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**SUBSTITUTE HOUSE BILL 1024**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Simmons, Reed, Berry, Ryu, Goodman, Bateman, Ramel, Peterson, Street, Doglio, Macri, Reeves, Wylie, Alvarado, Thai, Santos, Ormsby, and Fosse)

AN ACT Relating to labor and income of incarcerated persons; amending RCW 72.09.015, 72.09.100, 72.09.110, 72.09.111, 72.09.130, 72.09.460, and 72.09.480; adding a new section to chapter 72.09 RCW; creating new sections; repealing RCW 72.09.400 and 72.09.410; and providing an effective date.

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

NEW SECTION. **Sec.**  This act may be known and cited as the real labor real wages act.

**Sec.**  RCW 72.09.015 and 2022 c 254 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter.

(1) "Adult basic education" means education or instruction designed to achieve general competence of skills in reading, writing, and oral communication, including English as a second language and preparation and testing services for obtaining a high school diploma or a high school equivalency certificate as provided in RCW 28B.50.536.

(2) "Base level of correctional services" means the minimum level of field services the department of corrections is required by statute to provide for the supervision and monitoring of ((~~offenders~~)) incarcerated persons.

(3) "Civil judgment for assault" means a civil judgment for monetary damages awarded to a correctional officer or department employee entered by a court of competent jurisdiction against an ((~~inmate~~)) incarcerated person that is based on, or arises from, injury to the correctional officer or department employee caused by the ((~~inmate~~)) incarcerated person while the correctional officer or department employee was acting in the course and scope of his or her employment.

(4) "Community custody" has the same meaning as that provided in RCW 9.94A.030 and also includes community placement and community supervision as defined in RCW 9.94B.020.

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

(6) "Correctional facility" means a facility or institution operated directly or by contract by the secretary for the purposes of incarcerating adults in total or partial confinement, as defined in RCW 9.94A.030.

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

(8) "Department" means the department of corrections.

(9) "Earned early release" means earned release as authorized by RCW 9.94A.729.

(10) "Evidence‑based" means a program or practice that has had multiple‑site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective in reducing recidivism for the population.

(11) "Extended family visit" means an authorized visit between an ((~~inmate~~)) incarcerated person and a member of his or her immediate family that occurs in a private visiting unit located at the correctional facility where the ((~~inmate~~)) incarcerated person is confined.

(12) "Good conduct" means compliance with department rules and policies.

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

(14) "Immediate family" means the ((~~inmate's~~)) incarcerated person's children, stepchildren, grandchildren, great grandchildren, parents, stepparents, grandparents, great grandparents, siblings, aunts, uncles, and a person legally married to or in a state registered domestic partnership with an ((~~inmate~~)) incarcerated person. "Immediate family" includes the immediate family of an ((~~inmate~~)) incarcerated person who was adopted as a child or an adult, but does not include an ((~~inmate~~)) incarcerated person adopted by another ((~~inmate~~)) incarcerated person.

(15) "Indigent inmate," "indigent incarcerated person," "indigent," and "indigency" mean an ((~~inmate~~)) incarcerated person who has less than a $25 balance of disposable income in his or her institutional account on the day a request is made to utilize funds and during the 30 days previous to the request.

(16) "Individual reentry plan" means the plan to prepare an ((~~offender~~)) incarcerated person for release into the community. It should be developed collaboratively between the department and the ((~~offender~~)) person and based on an assessment of the ((~~offender~~)) person using a standardized and comprehensive tool to identify the ((~~offender's~~)) person's risks and needs. The individual reentry plan describes actions that should occur to prepare individual ((~~offenders~~)) incarcerated persons for release from prison or jail, specifies the supervision and services they will experience in the community, and describes ((~~an offender's~~)) a person's eventual discharge to aftercare upon successful completion of supervision. An individual reentry plan is updated throughout the period of ((~~an offender's~~)) a person's incarceration and supervision to be relevant to the ((~~offender's~~)) person's current needs and risks.

(17) "Inmate," ((~~means~~)) "incarcerated individual," and "incarcerated person" mean a person committed to the custody of the department, including but not limited to persons residing in a correctional institution or facility and persons released from such facility on furlough, work release, or community custody, and persons received from another state, state agency, county, federally recognized tribe, or federal jurisdiction.

(18) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix.

(19) "Physical restraint" means the use of any bodily force or physical intervention to control an ((~~offender~~)) incarcerated person or limit an ((~~offender's~~)) incarcerated person's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent an ((~~offender~~)) incarcerated person from completing an act that would result in potential bodily harm to self or others or damage property;

(b) Remove a disruptive ((~~offender~~)) incarcerated person who is unwilling to leave the area voluntarily; or

(c) Guide an ((~~offender~~)) incarcerated person from one location to another.

(20) "Postpartum recovery" means (a) the entire period a woman or youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the woman or youth leaves the hospital, birthing center, or clinic.

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

(22) "Promising practice" means a practice that presents, based on preliminary information, potential for becoming a research‑based or consensus‑based practice.

(23) "Research‑based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence‑based practices.

(24) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons.

(25) "Secretary" means the secretary of corrections or his or her designee.

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

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

(28) "Transportation" means the conveying, by any means, of an incarcerated pregnant woman or youth from the correctional facility to another location from the moment she leaves the correctional facility to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated woman or youth from the correctional facility to a transport vehicle and from the vehicle to the other location.

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

(30) "Vocational training" or "vocational education" means "vocational education" as defined in RCW 72.62.020.

(31) "Washington business" means an in-state manufacturer or service provider subject to chapter 82.04 RCW existing on June 10, 2004.

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

**Sec.**  RCW 72.09.100 and 2012 c 220 s 2 are each amended to read as follows:

It is the intent of the legislature to vest in the department the power to provide for a comprehensive ((~~inmate~~)) work program and to remove statutory and other restrictions which have limited work programs in the past. It is also the intent of the legislature to ensure that the department, in developing and selecting correctional industries work programs, does not encourage the development of, or provide for selection of or contracting for, or the significant expansion of, any new or existing class I correctional industries work programs that unfairly compete with Washington businesses. The legislature intends that the requirements relating to fair competition in the correctional industries work programs be liberally construed by the department to protect Washington businesses from unfair competition. For purposes of establishing such a comprehensive program, the legislature recommends that the department consider adopting any or all, or any variation of, the following classes of work programs:

(1) CLASS I: FREE VENTURE INDUSTRIES.

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

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

(c) The department shall review these proposed industries, including any potential new class I industries work program or the significant expansion of an existing class I industries work program, before the department contracts to provide such products or services. The review shall include the analysis required under RCW 72.09.115 to determine if the proposed correctional industries work program will compete with any Washington business. An agreement for a new class I correctional industries work program, or an agreement for a significant expansion of an existing class I correctional industries work program, that unfairly competes with any Washington business is prohibited.

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

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

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

(2) CLASS II: TAX REDUCTION INDUSTRIES.

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

(b)(i) The industries selected for development within this class shall, as much as possible, match the available pool of ((~~inmate~~)) incarcerated person work skills and aptitudes with the work opportunities in the free community. The industries shall be closely patterned after private sector industries but with the objective of reducing public support costs rather than making a profit.

(ii) Except as provided in RCW ((~~43.19.534(3)~~)) 39.26.251(2) and this section, the products and services of this industry, including purchased products and services necessary for a complete product line, may be sold to the following:

(A) Public agencies;

(B) Nonprofit organizations;

(C) Private contractors when the goods purchased will be ultimately used by a public agency or a nonprofit organization;

(D) An employee and immediate family members of an employee of the department;

(E) A person under the supervision of the department and his or her immediate family members; and

(F) A licensed health professional for the sole purpose of providing eyeglasses to enrollees of the state medical program at no more than the health professional's cost of acquisition.

(iii) The department shall authorize the type and quantity of items that may be purchased and sold under (b)(ii)(D) and (E) of this subsection.

(iv) It is prohibited to purchase any item purchased under (b)(ii)(D) and (E) of this subsection for the purpose of resale.

(v) Clothing manufactured by an industry in this class may be donated to nonprofit organizations that provide clothing free of charge to low-income persons.

(c) Under no circumstance shall ((~~offenders~~)) incarcerated persons under the custody of the department of corrections make or assemble uniforms to be worn by correctional officers employed with the department.

(d)(i) Class II correctional industries products and services shall be reviewed by the department before offering such products and services for sale to private contractors.

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

(e) Security and custody services shall be provided without charge by the department.

(f) ((~~Inmates~~)) Incarcerated persons working in this class of industries shall do so at their own choice and shall be paid for their work on a gratuity scale which shall not exceed the wage paid for work of a similar nature in the locality in which the industry is located and which is approved by the director of correctional industries, provided that the payment is no less than $1.50 per hour.

(g) Provisions of RCW 41.06.142 shall not apply to contracts with Washington state businesses entered into by the department through class II industries.

(3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES.

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

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

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

(iii) Whenever possible, to offset tax and other public support costs.

(b) Class III ((~~correctional~~)) industries shall be reviewed by the department to set policy for work crews. The department shall prepare quarterly detail statements showing where work crews worked, what ((~~correctional~~)) industry class, and the hours worked.

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

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

(e) Except for ((~~inmates~~)) incarcerated persons who work in work training programs, ((~~inmates~~)) incarcerated persons in this class shall do so at their own choice and shall be paid for their work in accordance with ((~~an inmate~~)) a gratuity scale((~~. The scale shall be adopted~~)) approved by the secretary of corrections, provided that the payment is no less than $1.50 per hour and the monthly maximum limit on such payment is no less than $200.

(4) CLASS IV: COMMUNITY WORK INDUSTRIES.

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

(b) Class IV ((~~correctional~~)) industries shall be reviewed by the department to set policy for work crews. The department shall prepare quarterly detail statements showing where work crews worked, what ((~~correctional~~)) industry class, and the hours worked. Class IV ((~~correctional~~)) industries operated in work camps established pursuant to RCW 72.64.050 are exempt from the requirements of this subsection (4)(b).

(c) ((~~Inmates~~)) Incarcerated persons in this program shall reside in facilities owned by, contracted for, or licensed by the department. A unit of local government shall provide work supervision services without charge to the state and shall pay the ((~~inmate's~~)) incarcerated person's wage.

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

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

(5) CLASS V: COMMUNITY RESTITUTION PROGRAMS.

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

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

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

**Sec.**  RCW 72.09.110 and 1993 sp.s. c 20 s 5 are each amended to read as follows:

((~~All inmates working in prison industries shall participate in the cost of corrections, including costs to develop and implement correctional industries programs, by means of deductions from their gross wages. The secretary may direct the state treasurer to deposit a portion of these moneys in the crime victims compensation account.~~)) The secretary shall direct that all moneys received by an ((~~inmate~~)) incarcerated person for testifying in any judicial proceeding shall be deposited into the crime victims compensation account.

When the secretary finds it appropriate and not unduly destructive of the work incentive, the secretary may also provide deductions from correctional industries wages and gratuities for savings and family support.

**Sec.**  RCW 72.09.111 and 2017 c 81 s 1 are each amended to read as follows:

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

(a) The formula shall include the following maximum allowable deductions from class I wages ((~~and from all others earning at least minimum wage~~)):

(i) Five percent to the crime victims' compensation account provided in RCW 7.68.045;

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

(iii) ((~~Twenty~~)) Five percent to the department to contribute to the cost of incarceration;

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

(v) Twenty percent for payment of any civil judgment for assault for ((~~inmates~~)) incarcerated persons who are subject to a civil judgment for assault in any Washington state court or federal court.

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

(i) Five percent to the crime victims' compensation account provided in RCW 7.68.045;

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

(iii) ((~~Fifteen~~)) Five percent to the department to contribute to the cost of incarceration;

(iv) Twenty percent for payment of legal financial obligations for all ((~~inmates~~)) incarcerated persons who have legal financial obligations owing in any Washington state superior court;

(v) ((~~Fifteen~~)) Twenty percent for any child support owed under a support order; and

(vi) ((~~Fifteen~~)) Twenty percent for payment of any civil judgment for assault for ((~~inmates~~)) incarcerated persons who are subject to a civil judgment for assault in any Washington state court or federal court.

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

~~(i) Five percent to the crime victims' compensation account provided in RCW 7.68.045;~~

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

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

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

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

~~(i) Five percent for the crime victims' compensation account provided in RCW 7.68.045;~~

~~(ii) Fifteen percent for any child support owed under a support order; and~~

~~(iii) Fifteen percent for payment of any civil judgment for assault for inmates who are subject to a civil judgment for assault in any Washington state court or federal court.~~

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

~~(i) Five percent to the department to contribute to the cost of incarceration;~~

~~(ii) Fifteen percent for any child support owed under a support order; and~~

~~(iii) Fifteen percent for payment of any civil judgment for assault for inmates who are subject to a civil judgment for assault in any Washington state court or federal court.~~))

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

(3)(a) The department personal ((~~inmate~~)) savings account, together with any accrued interest, may be made available to an ((~~inmate~~)) incarcerated person at the following times:

(i) During confinement to pay for accredited postsecondary educational expenses;

(ii) Prior to the release from confinement to pay for department-approved reentry activities that promote successful community reintegration; or

(iii) When the secretary determines that an emergency exists for the ((~~inmate~~)) incarcerated person.

(b) The secretary shall establish guidelines for the release of funds pursuant to (a) of this subsection, giving consideration to the ((~~inmate's~~)) incarcerated person's need for resources at the time of his or her release from confinement.

(c) Any funds remaining in an ((~~offender's~~)) incarcerated person's personal ((~~inmate~~)) savings account shall be made available to the ((~~offender~~)) person at the time of his or her release from confinement.

(4) The management of classes I, II, and IV correctional industries may establish an incentive payment for ((~~offender~~)) incarcerated workers based on productivity criteria. This incentive shall be paid separately from the hourly wage/gratuity rate and shall not be subject to the specified deduction for cost of incarceration.

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

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

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

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

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

(10) For purposes of this section, "wages" means monetary compensation due to an ((~~offender~~)) incarcerated worker by reason of his or her participation in a class I work program, subject to allowable deductions.

**Sec.**  RCW 72.09.130 and 1995 1st sp.s. c 19 s 6 are each amended to read as follows:

(1) The department shall adopt, by rule, a system that clearly links an ((~~inmate's~~)) incarcerated person's behavior and participation in available education and work programs with the receipt or denial of earned early release days and other privileges. The system shall include increases or decreases in the degree of liberty granted the ((~~inmate~~)) incarcerated person within the programs operated by the department, access to or withholding of privileges available within correctional institutions, and recommended increases or decreases in the number of earned early release days that an ((~~inmate~~)) incarcerated person can earn for good conduct and good performance, except an incarcerated person's earned early release and other privileges may not be reduced based on the person's choice to not participate in work programs.

(2) Earned early release days shall be recommended by the department as a reward for accomplishment. The system shall be fair, measurable, and understandable to ((~~offenders~~)) incarcerated persons, staff, and the public. At least once in each twelve-month period, the department shall inform the ((~~offender~~)) incarcerated person in writing as to his or her conduct and performance. This written evaluation shall include reasons for awarding or not awarding recommended earned early release days for good conduct and good performance. An ((~~inmate~~)) incarcerated person is not eligible to receive earned early release days during any time in which he or she refuses to participate in an available education ((~~or work~~)) program into which he or she has been placed under RCW 72.09.460. An incarcerated person's earned early release days may not be reduced based on the person's choice to not participate in work programs.

(3) The department shall provide each ((~~offender~~)) incarcerated person in its custody a written description of the system created under this section.

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

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

(2) The legislature intends that all incarcerated individuals be required to participate in department-approved education programs, ((~~work programs, or both,~~)) unless exempted as specifically provided in this section. Eligible incarcerated individuals who refuse to participate in available education ((~~or work~~)) programs available at no charge to the incarcerated individuals shall lose privileges according to the system established under RCW 72.09.130; however, an incarcerated person's choice to not participate in a work program may not result in loss of privileges under section 9 of this act. Eligible incarcerated individuals who are required to contribute financially to an education or work program and refuse to contribute shall be placed in another work program. Refusal to contribute shall not result in a loss of privileges.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Sec.**  RCW 72.09.480 and 2015 c 238 s 1 are each amended to read as follows:

(1) Unless the context clearly requires otherwise, the definitions in this section apply to this section.

(a) "Cost of incarceration" means the cost of providing an inmate with shelter, food, clothing, transportation, supervision, and other services and supplies as may be necessary for the maintenance and support of the inmate while in the custody of the department, based on the average per inmate costs established by the department and the office of financial management.

(b) "Minimum term of confinement" means the minimum amount of time an ((~~inmate~~)) incarcerated person will be confined in the custody of the department, considering the sentence imposed and adjusted for the total potential earned early release time available to the ((~~inmate~~)) incarcerated person.

(c) "Program" means any series of courses or classes necessary to achieve a proficiency standard, certificate, or postsecondary degree.

(2) When an ((~~inmate~~)) incarcerated person, except as provided in subsection((~~s (4) and~~)) (8) of this section, receives any funds in addition to his or her wages or gratuities, except settlements or awards resulting from legal action, the additional funds shall be subject to the following maximum allowable deductions and the priorities established in chapter 72.11 RCW:

(a) Five percent to the crime victims' compensation account provided in RCW 7.68.045;

(b) Ten percent to a department personal ((~~inmate~~)) savings account;

(c) Twenty percent for payment of legal financial obligations for all ((~~inmates~~)) incarcerated persons who have legal financial obligations owing in any Washington state superior court;

(d) Twenty percent for any child support owed under a support order;

(e) ((~~Twenty~~)) Five percent to the department to contribute to the cost of incarceration; and

(f) Twenty percent for payment of any civil judgment for assault for all ((~~inmates~~)) incarcerated persons who are subject to a civil judgment for assault in any Washington state court or federal court.

(3) When an ((~~inmate~~)) incarcerated person, except as provided in subsection ((~~(9)~~)) (8) of this section, receives any funds from a settlement or award resulting from a legal action, the additional funds shall be subject to the deductions in RCW 72.09.111(1)(a) and the priorities established in chapter 72.11 RCW.

(4) When an ((~~inmate~~)) incarcerated person who is subject to a child support order receives funds from an inheritance, the deduction required under subsection (2)(e) and (f) of this section shall only apply after the child support obligation has been paid in full.

(5) ((~~The amount deducted from an inmate's funds under subsection (2) of this section shall not exceed the department's total cost of incarceration for the inmate incurred during the inmate's minimum or actual term of confinement, whichever is longer.~~

~~(6)~~))(a) The deductions required under subsection (2) of this section shall not apply to funds received by the department from an ((~~offender~~)) incarcerated person or from a third party on behalf of an ((~~offender~~)) incarcerated person for payment of education or vocational programs or postsecondary ((~~education~~)) degree or certificate education programs as provided in RCW 72.09.460 and 72.09.465.

(b) The deductions required under subsection (2) of this section shall not apply to funds received by the department from a third party, including but not limited to a nonprofit entity on behalf of the department's education, vocation, or postsecondary education degree programs.

((~~(7)~~)) (6) The deductions required under subsection (2) of this section shall not apply to any money received by the department, on behalf of an ((~~inmate~~)) incarcerated person, from family or other outside sources for the payment of postage expenses. Money received under this subsection may only be used for the payment of postage expenses and may not be transferred to any other account or purpose. Money that remains unused in the ((~~inmate's~~)) incarcerated person's postage fund at the time of release shall be subject to the deductions outlined in subsection (2) of this section.

((~~(8)~~)) (7) The deductions required under subsection (2) of this section do not apply to any money received by the department on behalf of an ((~~inmate~~)) incarcerated person from family or other outside sources for the payment of certain medical expenses. Money received under this subsection may only be used for the payment of medical expenses associated with the purchase of eyeglasses, over-the-counter medications, and ((~~offender~~)) incarcerated person copayments. Funds received specifically for these purposes may not be transferred to any other account or purpose. Money that remains unused in the ((~~inmate's~~)) incarcerated person's medical fund at the time of release is subject to deductions under subsection (2) of this section.

((~~(9) Inmates~~)) (8) Incarcerated persons sentenced to life imprisonment without possibility of release or sentenced to death under chapter 10.95 RCW receives funds, deductions are required under subsection (2) of this section, with the exception of a personal ((~~inmate~~)) savings account under subsection (2)(b) of this section.

((~~(10)~~)) (9) The secretary of the department of corrections, or his or her designee, may exempt an ((~~inmate~~)) incarcerated person from a personal ((~~inmate~~)) incarcerated person savings account under subsection (2)(b) of this section if the ((~~inmate's~~)) incarcerated person's earliest release date is beyond the ((~~inmate's~~)) incarcerated person's life expectancy.

((~~(11)~~)) (10) The interest earned on ((~~an inmate~~)) a personal savings account created as a result of the plan in section 4, chapter 325, Laws of 1999 shall be exempt from the mandatory deductions under this section and RCW 72.09.111.

((~~(12)~~)) (11) Nothing in this section shall limit the authority of the department of social and health services division of child support, the county clerk, or a restitution recipient from taking collection action against an ((~~inmate's~~)) incarcerated person's moneys, assets, or property pursuant to chapter 9.94A, 26.23, 74.20, or 74.20A RCW including, but not limited to, the collection of moneys received by the ((~~inmate~~)) incarcerated person from settlements or awards resulting from legal action.

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

Except when ordered by a court for community restitution, incarcerated persons are not required to work or otherwise participate in work programs under RCW 72.09.100. Work programs are voluntary, and incarcerated persons may choose to participate or refuse to participate in such programs. The department may not issue infractions or engage in punitive actions against any incarcerated person who refuses to participate in work programs. Incarcerated persons participating in classes I, II, III, or IV programs must be paid a wage or gratuity for their work as provided under RCW 72.09.100.

NEW SECTION. **Sec.**  (1) The department of corrections shall:

(a) Determine all items and services charged to incarcerated persons under RCW 72.09.450 and 72.09.470, and departmental policy, and shall itemize the costs of those items and services;

(b) Calculate the average debts owed by incarcerated persons to the department for items and services under (a) of this subsection;

(c) Calculate the average percentage of costs for items and services under (a) of this subsection actually paid by an average incarcerated person to the department prior to release from confinement;

(d) Calculate the average debts owed by incarcerated persons to the department for items and services under (a) of this subsection upon release from confinement;

(e) Determine the total amount of debt owed by all persons, regardless of incarceration status, to the department for items and services under (a) of this subsection;

(f) Identify any fees that are charged by the department, including any fees charged by third-party vendors that provide services to the department, for sending money to incarcerated persons, and provide an explanation of how such fees are established;

(g) Calculate the average amount collected by the department and any third-party vendors that provide services to the department per year as fees for sending money to an incarcerated person under subsection (f) of this section; and

(h) Determine the total amount of money sent to all incarcerated persons and the total amount of fees collected by the department and any third-party vendors that provide services to the department under subsection (f) of this section over the previous two-year period.

(2) The department of corrections shall submit a report with the information under subsection (1) of this section to the governor and the appropriate committees of the legislature by October 1, 2023.

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1) RCW 72.09.400 (Work ethic camp program—Findings—Intent) and 1993 c 338 s 1; and

(2) RCW 72.09.410 (Work ethic camp program—Generally) and 2013 c 39 s 23 & 1993 c 338 s 3.

NEW SECTION. **Sec.**  Sections 1 through 9 and 11 of this act take effect January 1, 2024.

NEW SECTION. **Sec.**  If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void.

**--- END ---**