

CERTIFICATION OF ENROLLMENT

**ENGROSSED SECOND SUBSTITUTE SENATE BILL 6489**

Chapter 167, Laws of 2004

58th Legislature  
2004 Regular Session

CORRECTIONAL INDUSTRIES--COMPETITION

EFFECTIVE DATE: 6/10/04 - Except section 3, which becomes effective 7/1/05

Passed by the Senate March 9, 2004  
YEAS 41 NAYS 0

BRAD OWEN

**President of the Senate**

Passed by the House March 4, 2004  
YEAS 94 NAYS 0

FRANK CHOPP

**Speaker of the House of Representatives**

CERTIFICATE

I, Milton H. Doumit, Jr., Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 6489** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MILTON H. DOUMIT JR.

**Secretary**

Approved March 26, 2004.

FILED

March 26, 2004 - 4:25 p.m.

GARY F. LOCKE

**Governor of the State of Washington**

**Secretary of State  
State of Washington**

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ENGROSSED SECOND SUBSTITUTE SENATE BILL 6489

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AS AMENDED BY THE HOUSE

Passed Legislature - 2004 Regular Session

State of Washington                      58th Legislature                      2004 Regular Session

By Senate Committee on Ways & Means (originally sponsored by  
Senators Hargrove and Stevens)

READ FIRST TIME 02/10/04.

1            AN ACT Relating to fair competition in correctional industries;  
2 amending RCW 72.09.070, 72.09.100, 72.09.460, and 72.09.015; reenacting  
3 and amending RCW 72.09.100, 72.09.111, and 28B.10.029; adding new  
4 sections to chapter 72.09 RCW; adding a new section to chapter 42.17  
5 RCW; creating a new section; providing an effective date; and providing  
6 an expiration date.

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

8            **Sec. 1.** RCW 72.09.070 and 1994 sp.s. c 7 s 535 are each amended to  
9 read as follows:

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

12            (2) Consistent with general department of corrections policies and  
13 procedures pertaining to the general administration of correctional  
14 facilities, the board shall establish and implement policy for  
15 correctional industries programs designed to:

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

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

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

7 (d) Encourage the development of and provide for selection of,  
8 contracting for, and supervision of work programs with participating  
9 private enterprise firms;

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

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

15 (3) The board of directors shall at least annually review the work  
16 performance of the director of correctional industries division with  
17 the secretary.

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

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

26 Where a labor management trade advisory and apprenticeship  
27 committee has already been established by the department pursuant to  
28 RCW 72.62.050 the existing committee shall also advise the board of  
29 directors.

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

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

3       It is the intent of the legislature to vest in the department the  
4 power to provide for a comprehensive inmate work program and to remove  
5 statutory and other restrictions which have limited work programs in  
6 the past. It is also the intent of the legislature to ensure that the  
7 correctional industries board of directors, in developing and selecting  
8 correctional industries work programs, does not encourage the  
9 development of, or provide for selection of or contracting for, or the  
10 significant expansion of, any new or existing class I correctional  
11 industries work programs that unfairly compete with Washington  
12 businesses. The legislature intends that the requirements relating to  
13 fair competition in the correctional industries work programs be  
14 liberally construed by the correctional industries board of directors  
15 to protect Washington businesses from unfair competition.

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

19       (1) CLASS I: FREE VENTURE INDUSTRIES.

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

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

29       (c) The correctional industries board of directors shall review  
30 these proposed industries, including any potential new class I  
31 industries work program or the significant expansion of an existing  
32 class I industries work program, before the department contracts to  
33 provide such products or services. The review shall include ((an)) the  
34 analysis ((of the potential impact of the proposed products and  
35 services on the Washington state business community and labor market))  
36 required under section 4 of this act to determine if the proposed  
37 correctional industries work program will compete with any Washington  
38 business. An agreement for a new class I correctional industries work

1 program, or an agreement for a significant expansion of an existing  
2 class I correctional industries work program, that unfairly competes  
3 with any Washington business is prohibited.

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

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

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

16 (2) CLASS II: TAX REDUCTION INDUSTRIES.

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

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

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

36 (ii) The board of directors shall conduct a yearly marketing review  
37 of the products and services offered under this subsection. Such  
38 review shall include an analysis of the potential impact of the

1 proposed products and services on the Washington state business  
2 community. To avoid waste or spoilage and consequent loss to the  
3 state(~~(7)~~) when there is no public sector market for such goods,  
4 byproducts and surpluses of timber, agricultural, and animal husbandry  
5 enterprises may be sold to private persons, at private sale. Surplus  
6 byproducts and surpluses of timber, agricultural and animal husbandry  
7 enterprises that cannot be sold to public agencies or to private  
8 persons may be donated to nonprofit organizations. All sales of  
9 surplus products shall be carried out in accordance with rules  
10 prescribed by the secretary.

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

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

18 (f) Subject to approval of the correctional industries board,  
19 provisions of RCW 41.06.380 prohibiting contracting out work performed  
20 by classified employees shall not apply to contracts with Washington  
21 state businesses entered into by the department of corrections through  
22 class II industries.

23 (3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES.

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

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

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

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

36 (b) Class III correctional industries shall be reviewed by the  
37 correctional industries board of directors to set policy for work  
38 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 III program at its discretion.

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

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

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

12 (4) CLASS IV: COMMUNITY WORK INDUSTRIES.

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

18 (b) Class IV correctional industries shall be reviewed by the  
19 correctional industries board of directors to set policy for work  
20 crews. The department shall present to the board of directors  
21 quarterly detail statements showing where work crews worked, what  
22 correctional industry class, and the hours worked. The board of  
23 directors may review any class IV program at its discretion. Class IV  
24 correctional industries operated in work camps established pursuant to  
25 RCW 72.64.050 are exempt from the requirements of this subsection  
26 (4)(b).

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

31 (d) The department of corrections shall reimburse participating  
32 units of local government for liability and workers compensation  
33 insurance costs.

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

38 (5) CLASS V: COMMUNITY RESTITUTION PROGRAMS.

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

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

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

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

13       It is the intent of the legislature to vest in the department the  
14 power to provide for a comprehensive inmate work program and to remove  
15 statutory and other restrictions which have limited work programs in  
16 the past. It is also the intent of the legislature to ensure that the  
17 correctional industries board of directors, in developing and selecting  
18 correctional industries work programs, does not encourage the  
19 development of, or provide for selection of or contracting for, or the  
20 significant expansion of, any new or existing class I correctional  
21 industries work programs that unfairly compete with Washington  
22 businesses. The legislature intends that the requirements relating to  
23 fair competition in the correctional industries work programs be  
24 liberally construed by the correctional industries board of directors  
25 to protect Washington businesses from unfair competition. For purposes  
26 of establishing such a comprehensive program, the legislature  
27 recommends that the department consider adopting any or all, or any  
28 variation of, the following classes of work programs:

29       (1) CLASS I: FREE VENTURE INDUSTRIES.

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

35       (b) The customer model industries in this class shall be operated  
36 and managed by the department to provide Washington state manufacturers



1 or businesses with products or services currently produced or provided  
2 by out-of-state or foreign suppliers.

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

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

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

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

28 (2) CLASS II: TAX REDUCTION INDUSTRIES.

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

32 (b) The industries selected for development within this class  
33 shall, as much as possible, match the available pool of inmate work  
34 skills and aptitudes with the work opportunities in the free community.  
35 The industries shall be closely patterned after private sector  
36 industries but with the objective of reducing public support costs  
37 rather than making a profit. The products and services of this  
38 industry, including purchased products and services necessary for a

1 complete product line, may be sold to public agencies, to nonprofit  
2 organizations, and to private contractors when the goods purchased will  
3 be ultimately used by a public agency or a nonprofit organization.  
4 Clothing manufactured by an industry in this class may be donated to  
5 nonprofit organizations that provide clothing free of charge to low-  
6 income persons.

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

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

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

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

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

34 (3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES.

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

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

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

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

10        (b) Class III correctional industries shall be reviewed by the  
11 correctional industries board of directors to set policy for work  
12 crews. The department shall present to the board of directors  
13 quarterly detail statements showing where work crews worked, what  
14 correctional industry class, and the hours worked. The board of  
15 directors may review any class III program at its discretion.

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

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

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

24        (4) CLASS IV: COMMUNITY WORK INDUSTRIES.

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

30        (b) Class IV correctional industries shall be reviewed by the  
31 correctional industries board of directors to set policy for work  
32 crews. The department shall present to the board of directors  
33 quarterly detail statements showing where work crews worked, what  
34 correctional industry class, and the hours worked. The board of  
35 directors may review any class IV program at its discretion. Class IV

36 correctional industries operated in work camps established pursuant to  
37 RCW 72.64.050 are exempt from the requirements of this subsection

38 (4)(b).

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

5       (d) The department of corrections shall reimburse participating  
6       units of local government for liability and workers compensation  
7       insurance costs.

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

12      (5) CLASS V: COMMUNITY RESTITUTION PROGRAMS.

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

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

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

23      NEW SECTION. **Sec. 4.** A new section is added to chapter 72.09 RCW  
24      to read as follows:

25      (1) The department must prepare a threshold analysis for any  
26      proposed new class I correctional industries work program or the  
27      significant expansion of an existing class I correctional industries  
28      work program before the department enters into an agreement to provide  
29      such products or services. The analysis must state whether the  
30      proposed new or expanded program will impact any Washington business  
31      and must be based on information sufficient to evaluate the impact on  
32      Washington business.

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

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

4 (b) A detailed statement of the business costs of the proposed  
5 correctional industries work program compared to the business costs of  
6 the Washington businesses that may be impacted by the proposed class I  
7 correctional industries work program. Business costs of the proposed  
8 correctional industries work program include rent, water, sewer,  
9 electricity, disposal, labor costs, and any other quantifiable expense  
10 unique to operating in a prison. Business costs of the impacted  
11 Washington business include rent, water, sewer, electricity, disposal,  
12 property taxes, and labor costs including employee taxes, unemployment  
13 insurance, and workers' compensation.

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

21 (4) If a business impact analysis is completed, the department must  
22 conduct a public hearing to take public testimony on the business  
23 impact analysis. The department must, at a minimum, establish a  
24 publicly accessible web site containing information reasonably  
25 calculated to provide notice to each Washington business assigned the  
26 same three-digit standard industrial classification code, or the  
27 corresponding North American industry classification system code, as  
28 the organization seeking the class I correctional industries work  
29 program agreement of the date, time, and place of the hearing. Notice  
30 of the hearing shall be posted at least thirty days prior to the  
31 hearing.

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

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

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

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

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

33       (a) Achievement of basic academic skills through obtaining a high  
34 school diploma or its equivalent and achievement of vocational skills  
35 necessary for purposes of work programs and for an inmate to qualify  
36 for work upon release;

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

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

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

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

18 (a) Assessment. The department shall assess all inmates for their  
19 basic academic skill levels using a professionally accepted method of  
20 scoring reading, math, and language skills as grade level equivalents.  
21 The department shall determine an inmate's education history, work  
22 history, and vocational or work skills. The initial assessment shall  
23 be conducted, whenever possible, within the first thirty days of an  
24 inmate's entry into the correctional system, except that initial  
25 assessments are not required for inmates who are sentenced to life  
26 without the possibility of release, assigned to an intensive management  
27 unit within the first thirty days after entry into the correctional  
28 system, are returning to the correctional system within one year of a  
29 prior release, or whose physical or mental condition renders them  
30 unable to complete the assessment process. The department shall track  
31 and record changes in the basic academic skill levels of all inmates  
32 reflected in any testing or assessment performed as part of their  
33 education programming;

34 (b) Placement. The department shall follow the policies set forth  
35 in subsection (1) of this section in establishing criteria for placing  
36 inmates in education and work programs. The department shall, to the  
37 extent possible, place all inmates whose composite grade level score

1 for basic academic skills is below the eighth grade level in a combined  
2 education and work program. The placement criteria shall include at  
3 least the following factors:

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

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

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

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

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

17 (c) Performance and goals. The department shall establish, and  
18 periodically review, inmate behavior standards and program goals for  
19 all education and work programs. Inmates shall be notified of  
20 applicable behavior standards and program goals prior to placement in  
21 an education or work program and shall be removed from the education or  
22 work program if they consistently fail to meet the standards or goals;

23 (d) Financial responsibility. (i) The department shall establish  
24 a formula by which inmates, based on their ability to pay, shall pay  
25 all or a portion of the costs or tuition of certain programs. Inmates  
26 shall, based on the formula, pay a portion of the costs or tuition of  
27 participation in:

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

30 (B) An associate of arts or baccalaureate degree program when  
31 placement in a degree program is the result of a placement made under  
32 this subsection;

33 (ii) Inmates shall pay all costs and tuition for participation in:

34 (A) Any postsecondary academic degree program which is entered  
35 independently of a placement decision made under this subsection; and

36 (B) Second and subsequent vocational programs not associated with  
37 an inmate's work program.



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

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

8 (i) Shall not be required to participate in education programming;  
9 and

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

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

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

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

31 (8) The department shall adopt a plan to reduce the per-pupil cost  
32 of instruction by, among other methods, increasing the use of volunteer  
33 instructors and implementing technological efficiencies. The plan  
34 shall be adopted by December 1996 and shall be transmitted to the  
35 legislature upon adoption. The department shall, in adoption of the  
36 plan, consider distance learning, satellite instruction, video tape  
37 usage, computer-aided instruction, and flexible scheduling of offender  
38 instruction.

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

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

8 The definitions in this section apply throughout this chapter.

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

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

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

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

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

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

24 (7) "Good conduct" means compliance with department rules and  
25 policies.

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

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

35 (10) "Indigent inmate," "indigent," and "indigency" mean an inmate  
36 who has less than a ten-dollar balance of disposable income in his or

1 her institutional account on the day a request is made to utilize funds  
2 and during the thirty days previous to the request.

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

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

14 (13) "Secretary" means the secretary of corrections or his or her  
15 designee.

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

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

25 ~~((+15+))~~ (16) "Unfair competition" means any net competitive  
26 advantage that a business may acquire as a result of a correctional  
27 industries contract, including labor costs, rent, tax advantages,  
28 utility rates (water, sewer, electricity, and disposal), and other  
29 overhead costs. To determine net competitive advantage, the  
30 correctional industries board shall review and quantify any expenses  
31 unique to operating a for-profit business inside a prison.

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

35 (18) "Work programs" means all classes of correctional industries  
36 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:

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

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

4 (iii) Twenty percent to the department to contribute to the cost of  
5 incarceration; and

6 (iv) An amount equal to any legal financial obligations owed by the  
7 inmate established by an order of any Washington state superior court  
8 up to the total amount of the award.

9 (d) The formula shall include the following minimum deductions from  
10 class III gratuities:

11 (i) Five percent for the purpose of crime victims' compensation;  
12 and

13 (ii) Fifteen percent for any child support owed under a support  
14 order.

15 (e) The formula shall include the following minimum deduction from  
16 class IV gross gratuities:

17 (i) Five percent to the department to contribute to the cost of  
18 incarceration; and

19 (ii) Fifteen percent for any child support owed under a support  
20 order.

21 (2) Any person sentenced to life imprisonment without possibility  
22 of release or parole under chapter 10.95 RCW or sentenced to death  
23 shall be exempt from the requirement under subsection (1)(a)(ii),  
24 (b)(ii), or (c)(ii).

25 (3) The department personal inmate savings account, together with  
26 any accrued interest, shall only be available to an inmate at the time  
27 of his or her release from confinement, unless the secretary determines  
28 that an emergency exists for the inmate, at which time the funds can be  
29 made available to the inmate in an amount determined by the secretary.  
30 The management of classes I, II, and IV correctional industries may  
31 establish an incentive payment for offender workers based on  
32 productivity criteria. This incentive shall be paid separately from  
33 the hourly wage/gratuity rate and shall not be subject to the specified  
34 deduction for cost of incarceration.

35 (4)(a) Subject to availability of funds for the correctional  
36 industries program, the expansion of inmate employment in class I and  
37 class II correctional industries shall be implemented according to the  
38 following schedule:

1 (i) Not later than June 30, 2005, the secretary shall achieve a net  
2 increase of at least two hundred in the number of inmates employed in  
3 class I or class II correctional industries work programs above the  
4 number so employed on June 30, 2003;

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

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

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

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

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

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

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

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

1           ~~((6))~~ (7) The department shall develop the necessary  
2 administrative structure to recover inmates' wages and keep records of  
3 the amount inmates pay for the costs of incarceration and amenities.  
4 All funds deducted from inmate wages under subsection (1) of this  
5 section for the purpose of contributions to the cost of incarceration  
6 shall be deposited in a dedicated fund with the department and shall be  
7 used only for the purpose of enhancing and maintaining correctional  
8 industries work programs.

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

12           ~~(a) Not later than June 30, 1995, the secretary shall achieve a net~~  
13 ~~increase of at least two 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           ~~(b) Not later than June 30, 1996, the secretary shall achieve a net~~  
17 ~~increase of at least four 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           ~~(c) Not later than June 30, 1997, the secretary shall achieve a net~~  
21 ~~increase of at least six 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           ~~(d) Not later than June 30, 1998, the secretary shall achieve a net~~  
25 ~~increase of at least nine hundred in the number of inmates employed in~~  
26 ~~class I or class II correctional industries work programs above the~~  
27 ~~number so employed on June 30, 1994;~~

28           ~~(e) Not later than June 30, 1999, the secretary shall achieve a net~~  
29 ~~increase of at least one thousand two 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           ~~(f) Not later than June 30, 2000, the secretary shall achieve a net~~  
33 ~~increase of at least one thousand five hundred in the number of inmates~~  
34 ~~employed in class I or class II correctional industries work programs~~  
35 ~~above the number so employed on June 30, 1994.))~~

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

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

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

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

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

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

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

21 (1) An institution of higher education may exercise independently  
22 those powers otherwise granted to the director of general  
23 administration in chapter 43.19 RCW in connection with the purchase and  
24 disposition of all material, supplies, services, and equipment needed  
25 for the support, maintenance, and use of the respective institution of  
26 higher education. Property disposition policies followed by  
27 institutions of higher education shall be consistent with policies  
28 followed by the department of general administration. Purchasing  
29 policies and procedures followed by institutions of higher education  
30 shall be in compliance with chapters 39.19, 39.29, and 43.03 RCW, and  
31 RCW 43.19.1901, 43.19.1906, 43.19.1911, 43.19.1917, 43.19.1937,  
32 43.19.534, 43.19.685, 43.19.700 through 43.19.704, and 43.19.560  
33 through 43.19.637. The community and technical colleges shall comply  
34 with RCW 43.19.450. Except for the University of Washington,  
35 institutions of higher education shall comply with RCW (~~43.19.1935,~~



1 ~~43.19.19363, and 43.19.19368~~) 43.41.310, 43.41.290, and 43.41.350. If  
2 an institution of higher education can satisfactorily demonstrate to  
3 the director of the office of financial management that the cost of  
4 compliance is greater than the value of benefits from any of the  
5 following statutes, then it shall be exempt from them: RCW 43.19.685;  
6 43.19.534; and 43.19.637. Any institution of higher education that  
7 chooses to exercise independent purchasing authority for a commodity or  
8 group of commodities shall notify the director of general  
9 administration. Thereafter the director of general administration  
10 shall not be required to provide those services for that institution  
11 for the duration of the general administration contract term for that  
12 commodity or group of commodities.

13 (2) The council of presidents and the state board for community and  
14 technical colleges shall convene its correctional industries business  
15 development advisory committee, and work collaboratively with  
16 correctional industries, to:

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

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

22 (c) Develop recommendations on ways to continue to build  
23 correctional industries' business with institutions of higher  
24 education.

25 (3) Higher education and correctional industries shall develop a  
26 plan to build higher education business with correctional industries to  
27 increase higher education purchases of correctional industries  
28 products, based upon the criteria established in subsection (2) of this  
29 section. The plan shall include the correctional industries'  
30 production and sales goals for higher education and an approved list of  
31 products from which higher education institutions shall purchase, based  
32 on the criteria established in subsection (2) of this section. Higher  
33 education and correctional industries shall report to the legislature  
34 regarding the plan and its implementation no later than January 30,  
35 2005.

36 (4) Institutions of higher education shall set as a target to  
37 contract, beginning not later than June 30, 2006, to purchase one  
38 percent of the total goods and services required by the institutions

1 each year produced or provided in whole or in part from class II inmate  
2 work programs operated by the department of corrections. Institutions  
3 of higher education shall set as a target to contract, beginning not  
4 later than June 30, 2008, to purchase two percent of the total goods  
5 and services required by the institutions each year produced or  
6 provided in whole or in part from class II inmate work programs  
7 operated by the department of corrections.

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

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

22 NEW SECTION. Sec. 12. Section 3 of this act takes effect July 1,  
23 2005.

24 NEW SECTION. Sec. 13. Section 2 of this act expires July 1, 2005.  
Passed by the Senate March 9, 2004.  
Passed by the House March 4, 2004.  
Approved by the Governor March 26, 2004.  
Filed in Office of Secretary of State March 26, 2004.