

Multiple Agency Fiscal Note Summary

Bill Number: 1024 HB	Title: Incarcerated persons/labor
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Estimated Cash Receipts

Agency Name	2023-25			2025-27			2027-29		
	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total
Department of Corrections	0	0	(48,450,000)	0	0	(64,600,000)	0	0	(64,600,000)
Department of Corrections	In addition to the estimate above, there are additional indeterminate costs and/or savings. Please see individual fiscal note.								
Total \$	0	0	(48,450,000)	0	0	(64,600,000)	0	0	(64,600,000)

Agency Name	2023-25		2025-27		2027-29	
	GF- State	Total	GF- State	Total	GF- State	Total
Local Gov. Total						
Local Gov. Courts	Fiscal note not available					
Loc School dist-SPI						
Local Gov. Other	Non-zero but indeterminate cost and/or savings. Please see discussion.					

Estimated Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Administrative Office of the Courts	Fiscal note not available											
Department of Labor and Industries	.0	0	0	0	.0	0	0	0	.0	0	0	0
Department of Licensing	Fiscal note not available											
Department of Corrections	.3	0	0	195,000,000	.3	0	0	260,000,000	.3	0	0	260,000,000
Department of Corrections	In addition to the estimate above, there are additional indeterminate costs and/or savings. Please see individual fiscal note.											
Department of Natural Resources	.0	3,550,000	3,550,000	3,550,000	.0	4,700,000	4,700,000	4,700,000	.0	4,700,000	4,700,000	4,700,000
SWF Statewide Fiscal Note - OFM	Fiscal note not available											
Total \$	0.3	3,550,000	3,550,000	198,550,000	0.3	4,700,000	4,700,000	264,700,000	0.3	4,700,000	4,700,000	264,700,000

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts	Fiscal note not available								
Loc School dist-SPI									
Local Gov. Other									
Local Gov. Total									

Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Administrative Office of the Courts	Fiscal note not available								
Department of Labor and Industries	.0	0	0	.0	0	0	.0	0	0
Department of Licensing	Fiscal note not available								
Department of Corrections	0574.0	0	0	0574.0	0	0	0574.0	0	0
Department of Natural Resources	.0	0	0	.0	0	0	.0	0	0
SWF Statewide Fiscal Note - OFM	Fiscal note not available								
Total \$	30,574.0	0	0	30,574.0	0	0	30,574.0	0	0

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts	Fiscal note not available								
Loc School dist-SPI									
Local Gov. Other									
Local Gov. Total									

Estimated Capital Budget Breakout

Prepared by: Cynthia Hollimon, OFM	Phone: (360) 810-1979	Date Published: Preliminary
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Individual State Agency Fiscal Note

Bill Number: 1024 HB	Title: Incarcerated persons/labor	Agency: 235-Department of Labor and Industries
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Corey Patton	Phone: 360-786-7388	Date: 01/05/2023
Agency Preparation: Jenifer Colley	Phone: (360) 902-6983	Date: 01/12/2023
Agency Approval: Trent Howard	Phone: 360-902-6698	Date: 01/12/2023
OFM Review: Anna Minor	Phone: (360) 790-2951	Date: 01/13/2023

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

This bill establishes The Real Labor Real Wages Act, relating to labor and income of incarcerated persons.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

Cash receipts for the Crime Victims Compensation Account (01F) are not performed by L&I. No impact to cash receipts.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

This bill does not change or create an enforcement activity. No fiscal impact to L&I.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

NONE

III. B - Expenditures by Object Or Purpose

NONE

III. C - Operating FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.*

NONE

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

Individual State Agency Fiscal Note

Bill Number: 1024 HB	Title: Incarcerated persons/labor	Agency: 310-Department of Corrections
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
Correctional Industries Account-Non-Appropriated 401-6	(16,150,000)	(32,300,000)	(48,450,000)	(64,600,000)	(64,600,000)
Total \$	(16,150,000)	(32,300,000)	(48,450,000)	(64,600,000)	(64,600,000)

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.3	0.3	0.3	0.3	0.3
Account					
Correctional Industries Account-State 401-1	65,000,000	130,000,000	195,000,000	260,000,000	260,000,000
Total \$	65,000,000	130,000,000	195,000,000	260,000,000	260,000,000

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Corey Patton	Phone: 360-786-7388	Date: 01/05/2023
Agency Preparation: Stephanie Marty	Phone: (360) 725-8428	Date: 01/19/2023
Agency Approval: Ronell Witt	Phone: (360) 725-8428	Date: 01/19/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 01/19/2023

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

HB 1024 Sections 1-11 amend verbiage to include the following: Incarcerated persons 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. If a reasonably comparable wage cannot be determined, then the pay shall not be less than the state minimum wage as described in RCW 49.46.020. Section 12 requires Department of Corrections (DOC) to determine all items and services charged to incarcerated persons under RCW 72.09.450 and 72.09.470 and departmental policy, and DOC shall itemize the costs of those items and services and 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. Also, repealing Work Ethic Camp Program RCW 72.09.400 and 72.09.410.

Section 2 (3) omitted: If the court determines that the offender, at the time of sentencing, has the means to pay for the cost of incarceration, the court may require the offender to pay for the cost of incarceration. The court shall not order the offender to pay the cost of incarceration if the court finds that the offender at the time of sentencing is indigent as defined in RCW 10.01.160(3). Costs of incarceration ordered by the court shall not exceed a rate of \$50 per day of incarceration, if incarcerated in a prison, or the actual cost of incarceration per day of incarceration, if incarcerated in a county jail. In no case may the court require the offender to pay more than \$100 per day for the cost of incarceration. All funds recovered from offenders for the cost of incarceration in the county jail shall be remitted to the county and the costs of incarceration in a prison shall be remitted to the department.

Section 3 (2) states: costs shall be limited to expenses specially incurred by the state in prosecuting the defendant or in administering the deferred prosecution program under chapter 10.05 RCW or pretrial supervision. They cannot include expenses inherent in providing a constitutionally guaranteed jury trial or expenditures in connection with the maintenance and operation of government agencies that must be made by the public irrespective of specific violations of law. Expenses incurred for serving of warrants for failure to appear and jury fees under RCW 10.46.190 may be included in costs the court may require a defendant to pay. Costs for administering a deferred prosecution may not exceed \$250. Costs for administering a pretrial supervision other than a pretrial electronic alcohol monitoring program, drug monitoring program, or 24/7 sobriety program may not exceed \$150.35 Costs for preparing and serving a warrant for failure to appear may not exceed \$100.

New Section 3 (3) In no case may the court require a person to pay for the cost of incarceration.

Section 5 amends RCW 72.09.100 and 2012 c 220 s 2 as follows:

(1) (e) 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 state minimum wage as described in RCW 49.46.020.

(2) (f) 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 the state minimum wage as described in RCW 49.46.020.

(3) (e) Except for incarcerated persons who work in work training programs, incarcerated persons in this class shall do so at their own choice and shall be paid for their work in accordance with a gratuity scale approved by the secretary of corrections, provided that the payment is no less than the state minimum wage as described in RCW 49.46. (4) (e) 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, provided that the payment is no less than the state minimum wage as described in RCW 49.46.

Section 7 amends RCW 72.09.111 and 2017 c 81 s 1 to read as follows: (1) (a) (i) ten percent for debts owed to the

department. (1) (a) (iii) Omitted: twenty percent to the department to contribute to the cost of incarceration. (1) (b) (iii) Omitted: fifteen percent to the department to contribute to the cost of incarceration. (1) (b) (vi) ten percent for debts owed to the department. (1) (c) (iii) Omitted: Twenty percent to the department to contribute to the cost of incarceration. (1) (e) (i) Omitted: Five percent to the department to contribute to the cost of incarceration. (7) The department shall develop the necessary administrative structure to recover incarcerated persons' wages and keep records of the amount incarcerated persons pay for the costs of incarceration and amenities. All funds deducted from incarcerated person wages 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.

Section 10 amends RCW 72.09.480 and 2015 c 238 s to read as follows: (2) (f) 10 percent for debts owed to the department. (3) (5) Omitted: The amount deducted from an incarcerated funds under subsection (2) of this section shall not exceed the department's total cost of incarceration for the individual incurred during the individuals minimum or actual term of confinement, whichever is longer.

Section 11 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 12 (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; and (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. (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 13. The following acts or parts of acts are each repealed: 36 (1) RCW 72.09.400 (Work ethic camp program—Findings—Intent) and 1993 c 338 s 1; and 37 p. 31 HB 1024 1 (2) RCW 72.09.410 (Work ethic camp program—Generally) and 2013 c 39 s 23 & 1993 c 338 s 3.

New Section 14. Sections 1 through 11 and 13 of this act take effect January 1, 2024.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

The fiscal impact of this bill is indeterminate, assumed to be more than \$50,000 per Fiscal Year (FY).

If incarcerated persons are no longer required to pay for a percentage of the cost of their incarceration DOC assumes we will need an additional GF-S to cover a loss of approximately \$2.3 million per fiscal year based on FY2022 CI revenue data. This funding will directly impact the Workforce Development Program and staff. The likely unintended consequence of imposing the cost of incarceration and minimum wage for working incarcerated individuals is that more individuals may be increasingly idle as prisons will need to operate within budgets and pay costs that have typically been imposed on the individuals they serve. The DOC also assumes a revenue increase from customers due to the increase in goods and services provided by the Correctional Industries program and the requirement to recover their costs.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

The fiscal impact of this bill is indeterminate, assumed to be more than \$50,000 per Fiscal Year (FY). The DOC assumes the following in determining the impacts of this proposed legislation:

Section 5 provides that the wage or gratuity paid to an incarcerated person participating in a Correctional Industries (CI) work program must be paid no less than the state minimum wage.

Class I Impact

No impact as there are not currently any Class I programs.

Class II Impact

If the CI director cannot reasonably determine the comparable wage paid for work of a similar nature in the locality, then the pay shall not be less than the state minimum wage as described in RCW 49.46.020. In 2023, the state minimum wage in Washington is \$15.74 per hour.

- The variance between current rate and proposed rate is \$32.7 million per fiscal year.
- Current rate = FY2022 Class II hours 2,328,674 x average rate of pay \$1.69 = \$3.94 million per fiscal year.
- Proposed rate = FY2022 Class II hours 2,328,674 x state minimum wage \$15.74 = \$36.6 million per fiscal year.
- Variance = \$36.6M – \$3.94M = \$32.7M increase per fiscal year

If the current minimum wage must be paid, CI would need to increase the amount charged for products and services sold to other state agencies and consumers in the state of Washington to maintain CI jobs for incarcerated persons. Some CI work programs may no longer be competitive with the localities in which they reside and thus these programs might become obsolete creating fewer jobs for incarcerated persons.

If incarcerated persons decide not to participate in work programs the department must then employ contracted employees, or DOC staff to cover mandatory programs such as the CI closed food loop. For illustrative purposes, if the incarcerated population no longer worked in the prison kitchens, DOC would need to hire 472 staff within the job classes of Correctional Industries Supervisor Assistant (\$32.06 hourly rate) and cooks (\$37.12 hourly rate).

The impact to the CI Fund 401 will increase expenditures to keep incarcerated persons employed in programs such as the CI closed food loop and laundry programs. These programs will need to increase their current rates to prisons to recover lost revenues in order for the programs to stay viable. The DOC will need an increase in general fund appropriation to cover the additional expenditures to maintain mandatory programs for incarcerated persons.

- Current rate = FY2022 Class II hours 86,206 x average rate of pay \$1.63 = \$140,516.
- Proposed rate = FY2022 Class II hours 86,206 x state minimum wage \$15.74 = \$1.36 million per fiscal year.
- Current rate = FY2022 Class II hours 17,818 x average rate of pay \$1.56 = \$27,796.
- Proposed rate = FY2022 Class II hours 17,818 x state minimum wage \$15.74 = \$280,455 per fiscal year.

CI Fund 401 is a revolving fund requiring the fund to be self-sustaining. Without legislative change and general fund state subsidies, based on CI's November 30, 2022 financials, the impact of the state minimum wage would result in cost increases or possible closure of non-essential CI shops/industries: License Plates, Print Shop, Food Manufacturing, Distribution, Furniture Products, PROCAD, Upholstery, Commissary, Monthly Property Program, Food Package Program,

AHCC Textiles, CRCC Textiles, SLIP Textiles, WCCW Textiles, WCCW TRAC and MCCCW TRAC.

These shops and industries represent approximately 90% of CI's total output and 629 incarcerated jobs. Elimination of CI jobs may negatively impact individuals' employment opportunities post release. Formally incarcerated individuals who participated in CI programs were more likely to have a legal source of income, earn more than \$1,000 per month, and earn an average of \$1.03 more per hour than those who did not participate.

Elimination of CI jobs may increase recidivism rates and subsequently increase prison caseloads. A 2015 Washington State University study determined that individuals who participated in the CI work programs were significantly less likely to commit new offenses leading to conviction and significantly more likely to remain in the community longer without committing a new offense.

These shop closures would also result in an indeterminate increase to not-for-profits, state agencies, tribal governments, local counties and other entities who purchase from CI. The incarcerated population would also see increases in the cost of their commissary items as that program would need to be entirely outsourced to a private vendor.

A reduction in CI jobs could have further negative impacts on individuals experiencing incarceration. CI workers are provided with marketable skills, on the job training and are better prepared for employment when they reenter the community. A 2019 Washington State Institute for Public Policy cost benefit analysis found that every \$1 spent on CI work programs yielded more than twelve times the return to society.

- At minimum Class II impacts are for FY2024: \$32.7 million and \$32.7 million for FY2025.

Class III Impact

Class III incarcerated persons are assumed to continue working the same number of hours and no longer have a \$55.00 per month cap on their earnings potential, which will result in significant impacts to daily operations of the facilities. The current average rate is approximately \$0.42 per hour.

- The variance between current rate and proposed rate is \$92.2 million per fiscal year.
- Current rate = FY2022 Class III hours 6,019,709 x average rate of pay \$.42 = \$2.5 million per fiscal year.
- Proposed rate = FY2022 Class III hours 6,019,709 x state minimum wage \$15.74 = \$94.7 million per fiscal year.
- Variance = \$94.7 million - \$2.5 million = \$92.2 million increase per fiscal year.

Incarcerated persons make up a large majority of the maintenance, cleaning, gardening, upkeep, and cooking workforce at the facilities providing them with marketable skills when they return to society. The impact to DOC if incarcerated persons opt out of work programs would be substantial as DOC would be needed to fill critical positions such as food service, laundry and maintenance programs.

The DOC would need to replace the incarcerated workers with DOC staffed Maintenance Mechanic 2's (\$40.97 hourly rate), Custodian 4's (\$31.19 hourly rate), Grounds & Nursery Services Specialist 4's (\$30.45 hourly rate), Cook A/C's (\$37.12 hourly rate), Laundry Worker 3's (\$28.37 hourly rate) and Electronics Technician 1's (26.70 hourly rate).

- Average hourly rate of salary and benefits for the job classes listed = \$32.47.
- Current average DOC staff rate = FY2022 Class III hours 6,019,709 x average rate of pay \$32.47 = 195.5 million per fiscal year.
- Proposed incarcerated persons rate = FY2022 Class III hours 6,019,709 x state minimum wage \$15.74 = \$94.7 million per fiscal year.
- The variance between incarcerated person's proposed rate and DOC staff's current average rate is \$100.7 million per fiscal year if DOC staff are required to backfill all of the current Class III annual work hours.

However, it is indeterminate how many incarcerated persons will choose to opt out of jobs and will need to be replaced by DOC staff. The hourly difference between DOC staff and incarcerated persons would be \$16.73.

Raising the gratuity rate to no less than the state minimum wage for class III workers represents an approximate 3,748% increase to the current rate.

- At minimum Class III impacts are FY2024: \$92.2 million and \$92.2 million for FY2025.

Class IV Impact

If the current minimum wage must be paid, Washington state cities, counties and other municipalities who sign contracts with DOC work crews will be impacted due to the increase cost for gratuities.

This increased cost could result in fewer contracted jobs performing brush clearing, landscaping, noxious weed removal, and general labor.

- The variance between current rate and proposed rate is \$5.1 million.
- Current rate = FY2022 Class IV hours 389,133 x average rate of pay \$2.70 = \$1 million.
- Proposed rate = FY2022 Class IV hours 389,133 x state minimum wage \$15.74 = \$6.1 million.
- Variance = \$6.1 million - \$1 million = \$5.1 million
- Class IV Anticipated costs for FY2024: \$5.1 million.
- Class IV Anticipated costs for FY2025 and on: \$5.1 million.

Class V Impact

No new impacts to community service work programs.

FY2022 Total DOC Incarcerated Job Class Current Rates Compared to Proposed Rates as follows:

Class I: N/A

Class II: Total FY2022 Incarcerated Work Hours: 2,328,674 x Average rate of pay: \$1.69 = Total FY2022 Incarcerated Payroll: \$3,936,830

Class II: Total FY2022 Incarcerated Work Hours: 2,328,674 x Proposed minimum rate of pay: \$15.74 = Proposed rate x total FY22 Hours Variance: \$36,653,329

Class II: Total FY2022 Incarcerated Payroll: \$3,936,830 - Proposed rate x total FY22 Hours Variance: \$36,653,329 = DOC Fiscal Impact per fiscal year = \$32,716,499

Class III: Total FY2022 Incarcerated Work Hours: 6,019,709 x Average rate of pay: \$.42 = Total FY2022 Incarcerated Payroll: \$2,528,278

Class III: Total FY2022 Incarcerated Work Hours: 6,019,709 x Proposed minimum rate of pay: \$15.74 = Proposed rate x total FY22 Hours Variance: \$94,750,222

Class III: Total FY2022 Incarcerated Payroll: \$3,936,830 - Proposed rate x total FY22 Hours Variance: \$36,653,329 = DOC Fiscal Impact per fiscal year = \$92,221,944

Class IV: Total FY2022 Incarcerated Work Hours: 389,133 x Average rate of pay: \$2.70 = Total FY2022 Incarcerated Payroll: \$1,050,659

Class IV: Total FY2022 Incarcerated Work Hours: 389,133 x Proposed minimum rate of pay: \$15.74 = Proposed rate x total FY22 Hours Variance: \$6,124,952

Class IV: Total FY2022 Incarcerated Payroll: \$3,936,830 - Proposed rate x total FY22 Hours Variance: \$36,653,329 = DOC

Fiscal Impact per fiscal year = \$5,074,293

Class V: N/A

Total DOC Fiscal Impact per fiscal year for all job classes: \$130,012,735

Section 11 provides that unless ordered by the court for community restitution, incarcerated persons are not required to work or otherwise participate in work programs. Only Class III jobs will be impacted by this change as all other job classes are voluntary work opportunities. Currently, if you are not participating in other programming, you must work and if you are not working in one of the other job classes, you will be assigned work options in Class 3. If incarcerated persons choose not to work in Class III jobs, they will need to replace with DOC staff at an increased cost. It's indeterminate how many incarcerated persons will opt of working therefore this cost is unknown.

Choosing not to work, or having a job eliminated due to the higher costs of operations, will result in incarcerated idleness. This unrest can escalate and threaten the safety of staff and incarcerated individuals and leads to costly unfunded deployment of emergency response teams from across the state to manage potential uprising and possible violence. Staff being deployed must also be backfilled at their parent facilities, typically at an overtime rate. It is unknown the number of unrests that will occur, however idle time has been proven to create safety and security impacts within the prison facilities and additional resources may be needed to deal with security issues.

Sections 7 and 10 modifies the maximum deductions that various entities may impose on an incarcerated person's income for specified purposes.

Impacts to revenues for Legal Financial Obligations (LFO), Crime Victims, civil judgements, child support and superior court judgements will be reduced if incarcerated persons opt out of work programs. Savings accounts for incarcerated persons could not be established if work programs are optional and the choice is not to work and thus present reentry statistics negatively with no funds to support themselves upon release.

Section 7 (a) and (b) for (i) through (v) amended incorporate LFO reductions which total 110%. This will need adjusted as it should calculate to 100%. These amended amounts in collection of LFO rates completely changes the landscape of the deduction matrix (DOC Policy 200.000).

An incarcerated person who receives a wage or gratuity from working in a prison industry is subject to various deductions from the person's gross income depending on the industry classification, including deductions for the Crime Victims' Compensation Account, the incarcerated person's personal savings account, the cost of incarceration, legal financial obligations, payment of any civil judgment for Assault against a correctional officer or DOC employee, and child support payments. The actual amount to be deducted for those reasons from an incarcerated person's income may be determined by various entities, such as the sentencing court, the DOC, and the Department of Social and Health Services (DSHS), subject to specific statutory limits on such deductions. The following maximum deductions from an incarcerated person's gross income are authorized depending on the incarcerated person's income source and industry classification:

Authorized Deductions from an Incarcerated Person's Gross Income amended as follows:

Crime Victims' Compensation Account: Class I old rate 5% and new rate 10%; Class II old rate 5% and new rate 10%; Class III old rate 5% and new rate 10%; Class IV old rate Varies** and new rate 10%; Other Income old rate 5% and new rate 10%.

Personal Savings: Class I old rate 10% and new rate 50%; Class II old rate: 10% and new rate 50%; Class III old rate

Varies** and new rate 50%; Class IV old rate Varies** and new rate 50%; Other Income old rate 10% and new rate 50%.

Cost of Incarceration: Class I old rate 20% and new rate 0%; Class II old rate 15% and new rate 0%; Class III old rate Varies** and new rate 0%; Class IV old rate 5% and new rate 0%; Other Income old rate 20% and new rate 0%.

Legal Financial Obligations (LFO): Class I old rate 20% and new rate 10%; Class II old rate 20% and new rate 10%; Class III old rate Varies** and new rate 10%; Class IV old rate Varies** and new rate 10%; Other Income old rate 20% and new rate 10%.

Payment of any Civil Judgement for Assault: Class I old rate 20% and new rate: 10%; Class II old rate 15% and new rate: 10%; Class III old rate 15% and new rate 10%; Class IV old rate 15% and new rate 10%; Other Income old rate 20% and new rate 10%.

Child Support: Class I old rate Varies* and new rate Varies*; Class II old rate 15% and new rate 20%; Class III old rate 15% and new rate 20%; Class IV old rate 15% and new rate 20%; Other Income old rate 20% and new rate 20%.

*Determined by DSHS

**Not prescribed in statute

Sections 2(3), 3(3) and 6 eliminates the court and DOC's authority to impose and collect the cost of incarceration from a defendant or incarcerated person.

If incarcerated persons are no longer required to pay for a percentage of the cost of their incarceration there will be an increase in expenditures for DOC to cover at a loss of more than \$2.3 million in cost of incarceration revenue per fiscal year. This will directly impact funding for the Workforce Development Program and staff.

Section 12 requires DOC to submit a report related to debt incurred by incarcerated persons for the cost of items and services while incarcerated.

The timeline to report incarcerated persons total costs will require staffing adjustments to provide this by October 1, 2023. The systems updates will require additional staffing hours to add new system reporting components to meet the reporting requirements thereafter.

- The proposed cost impact to DOC is 0.3 FTE Trust Accounting Manager totaling \$30,574 including indirect costs for system upgrades to implement changes for LFO reporting.
- Anticipated one-time cost for FY2024: 0.3 FTE & \$30,574.

Section 13 repeals provisions authorizing DOC to operate a Work Ethic Program RCW 72.09.400 and 72.09.410.

No impact as there are not currently any Work Ethic programs at this time.

At a minimum DOC assumes a cost impact of 0.3 FTE and \$65 million in FY2024 and \$130 million in FY2025.

Due to the complexity of this bill, the previously mentioned costs may not be an inclusive list. The above totals starting in FY2024 include the cost to increase the incarcerated persons current rate to the state minimum wage and the loss of revenue for the cost of incarceration. This represents the minimum impact of the bill.

The DOC will experience additional costs related to this bill however those costs are indeterminate, or have not been identified in preliminary analysis and will “true up” our fiscal impact in subsequent budget submittals should this legislation be enacted into session law.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
401-1	Correctional Industries Account	State	65,000,000	130,000,000	195,000,000	260,000,000	260,000,000
Total \$			65,000,000	130,000,000	195,000,000	260,000,000	260,000,000

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.3	0.3	0.3	0.3	0.3
A-Salaries and Wages					
B-Employee Benefits					
C-Professional Service Contracts					
E-Goods and Other Services					
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services	65,000,000	130,000,000	195,000,000	260,000,000	260,000,000
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	65,000,000	130,000,000	195,000,000	260,000,000	260,000,000

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

III. C - Operating FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
WMS02 Trust Accounting Manager		0.3	0.3	0.3	0.3	0.3
Total FTEs		0.3	0.3	0.3	0.3	0.3

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Administrative Operations Division (100)	30,574	30,574	61,148	61,148	61,148
Correctional Industries (400)	65,000,000	130,000,000	195,000,000	260,000,000	260,000,000
Total \$	65,030,574	130,030,574	195,061,148	260,061,148	260,061,148

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	30,574.0	30,574.0	30,574.0	30,574.0	30,574.0
A-Salaries and Wages					
B-Employee Benefits					
C-Professional Service Contracts					
E-Goods and Other Services					
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	0	0	0	0	0

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
WMS Band 2	30,574	30,574.0	30,574.0	30,574.0	30,574.0	30,574.0
Total FTEs		30,574.0	30,574.0	30,574.0	30,574.0	30,574.0

None

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

Individual State Agency Fiscal Note

Bill Number: 1024 HB	Title: Incarcerated persons/labor	Agency: 490-Department of Natural Resources
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
Account					
General Fund-State 001-1	1,200,000	2,350,000	3,550,000	4,700,000	4,700,000
Total \$	1,200,000	2,350,000	3,550,000	4,700,000	4,700,000

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Corey Patton	Phone: 360-786-7388	Date: 01/05/2023
Agency Preparation: Zoe Catron	Phone: 360-902-1121	Date: 01/13/2023
Agency Approval: Brian Considine	Phone: 3604863469	Date: 01/13/2023
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 01/19/2023

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

Section 5 (4)(e) – requires incarcerated persons working within the Department of natural resource's Correctional Camps Program to be paid "no less than the state minimum wage" of \$15.74 per hour for all types of work.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

Incarcerated individuals provide many types of labor to the Department of Natural Resources. This includes, maintenance of bridges and roads, forest health treatments and fire suppression.

Impacts to bridges and roads:

Currently, for roads and bridge maintenance and forest health treatment crews, 80 percent of the crew is paid \$1.25 per hour and 20% (for leads) is paid \$1.50 per hour, we assume the minimum wage will be \$15.74 per hour for crew and \$15.99 per hour for leads.

The type of tasks completed by road/bridge maintenance crews include bridge maintenance, brushing, post-storm cleanup, cold-patching paved roads, etc. If the agency decides to continue to use camp crews, then funding assistance is requested to Department of Corrections or to DNR. If no funding is provided, then the costs could come from the Access Road Revolving Account (ARRA) resulting in a decrease of roadwork accomplished by DNR or eliminating the use of camp crews for roadwork.

Estimated crew hours for biennium 2021-2023 is 20,270 with an anticipated increase of 43 percent, biennium 2023-2025 total crew hours is 27,025. The increase will start on January 1, 2024. For fiscal year 2024, 6,750 hours will be paid at the current rate = \$9,500 and 6,750 hours will be paid at the new rate = \$106,700 (\$116,200 total). For fiscal year 2025, 13,500 hours will be paid at the new rate = \$195,800. Current funding is \$17,600 per fiscal year for crew time representing a 11x increase in this part of the funding provided by ARRA.

Total Cost increase for road/bridge crews in object ER:

Fiscal year 2024 - \$98,600

Fiscal year 2025 - \$195,800

Fiscal year 2026 and ongoing - \$195,800 per year

Impacts to Forest Health Treatments:

Additionally, some camps provide Forest Health Treatment/Silviculture work. Under the current cost structure of camps crews doing forest health treatment work, wages for incarcerated individuals accounts for ~18% of total allotment for camps Forest Health Treatments/Silviculture work (other large cost areas include DNR staff and motor pool services). This bill will create wages that are about 12 times higher in costs.

The camps program is currently allotted \$2.2 million of management funds (Forest Development Account, Resource

Management Cost Account, Agricultural College Trust Management Account, and the Forest Health Revolving Account) of which \$390,000 is to pay for incarcerated individuals wages per biennium to conduct 15,000 silviculture treatments. If HB-1024 passes, to maintain the same amount of completed silviculture treatment work would be a total biennial allotment of ~\$6,520,000 million (an increase of \$4.3 million per biennium specifically for incarcerated individuals wages).

Total Cost for Forest health crews in object ER:

Fiscal year 2024 - \$1.1 million (lower costs due to implementation period)

Fiscal year 2025 - \$2.15 million

Fiscal year 2026 and on going \$2.15 million per year.

Impacts to Wildfire Suppression:

Incarcerated individuals working on fire suppression orders currently make Washington State minimum wage based on locality (RCW 72.64.050, 2021 HB-1168), and therefore will be unaffected by HB-1024.

The bill goes into effect on 1/1/2024 –the estimated biennial cost of HB-1024 is as follows:

Total DNR cost in Object ER:

Fiscal year 2024 - \$1.2 million

Fiscal year 2025 - \$2.35 million

Fiscal year 2026 and on going \$2.35 million per year.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-1	General Fund	State	1,200,000	2,350,000	3,550,000	4,700,000	4,700,000
Total \$			1,200,000	2,350,000	3,550,000	4,700,000	4,700,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years					
A-Salaries and Wages					
B-Employee Benefits					
C-Professional Service Contracts					
E-Goods and Other Services	1,200,000	2,350,000	3,550,000	4,700,000	4,700,000
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	1,200,000	2,350,000	3,550,000	4,700,000	4,700,000

III. C - Operating FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.*

NONE

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

Minimal capital budget impact for one fish passage project in Olympic Region in the biennium 2023-2025 capital request. Assumes one 10-hour day. Difference in cost for wages on the project is \$1459.

Overall indeterminate but minimum impacts. Capital budget requests may increase on a project-by-project basis if camp crew support is identified as a labor component of the project.

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 1024 HB

Title: Incarcerated persons/labor

Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

- Cities: Indeterminate decrease in revenue as a result of courts being unable to charge incarcerated people for the costs of their incarceration
- Counties: Indeterminate decrease in revenue as a result of courts being unable to charge incarcerated people for the costs of their incarceration
- Special Districts:
- Specific jurisdictions only:
- Variance occurs due to:

Part II: Estimates

- No fiscal impacts.
- Expenditures represent one-time costs:
- Legislation provides local option:
- Key variables cannot be estimated with certainty at this time: Future costs of incarceration that courts could order eligible people to pay

Estimated revenue impacts to:

Non-zero but indeterminate cost and/or savings. Please see discussion.

Estimated expenditure impacts to:

None

Part III: Preparation and Approval

Fiscal Note Analyst: James Vogl	Phone: 360-480-9429	Date: 01/18/2023
Leg. Committee Contact: Corey Patton	Phone: 360-786-7388	Date: 01/05/2023
Agency Approval: Alice Zillah	Phone: 360-725-5035	Date: 01/18/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 01/18/2023

Part IV: Analysis

A. SUMMARY OF BILL

Description of the bill with an emphasis on how it impacts local government.

The proposed legislation would amend several RCWs related to legal financial obligations as well as work programs in state prisons.

Section 2 would amend RCW 9.94A.760, removing subsection (3), which allows courts to order someone convicted of a criminal offense in superior court to pay the costs of their incarceration if the court finds that person has the ability to do so.

Section 3 would amend RCW 10.01.160, removing language from subsection (2) concerning the imposition of costs of incarceration on someone convicted of a misdemeanor or gross misdemeanor. The amendments in this section would also add a subsection to RCW 10.01.160 specifying that courts may not require a person to pay the costs of their incarceration.

Section 14 states that sections 1 through 11 and 13 of this bill would take effect on January 1, 2024.

B. SUMMARY OF EXPENDITURE IMPACTS

Expenditure impacts of the legislation on local governments with the expenditure provisions identified by section number and when appropriate, the detail of expenditures. Delineated between city, county and special district impacts.

The proposed legislation would have no impact on local government expenditures.

C. SUMMARY OF REVENUE IMPACTS

Revenue impacts of the legislation on local governments, with the revenue provisions identified by section number, and when appropriate, the detail of revenue sources. Delineated between city, county and special district impacts.

The proposed legislation would result in an indeterminate, but considerable decrease in local government revenues.

Currently, per RCW 9.94A.760, superior courts may order a person who is convicted to pay the costs of their incarceration in county jails, provided the court finds a person is able to pay such costs. These payments are capped at a maximum of \$100 per day and are remitted to the jurisdiction that is responsible for a person's jail costs. Per RCW 10.01.160, funds received for the cost of incarceration in the county or city jail must be remitted to the county or city that is responsible for a person's jail costs.

While it is unknown what the future payment amounts that courts may order for jail costs may be, these payments could add up to an indeterminate, but considerable revenue loss for local jurisdictions statewide. According to data from the Administrative Office of the Courts (AOC), Washington courts collected the following payments to cover the costs of incarceration in jail in fiscal years 2020 through 2022. Data was not available for courts in King and Pierce counties, however, so given the large jail populations in these counties, the revenue amounts below underestimate the true amounts that local jurisdictions received.

Superior courts:

Fiscal year 2020: \$665,421

Fiscal year 2021: \$417,661

Fiscal year 2022: \$397,697

Average annual revenue, fiscal years 2020-22: \$494,000

Courts of limited jurisdiction:

Fiscal year 2020: \$83,113

Fiscal year 2021: \$46,606

Fiscal year 2022: \$12,000

Average annual revenue, fiscal years 2020-22: \$47,000

Average annual revenue, all courts where data available, fiscal years 2020-22: \$540,833

Of note, per the AOC fiscal note for this bill, local jurisdictions would only lose the revenue they currently collect from fees to cover the costs of incarceration in jail in the second half of fiscal year 2024 since the prohibition on courts ordering these fees would take effect on January 1, 2024.

SOURCES:

Washington State Administrative Office of the Courts