
SUBSTITUTE HOUSE BILL 1024

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)

READ FIRST TIME 02/16/23.

1 AN ACT Relating to labor and income of incarcerated persons;
2 amending RCW 72.09.015, 72.09.100, 72.09.110, 72.09.111, 72.09.130,
3 72.09.460, and 72.09.480; adding a new section to chapter 72.09 RCW;
4 creating new sections; repealing RCW 72.09.400 and 72.09.410; and
5 providing an effective date.

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

7 NEW SECTION. **Sec. 1.** This act may be known and cited as the
8 real labor real wages act.

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

11 The definitions in this section apply throughout this chapter.

12 (1) "Adult basic education" means education or instruction
13 designed to achieve general competence of skills in reading, writing,
14 and oral communication, including English as a second language and
15 preparation and testing services for obtaining a high school diploma
16 or a high school equivalency certificate as provided in RCW
17 28B.50.536.

18 (2) "Base level of correctional services" means the minimum level
19 of field services the department of corrections is required by

1 statute to provide for the supervision and monitoring of
2 (~~offenders~~) incarcerated persons.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (19) "Physical restraint" means the use of any bodily force or
40 physical intervention to control an (~~offender~~) incarcerated person

1 or limit an (~~offender's~~) incarcerated person's freedom of movement
2 in a way that does not involve a mechanical restraint. Physical
3 restraint does not include momentary periods of minimal physical
4 restriction by direct person-to-person contact, without the aid of
5 mechanical restraint, accomplished with limited force and designed
6 to:

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

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

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

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

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

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

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

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

33 (a) Physical restraint; or

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

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

39 (26) "Significant expansion" includes any expansion into a new
40 product line or service to the class I business that results from an

1 increase in benefits provided by the department, including a decrease
2 in labor costs, rent, or utility rates (for water, sewer,
3 electricity, and disposal), an increase in work program space, tax
4 advantages, or other overhead costs.

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

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

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

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

24 (31) "Washington business" means an in-state manufacturer or
25 service provider subject to chapter 82.04 RCW existing on June 10,
26 2004.

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

29 **Sec. 3.** RCW 72.09.100 and 2012 c 220 s 2 are each amended to
30 read as follows:

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

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

8 (1) CLASS I: FREE VENTURE INDUSTRIES.

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

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

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

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

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

38 (f) An (~~inmate~~) incarcerated person who is employed in the
39 class I program of correctional industries shall not be eligible for

1 unemployment compensation benefits pursuant to any of the provisions
2 of Title 50 RCW until released on parole or discharged.

3 (2) CLASS II: TAX REDUCTION INDUSTRIES.

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

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

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

17 (A) Public agencies;

18 (B) Nonprofit organizations;

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES.

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

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

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

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

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

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

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

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

19 (4) CLASS IV: COMMUNITY WORK INDUSTRIES.

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

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

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

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

39 (e) (~~(Inmates)~~) incarcerated persons who work in this class of
40 industries shall do so at their own choice and shall receive a

1 gratuity which shall not exceed the wage paid for work of a similar
2 nature in the locality in which the industry is located.

3 (5) CLASS V: COMMUNITY RESTITUTION PROGRAMS.

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

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

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

15 **Sec. 4.** RCW 72.09.110 and 1993 sp.s. c 20 s 5 are each amended
16 to read as follows:

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

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

30 **Sec. 5.** RCW 72.09.111 and 2017 c 81 s 1 are each amended to read
31 as follows:

32 (1) The secretary shall deduct taxes and legal financial
33 obligations from the wages, gratuities, or workers' compensation
34 benefits payable directly to the ((inmate)) incarcerated person under
35 chapter 51.32 RCW, of each ((inmate)) incarcerated person working in
36 correctional industries work programs, or otherwise receiving such
37 wages, gratuities, or benefits. The secretary shall also deduct child
38 support payments from the gratuities of each ((inmate)) incarcerated

1 person working in class II through class IV correctional industries
2 work programs. The secretary shall develop a formula for the
3 distribution of (~~offender~~) incarcerated person wages, gratuities,
4 and benefits. The formula shall not reduce the (~~inmate~~)
5 incarcerated person's account below the indigency level, as defined
6 in RCW 72.09.015.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ~~((c) The formula shall include the following minimum deductions~~
2 ~~from any workers' compensation benefits paid pursuant to RCW~~
3 ~~51.32.080:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (5) In the event that the (~~offender~~) incarcerated person
20 worker's wages, gratuity, or workers' compensation benefit is subject
21 to garnishment for support enforcement, the crime victims'
22 compensation account(~~(7)~~) and savings(~~(7, and cost of incarceration)~~)
23 deductions shall be calculated on the net wages after taxes, legal
24 financial obligations, and garnishment.

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

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

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

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

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

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

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

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

1 incarcerated person's earned early release days may not be reduced
2 based on the person's choice to not participate in work programs.

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

6 **Sec. 7.** RCW 72.09.460 and 2021 c 200 s 4 are each amended to
7 read as follows:

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

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

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

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

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

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

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

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

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

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

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

39 (e) Any funds collected by the department under (c) and (d) of
40 this subsection and subsections (11) and (12) of this section shall

1 be used solely for the creation, maintenance, or expansion of
2 incarcerated individual educational and vocational programs.

3 (5) The department shall provide access to a program of education
4 to all incarcerated individuals who are under the age of eighteen and
5 who have not met high school graduation requirements or requirements
6 to earn a high school equivalency certificate as provided in RCW
7 28B.50.536 in accordance with chapter 28A.193 RCW. The program of
8 education established by the department and education provider under
9 RCW 28A.193.020 for incarcerated individuals under the age of
10 eighteen must provide each incarcerated individual a choice of
11 curriculum that will assist the incarcerated individual in achieving
12 a high school diploma or high school equivalency certificate. The
13 program of education may include but not be limited to basic
14 education, prevocational training, work ethic skills, conflict
15 resolution counseling, substance abuse intervention, and anger
16 management counseling. The curriculum may balance these and other
17 rehabilitation, work, and training components.

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

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

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

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

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

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

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

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

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

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

32 (10) The department shall establish, by rule, objective medical
33 standards to determine when an incarcerated individual is physically
34 or mentally unable to participate in available education or work
35 programs. When the department determines an incarcerated individual
36 is permanently unable to participate in any available education or
37 work program due to a health condition, the incarcerated individual
38 is exempt from the requirement under subsection (2) of this section.
39 When the department determines an incarcerated individual is
40 temporarily unable to participate in an education or work program due

1 to a medical condition, the incarcerated individual is exempt from
2 the requirement of subsection (2) of this section for the period of
3 time he or she is temporarily disabled. The department shall
4 periodically review the medical condition of all incarcerated
5 individuals with temporary disabilities to ensure the earliest
6 possible entry or reentry by incarcerated individuals into available
7 programming.

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

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

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

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

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

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

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

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

18 **Sec. 8.** RCW 72.09.480 and 2015 c 238 s 1 are each amended to
19 read as follows:

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

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

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

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

35 (2) When an ~~((inmate))~~ incarcerated person, except as provided in
36 subsection~~((s—(4)—and))~~ (8) of this section, receives any funds in
37 addition to his or her wages or gratuities, except settlements or
38 awards resulting from legal action, the additional funds shall be

1 subject to the following maximum allowable deductions and the
2 priorities established in chapter 72.11 RCW:

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

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

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

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

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

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

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

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

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

30 ~~(6)~~) (a) The deductions required under subsection (2) of this
31 section shall not apply to funds received by the department from an
32 (~~offender~~) incarcerated person or from a third party on behalf of
33 an (~~offender~~) incarcerated person for payment of education or
34 vocational programs or postsecondary (~~education~~) degree or
35 certificate education programs as provided in RCW 72.09.460 and
36 72.09.465.

37 (b) The deductions required under subsection (2) of this section
38 shall not apply to funds received by the department from a third
39 party, including but not limited to a nonprofit entity on behalf of

1 the department's education, vocation, or postsecondary education
2 degree programs.

3 ~~((7))~~ (6) The deductions required under subsection (2) of this
4 section shall not apply to any money received by the department, on
5 behalf of an ~~((inmate))~~ incarcerated person, from family or other
6 outside sources for the payment of postage expenses. Money received
7 under this subsection may only be used for the payment of postage
8 expenses and may not be transferred to any other account or purpose.
9 Money that remains unused in the ~~((inmate's))~~ incarcerated person's
10 postage fund at the time of release shall be subject to the
11 deductions outlined in subsection (2) of this section.

12 ~~((8))~~ (7) The deductions required under subsection (2) of this
13 section do not apply to any money received by the department on
14 behalf of an ~~((inmate))~~ incarcerated person from family or other
15 outside sources for the payment of certain medical expenses. Money
16 received under this subsection may only be used for the payment of
17 medical expenses associated with the purchase of eyeglasses, over-
18 the-counter medications, and ~~((offender))~~ incarcerated person
19 copayments. Funds received specifically for these purposes may not be
20 transferred to any other account or purpose. Money that remains
21 unused in the ~~((inmate's))~~ incarcerated person's medical fund at the
22 time of release is subject to deductions under subsection (2) of this
23 section.

24 ~~((9—Inmates))~~ (8) Incarcerated persons sentenced to life
25 imprisonment without possibility of release or sentenced to death
26 under chapter 10.95 RCW receives funds, deductions are required under
27 subsection (2) of this section, with the exception of a personal
28 ~~((inmate))~~ savings account under subsection (2)(b) of this section.

29 ~~((10))~~ (9) The secretary of the department of corrections, or
30 his or her designee, may exempt an ~~((inmate))~~ incarcerated person
31 from a personal ~~((inmate))~~ incarcerated person savings account under
32 subsection (2)(b) of this section if the ~~((inmate's))~~ incarcerated
33 person's earliest release date is beyond the ~~((inmate's))~~
34 incarcerated person's life expectancy.

35 ~~((11))~~ (10) The interest earned on ~~((an inmate))~~ a personal
36 savings account created as a result of the plan in section 4, chapter
37 325, Laws of 1999 shall be exempt from the mandatory deductions under
38 this section and RCW 72.09.111.

39 ~~((12))~~ (11) Nothing in this section shall limit the authority
40 of the department of social and health services division of child

1 support, the county clerk, or a restitution recipient from taking
2 collection action against an (~~inmate's~~) incarcerated person's
3 moneys, assets, or property pursuant to chapter 9.94A, 26.23, 74.20,
4 or 74.20A RCW including, but not limited to, the collection of moneys
5 received by the (~~inmate~~) incarcerated person from settlements or
6 awards resulting from legal action.

7 NEW SECTION. **Sec. 9.** A new section is added to chapter 72.09
8 RCW to read as follows:

9 Except when ordered by a court for community restitution,
10 incarcerated persons are not required to work or otherwise
11 participate in work programs under RCW 72.09.100. Work programs are
12 voluntary, and incarcerated persons may choose to participate or
13 refuse to participate in such programs. The department may not issue
14 infractions or engage in punitive actions against any incarcerated
15 person who refuses to participate in work programs. Incarcerated
16 persons participating in classes I, II, III, or IV programs must be
17 paid a wage or gratuity for their work as provided under RCW
18 72.09.100.

19 NEW SECTION. **Sec. 10.** (1) The department of corrections shall:

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

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

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

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

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

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

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

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

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

12 NEW SECTION. **Sec. 11.** The following acts or parts of acts are
13 each repealed:

14 (1) RCW 72.09.400 (Work ethic camp program—Findings—Intent) and
15 1993 c 338 s 1; and

16 (2) RCW 72.09.410 (Work ethic camp program—Generally) and 2013 c
17 39 s 23 & 1993 c 338 s 3.

18 NEW SECTION. **Sec. 12.** Sections 1 through 9 and 11 of this act
19 take effect January 1, 2024.

20 NEW SECTION. **Sec. 13.** If specific funding for the purposes of
21 this act, referencing this act by bill or chapter number, is not
22 provided by June 30, 2023, in the omnibus appropriations act, this
23 act is null and void.

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