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SECOND SUBSTITUTE SENATE BILL 6489

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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, 28B.10.029, and 72.09.111; adding a new  
4 section to chapter 72.09 RCW; providing an effective date; and  
5 providing an expiration date.

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

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

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

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

15 (a) Offer inmates meaningful employment, work experience, and  
16 training in vocations that are specifically designed to reduce  
17 recidivism and thereby enhance public safety by providing opportunities  
18 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, the  
10 significant expansion of any new or existing class I, class III, or  
11 class IV correctional industries work programs that unfairly compete  
12 with Washington businesses. The legislature intends that the  
13 requirements relating to fair competition in the correctional  
14 industries work programs be liberally construed to protect Washington  
15 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 work crews and labor camps,  
37 including any potential new class III correctional industries work  
38 program or the significant expansion of an existing class III

1 correctional industries work program, shall be reviewed by the  
2 correctional industries board of directors. Before the correctional  
3 industries board of directors approves a new class III work program or  
4 the significant expansion of employment in an existing class III work  
5 program, the board must certify that there will be minimal impact on  
6 existing Washington workers.

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

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

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

15 (4) CLASS IV: COMMUNITY WORK INDUSTRIES.

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

21 (b) Class IV correctional industries work crews and labor camps,  
22 including any potential new class IV correctional industries work  
23 program or the significant expansion of an existing class IV  
24 correctional industries work program, shall be reviewed by the  
25 correctional industries board of directors. Before the correctional  
26 industries board of directors approves a new class IV work program or  
27 the significant expansion of employment in an existing class IV work  
28 program, the board must certify that there will be minimal impact on  
29 existing Washington workers.

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

34 (d) The department of corrections shall reimburse participating  
35 units of local government for liability and workers compensation  
36 insurance costs.

37 (e) Inmates who work in this class of industries shall do so at

1 their own choice and shall receive a gratuity which shall not exceed  
2 the wage paid for work of a similar nature in the locality in which the  
3 industry is located.

4 (5) CLASS V: COMMUNITY RESTITUTION PROGRAMS.

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

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

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

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

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

33 (1) CLASS I: FREE VENTURE INDUSTRIES.

34 (a) The employer model industries in this class shall be operated  
35 and managed in total or in part by any profit or nonprofit organization  
36 pursuant to an agreement between the organization and the department.

1 The organization shall produce goods or services for sale to both the  
2 public and private sector.

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

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

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

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

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

32 (2) CLASS II: TAX REDUCTION INDUSTRIES.

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

36 (b) The industries selected for development within this class  
37 shall, as much as possible, match the available pool of inmate work  
38 skills and aptitudes with the work opportunities in the free community.



1 The industries shall be closely patterned after private sector  
2 industries but with the objective of reducing public support costs  
3 rather than making a profit. The products and services of this  
4 industry, including purchased products and services necessary for a  
5 complete product line, may be sold to public agencies, to nonprofit  
6 organizations, and to private contractors when the goods purchased will  
7 be ultimately used by a public agency or a nonprofit organization.  
8 Clothing manufactured by an industry in this class may be donated to  
9 nonprofit organizations that provide clothing free of charge to low-  
10 income persons.

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

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

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

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

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

38 (3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES.

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

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

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

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

13        (b) Class III correctional industries work crews and labor camps,  
14 including any potential new class III correctional industries work  
15 program or the significant expansion of an existing class III  
16 correctional industries work program, shall be reviewed by the  
17 correctional industries board of directors. Before the correctional  
18 industries board of directors approves a new class III work program or  
19 the significant expansion of employment in an existing class III work  
20 program, the board must certify that there will be minimal impact on  
21 existing Washington workers.

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

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

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

30        (4) CLASS IV: COMMUNITY WORK INDUSTRIES.

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

36        (b) Class IV correctional industries work crews and labor camps,  
37 including any potential new class IV correctional industries work  
38 program or the significant expansion of an existing class IV

1 correctional industries work program, shall be reviewed by the  
2 correctional industries board of directors. Before the correctional  
3 industries board of directors approves a new class IV work program or  
4 the significant expansion of employment in an existing class IV work  
5 program, the board must certify that there will be minimal impact on  
6 existing Washington workers.

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

31 (1) The department must prepare a threshold analysis for any  
32 proposed new class I correctional industries work program or the  
33 significant expansion of an existing class I correctional industries  
34 work program before the department enters into an agreement to provide  
35 such products or services. The analysis must state whether the  
36 proposed new or expanded program will impact any Washington business

1 and must be based on information sufficient to evaluate the impact on  
2 Washington business.

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

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

11 (b) A detailed statement of the actual business costs of the  
12 proposed correctional industries work program compared to the actual  
13 business costs of the impacted Washington businesses. Actual business  
14 costs of the proposed correctional industries work program include but  
15 are not limited to rent, water, sewer, electricity, disposal, labor  
16 costs, and any other quantifiable expense unique to operating in a  
17 prison. Actual business costs of the impacted Washington business  
18 include but are not limited to rent, water, sewer, electricity,  
19 disposal, property taxes, and labor costs including employee taxes,  
20 unemployment insurance, and workers' compensation.

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

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

1 finding that the proposed new or expanded class I correctional  
2 industries work program: (a) Will not compete with any Washington  
3 business; (b) will not compete unfairly with any Washington business;  
4 or (c) will compete unfairly with any Washington business and is  
5 therefore prohibited under this act.

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

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

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

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

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

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

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

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

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

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

1 reflected in any testing or assessment performed as part of their  
2 education programming;

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

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

- 17 (ii) An inmate's education history and basic academic skills;
- 18 (iii) An inmate's work history and vocational or work skills;
- 19 (iv) An inmate's economic circumstances, including but not limited  
20 to an inmate's family support obligations; and
- 21 (v) Where applicable, an inmate's prior performance in department-  
22 approved education or work programs;

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

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

- 34 (A) Second and subsequent vocational programs associated with an  
35 inmate's work programs; and
- 36 (B) An associate of arts or baccalaureate degree program when  
37 placement in a degree program is the result of a placement made under  
38 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



1 shall be adopted by December 1996 and shall be transmitted to the  
2 legislature upon adoption. The department shall, in adoption of the  
3 plan, consider distance learning, satellite instruction, video tape  
4 usage, computer-aided instruction, and flexible scheduling of offender  
5 instruction.

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

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

13 The definitions in this section apply throughout this chapter.

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

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

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

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

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

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

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

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

34 (9) "Immediate family" means the inmate's children, stepchildren,  
35 grandchildren, great grandchildren, parents, stepparents, grandparents,  
36 great grandparents, siblings, and a person legally married to an

1 inmate. "Immediate family" does not include an inmate adopted by  
2 another inmate or the immediate family of the adopted or adopting  
3 inmate.

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

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

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

19 (13) "Secretary" means the secretary of corrections or his or her  
20 designee.

21 (14) "Significant expansion" includes any expansion into a new  
22 product line or service or an increase in production of the same  
23 product or service. An increase in production of the same product or  
24 service is one that results from an increase in benefits provided by  
25 the department, including a decrease in labor costs, rent, or utility  
26 rates (water, sewer, electricity, and disposal), an increase in work  
27 program space, tax advantages, or other overhead costs.

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

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

1 (17) "Washington business" means a person subject to chapter 82.04  
2 RCW.

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

5 **Sec. 7.** RCW 28B.10.029 and 1998 c 344 s 5 and 1998 c 111 s 2 are  
6 each reenacted and amended to read as follows:

7 (1) An institution of higher education may exercise independently  
8 those powers otherwise granted to the director of general  
9 administration in chapter 43.19 RCW in connection with the purchase and  
10 disposition of all material, supplies, services, and equipment needed  
11 for the support, maintenance, and use of the respective institution of  
12 higher education. Property disposition policies followed by  
13 institutions of higher education shall be consistent with policies  
14 followed by the department of general administration. Purchasing  
15 policies and procedures followed by institutions of higher education  
16 shall be in compliance with chapters 39.19, 39.29, and 43.03 RCW, and  
17 RCW 43.19.1901, 43.19.1906, 43.19.1911, 43.19.1917, 43.19.1937,  
18 43.19.534, 43.19.685, 43.19.700 through 43.19.704, and 43.19.560  
19 through 43.19.637. The community and technical colleges shall comply  
20 with RCW 43.19.450. Except for the University of Washington,  
21 institutions of higher education shall comply with RCW (~~43.19.1935,~~  
22 ~~43.19.19363,~~ and ~~43.19.19368~~) 43.41.310, 43.41.290, and 43.41.350. If  
23 an institution of higher education can satisfactorily demonstrate to  
24 the director of the office of financial management that the cost of  
25 compliance is greater than the value of benefits from any of the  
26 following statutes, then it shall be exempt from them: RCW  
27 43.19.685(~~(; 43.19.534;)~~) and 43.19.637. Any institution of higher  
28 education that chooses to exercise independent purchasing authority for  
29 a commodity or group of commodities shall notify the director of  
30 general administration. Thereafter the director of general  
31 administration shall not be required to provide those services for that  
32 institution for the duration of the general administration contract  
33 term for that commodity or group of commodities.

34 (2) An institution of higher education may exercise independently  
35 those powers otherwise granted to the public printer in chapter 43.78  
36 RCW in connection with the production or purchase of any printing and  
37 binding needed by the respective institution of higher education.

1 Purchasing policies and procedures followed by institutions of higher  
2 education shall be in compliance with chapter 39.19 RCW. Any  
3 institution of higher education that chooses to exercise independent  
4 printing production or purchasing authority shall notify the public  
5 printer. Thereafter the public printer shall not be required to  
6 provide those services for that institution.

7 **Sec. 8.** RCW 72.09.111 and 2003 c 379 s 25 and 2003 c 271 s 2 are  
8 each reenacted and amended to read as follows:

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

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

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

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

25 (iii) Twenty percent to the department to contribute to the cost of  
26 incarceration; and

27 (iv) Twenty percent for payment of legal financial obligations for  
28 all inmates who have legal financial obligations owing in any  
29 Washington state superior court.

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

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

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

35 (iii) Fifteen percent to the department to contribute to the cost  
36 of incarceration;

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

4 (v) Fifteen percent for any child support owed under a support  
5 order.

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

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

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

11 (iii) Twenty percent to the department to contribute to the cost of  
12 incarceration; and

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

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

18 (i) Five percent for the purpose of crime victims' compensation;  
19 and

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

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

24 (i) Five percent to the department to contribute to the cost of  
25 incarceration; and

26 (ii) Fifteen percent for any child support owed under a support  
27 order.

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

32 (3) The department personal inmate savings account, together with  
33 any accrued interest, shall only be available to an inmate at the time  
34 of his or her release from confinement, unless the secretary determines  
35 that an emergency exists for the inmate, at which time the funds can be  
36 made available to the inmate in an amount determined by the secretary.  
37 The management of classes I, II, and IV correctional industries may  
38 establish an incentive payment for offender workers based on

1 productivity criteria. This incentive shall be paid separately from  
2 the hourly wage/gratuity rate and shall not be subject to the specified  
3 deduction for cost of incarceration.

4 (4)(a) Within the funds appropriated for the correctional  
5 industries program, the expansion of inmate employment in class I and  
6 class II correctional industries shall be implemented according to the  
7 following schedule:

8 (i) Not later than June 30, 2005, 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, 2003;

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

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

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

24 (v) Not later than June 30, 2009, 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, 2003;

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

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

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

1       (~~(5)~~) (6) The department shall explore other methods of  
2 recovering a portion of the cost of the inmate's incarceration and for  
3 encouraging participation in work programs, including development of  
4 incentive programs that offer inmates benefits and amenities paid for  
5 only from wages earned while working in a correctional industries work  
6 program.

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

15       (~~(7)~~) (8) The expansion of inmate employment in class I and class  
16 II correctional industries shall be implemented according to the  
17 following schedule:

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

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

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

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

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

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

5 ~~((+8))~~ (9) It shall be in the discretion of the secretary to  
6 apportion the inmates between class I and class II depending on  
7 available contracts and resources.

8 ~~((+9))~~ (10) Nothing in this section shall limit the authority of  
9 the department of social and health services division of child support  
10 from taking collection action against an inmate's moneys, assets, or  
11 property pursuant to chapter 26.23, 74.20, or 74.20A RCW.

12 NEW SECTION. **Sec. 9.** Section 3 of this act takes effect July 1,  
13 2005.

14 NEW SECTION. **Sec. 10.** Section 2 of this act expires July 1, 2005.

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