wage/gratuity rate and shall not be subject to the specified
32 deduction for cost of incarceration.
33 (4)(a) Subject to availability of funds for the correctional
34 industries program, the expansion of inmate employment in class I and
35 class II correctional industries shall be implemented according to the
36 following schedule:
37 (i) Not later than June 30, 2005, the secretary shall achieve a net
38 increase of at least two hundred in the number of inmates employed in

1 class I or class II correctional industries work programs above the
2 number so employed on June 30, 2003;

3 (ii) Not later than June 30, 2006, the secretary shall achieve a
4 net increase of at least four hundred in the number of inmates employed
5 in class I or class II correctional industries work programs above the
6 number so employed on June 30, 2003;

7 (iii) Not later than June 30, 2007, the secretary shall achieve a
8 net increase of at least six hundred in the number of inmates employed
9 in class I or class II correctional industries work programs above the
10 number so employed on June 30, 2003;

11 (iv) Not later than June 30, 2008, the secretary shall achieve a
12 net increase of at least nine hundred in the number of inmates employed
13 in class I or class II correctional industries work programs above the
14 number so employed on June 30, 2003;

15 (v) Not later than June 30, 2009, the secretary shall achieve a net
16 increase of at least one thousand two hundred in the number of inmates
17 employed in class I or class II correctional industries work programs
18 above the number so employed on June 30, 2003;

19 (vi) Not later than June 30, 2010, the secretary shall achieve a
20 net increase of at least one thousand five hundred in the number of
21 inmates employed in class I or class II correctional industries work
22 programs above the number so employed on June 30, 2003.

23 (b) Failure to comply with the schedule in this subsection does not
24 create a private right of action.

25 (5) In the event that the offender worker's wages, gratuity, or
26 workers' compensation benefit is subject to garnishment for support
27 enforcement, the crime victims' compensation, savings, and cost of
28 incarceration deductions shall be calculated on the net wages after
29 taxes, legal financial obligations, and garnishment.

30 ~~((+5))~~ (6) The department shall explore other methods of
31 recovering a portion of the cost of the inmate's incarceration and for
32 encouraging participation in work programs, including development of
33 incentive programs that offer inmates benefits and amenities paid for
34 only from wages earned while working in a correctional industries work
35 program.

36 ~~((+6))~~ (7) The department shall develop the necessary
37 administrative structure to recover inmates' wages and keep records of
38 the amount inmates pay for the costs of incarceration and amenities.
39 All funds deducted from inmate wages under subsection (1) of this

1 section for the purpose of contributions to the cost of incarceration
2 shall be deposited in a dedicated fund with the department and shall be
3 used only for the purpose of enhancing and maintaining correctional
4 industries work programs.

5 ~~((7) The expansion of inmate employment in class I and class II
6 correctional industries shall be implemented according to the following
7 schedule:~~

8 ~~(a) Not later than June 30, 1995, the secretary shall achieve a net
9 increase of at least two hundred in the number of inmates employed in
10 class I or class II correctional industries work programs above the
11 number so employed on June 30, 1994;~~

12 ~~(b) Not later than June 30, 1996, the secretary shall achieve a net
13 increase of at least four hundred in the number of inmates employed in
14 class I or class II correctional industries work programs above the
15 number so employed on June 30, 1994;~~

16 ~~(c) Not later than June 30, 1997, the secretary shall achieve a net
17 increase of at least six hundred in the number of inmates employed in
18 class I or class II correctional industries work programs above the
19 number so employed on June 30, 1994;~~

20 ~~(d) Not later than June 30, 1998, the secretary shall achieve a net
21 increase of at least nine hundred in the number of inmates employed in
22 class I or class II correctional industries work programs above the
23 number so employed on June 30, 1994;~~

24 ~~(e) Not later than June 30, 1999, the secretary shall achieve a net
25 increase of at least one thousand two hundred in the number of inmates
26 employed in class I or class II correctional industries work programs
27 above the number so employed on June 30, 1994;~~

28 ~~(f) Not later than June 30, 2000, the secretary shall achieve a net
29 increase of at least one thousand five hundred in the number of inmates
30 employed in class I or class II correctional industries work programs
31 above the number so employed on June 30, 1994.))~~

32 (8) It shall be in the discretion of the secretary to apportion the
33 inmates between class I and class II depending on available contracts
34 and resources.

35 (9) Nothing in this section shall limit the authority of the
36 department of social and health services division of child support from
37 taking collection action against an inmate's moneys, assets, or
38 property pursuant to chapter 26.23, 74.20, or 74.20A RCW.

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

3 All records, documents, data, and other materials obtained under
4 the requirements of section 4 of this act from an existing correctional
5 industries class I work program participant or an applicant for a
6 proposed new or expanded class I correctional industries work program
7 are exempt from public disclosure under chapter 42.17 RCW.

8 NEW SECTION. **Sec. 9.** A new section is added to chapter 42.17 RCW
9 to read as follows:

10 All records, documents, data, and other materials obtained under
11 the requirements of section 4 of this act from an existing correctional
12 industries class I work program participant or an applicant for a
13 proposed new or expanded class I correctional industries work program
14 are exempt from public disclosure under this chapter.

15 **Sec. 10.** RCW 28B.10.029 and 1998 c 344 s 5 and 1998 c 111 s 2 are
16 each reenacted and amended to read as follows:

17 (1) An institution of higher education may exercise independently
18 those powers otherwise granted to the director of general
19 administration in chapter 43.19 RCW in connection with the purchase and
20 disposition of all material, supplies, services, and equipment needed
21 for the support, maintenance, and use of the respective institution of
22 higher education. Property disposition policies followed by
23 institutions of higher education shall be consistent with policies
24 followed by the department of general administration. Purchasing
25 policies and procedures followed by institutions of higher education
26 shall be in compliance with chapters 39.19, 39.29, and 43.03 RCW, and
27 RCW 43.19.1901, 43.19.1906, 43.19.1911, 43.19.1917, 43.19.1937,
28 43.19.534, 43.19.685, 43.19.700 through 43.19.704, and 43.19.560
29 through 43.19.637. The community and technical colleges shall comply
30 with RCW 43.19.450. Except for the University of Washington,
31 institutions of higher education shall comply with RCW ((~~43.19.1935,~~
32 ~~43.19.19363,~~ and ~~43.19.19368~~)) 43.41.310, 43.41.290, and 43.41.350. If
33 an institution of higher education can satisfactorily demonstrate to
34 the director of the office of financial management that the cost of
35 compliance is greater than the value of benefits from any of the
36 following statutes, then it shall be exempt from them: RCW 43.19.685;
37 43.19.534; and 43.19.637. Any institution of higher education that

1 chooses to exercise independent purchasing authority for a commodity or
2 group of commodities shall notify the director of general
3 administration. Thereafter the director of general administration
4 shall not be required to provide those services for that institution
5 for the duration of the general administration contract term for that
6 commodity or group of commodities.

7 (2) The council of presidents and the state board for community and
8 technical colleges shall convene its correctional industries business
9 development advisory committee, and work collaboratively with
10 correctional industries, to:

11 (a) Reaffirm purchasing criteria and ensure that quality, service,
12 and timely delivery result in the best value for expenditure of state
13 dollars;

14 (b) Update the approved list of correctional industries products
15 from which higher education shall purchase; and

16 (c) Develop recommendations on ways to continue to build
17 correctional industries' business with institutions of higher
18 education.

19 (3) Higher education and correctional industries shall develop a
20 plan to build higher education business with correctional industries to
21 increase higher education purchases of correctional industries
22 products, based upon the criteria established in subsection (2) of this
23 section. The plan shall include the correctional industries'
24 production and sales goals for higher education and an approved list of
25 products from which higher education institutions shall purchase, based
26 on the criteria established in subsection (2) of this section. Higher
27 education and correctional industries shall report to the legislature
28 regarding the plan and its implementation no later than January 30,
29 2005.

30 (4) Institutions of higher education shall set as a target to
31 contract, beginning not later than June 30, 2006, to purchase one
32 percent of the total goods and services required by the institutions
33 each year produced or provided in whole or in part from class II inmate
34 work programs operated by the department of corrections. Institutions
35 of higher education shall set as a target to contract, beginning not
36 later than June 30, 2008, to purchase two percent of the total goods
37 and services required by the institutions each year produced or
38 provided in whole or in part from class II inmate work programs
39 operated by the department of corrections.

1 (5) An institution of higher education may exercise independently
2 those powers otherwise granted to the public printer in chapter 43.78
3 RCW in connection with the production or purchase of any printing and
4 binding needed by the respective institution of higher education.
5 Purchasing policies and procedures followed by institutions of higher
6 education shall be in compliance with chapter 39.19 RCW. Any
7 institution of higher education that chooses to exercise independent
8 printing production or purchasing authority shall notify the public
9 printer. Thereafter the public printer shall not be required to
10 provide those services for that institution.

11 NEW SECTION. **Sec. 11.** If specific funding for the purposes of
12 this act, referencing this act by bill or chapter number, is not
13 provided by June 30, 2004, in the omnibus appropriations act, this act
14 is null and void.

15 NEW SECTION. **Sec. 12.** Section 3 of this act takes effect July 1,
16 2005.

17 NEW SECTION. **Sec. 13.** Section 2 of this act expires July 1,
18 2005."

19 Correct the title.

EFFECT: The provision that stated that the DOC must, within available funds, expand its class I and II work programs is changed from "within available funds" to "subject to available funds."

The definition for "significant expansion" and "unfair competition" are made the same as the version that the House passed. Defines "significant expansion" to include any expansion into a new product line or service to the class I business that results from an increase in benefits provided by the department, including a decrease in labor costs, rent, or utility rates (for water, sewer, electricity, and disposal), an increase in work program space, tax advantages, or other overhead costs. Defines "unfair competition" to mean any net competitive advantage that a business may acquire as a result of a correctional industries contract, including labor costs, rent, tax advantages, utility rates (water, sewer, electricity, and disposal), and other overhead costs. To determine net competitive advantage, the correctional industries board shall review and quantify any expenses unique to operating a for-profit business inside a prison.

Redefines "Washington business" to mean an in-state manufacturer or service provider existing on the effective date of the act.

Adds a null and void clause. The bill is null and void unless funded in the budget.

Makes other technical and clarifying amendments.

--- END ---