

2 **SB 6402** - S AMD - 041  
3 By Senator McDonald

4 NOT ADOPTED 2/7/00

5 Strike everything after the enacting clause and insert the  
6 following:

7 "PART I  
8 TITLE

9 NEW SECTION. **Sec. 101.** SHORT TITLE. This act may be known and  
10 cited as the personnel system reform act of 2000.

11 PART II  
12 CIVIL SERVICE REFORM

13 **Sec. 201.** RCW 41.06.030 and 1993 c 281 s 20 are each amended to  
14 read as follows:

15 A department of personnel(~~(, governed by the Washington personnel~~  
16 ~~resources board and administered by a director of personnel,)~~) is  
17 hereby established as a separate agency within the state government.

18 **Sec. 202.** RCW 41.06.150 and 1999 c 297 s 3 are each amended to  
19 read as follows:

20 The board shall adopt rules, consistent with the purposes and  
21 provisions of this chapter, as now or hereafter amended, and with the  
22 best standards of personnel administration, regarding the basis and  
23 procedures to be followed for:

24 (1) The reduction, dismissal, suspension, or demotion of an  
25 employee;

26 (2) Certification of names for vacancies, including departmental  
27 promotions, with the number of names equal to six more names than there  
28 are vacancies to be filled, such names representing applicants rated  
29 highest on eligibility lists: PROVIDED, That when other applicants  
30 have scores equal to the lowest score among the names certified, their  
31 names shall also be certified;

32 (3) Examinations for all positions in the competitive and  
33 noncompetitive service;

34 (4) Appointments;

1 (5) Training and career development;

2 (6) Probationary periods of six to twelve months and rejections of  
3 probationary employees, depending on the job requirements of the class,  
4 except that entry level state park rangers shall serve a probationary  
5 period of twelve months;

6 (7) Transfers;

7 (8) Sick leaves and vacations;

8 (9) Hours of work;

9 (10) Layoffs when necessary and subsequent reemployment, both  
10 according to seniority;

11 ~~((Determination of appropriate bargaining units within any~~  
12 ~~agency: PROVIDED, That in making such determination the board shall~~  
13 ~~consider the duties, skills, and working conditions of the employees,~~  
14 ~~the history of collective bargaining by the employees and their~~  
15 ~~bargaining representatives, the extent of organization among the~~  
16 ~~employees, and the desires of the employees;~~

17 ~~(12) Certification and decertification of exclusive bargaining~~  
18 ~~representatives: PROVIDED, That)) Collective bargaining procedures:~~

19 (a) After certification of an exclusive bargaining representative  
20 and upon the representative's request, the director shall hold an  
21 election among employees in a bargaining unit to determine by a  
22 majority whether to require as a condition of employment membership in  
23 the certified exclusive bargaining representative on or after the  
24 thirtieth day following the beginning of employment or the date of such  
25 election, whichever is the later, and the failure of an employee to  
26 comply with such a condition of employment constitutes cause for  
27 dismissal: PROVIDED FURTHER, That no more often than once in each  
28 twelve-month period after expiration of twelve months following the  
29 date of the original election in a bargaining unit and upon petition of  
30 thirty percent of the members of a bargaining unit the director shall  
31 hold an election to determine whether a majority wish to rescind such  
32 condition of employment: PROVIDED FURTHER, That for purposes of this  
33 clause, membership in the certified exclusive bargaining representative  
34 is satisfied by the payment of monthly or other periodic dues and does  
35 not require payment of initiation, reinstatement, or any other fees or  
36 finances and includes full and complete membership rights: AND PROVIDED  
37 FURTHER, That in order to safeguard the right of nonassociation of  
38 public employees, based on bona fide religious tenets or teachings of  
39 a church or religious body of which such public employee is a member,

1 such public employee shall pay to the union, for purposes within the  
2 program of the union as designated by such employee that would be in  
3 harmony with his or her individual conscience, an amount of money  
4 equivalent to regular union dues minus any included monthly premiums  
5 for union-sponsored insurance programs, and such employee shall not be  
6 a member of the union but is entitled to all the representation rights  
7 of a union member;

8 ~~((13))~~ (b) Agreements between agencies and certified exclusive  
9 bargaining representatives providing for grievance procedures and  
10 collective negotiations on all personnel matters over which the  
11 appointing authority of the appropriate bargaining unit of such agency  
12 may lawfully exercise discretion;

13 ~~((14))~~ (c) Written agreements may contain provisions for payroll  
14 deductions of employee organization dues upon authorization by the  
15 employee member and for the cancellation of such payroll deduction by  
16 the filing of a proper prior notice by the employee with the appointing  
17 authority and the employee organization: PROVIDED, That nothing  
18 contained herein permits or grants to any employee the right to strike  
19 or refuse to perform his or her official duties;

20 ~~((15))~~ (12) Adoption and revision of a comprehensive  
21 classification plan for all positions in the classified service, based  
22 on investigation and analysis of the duties and responsibilities of  
23 each such position.

24 (a) The board shall not adopt job classification revisions or class  
25 studies unless implementation of the proposed revision or study will  
26 result in net cost savings, increased efficiencies, or improved  
27 management of personnel or services, and the proposed revision or study  
28 has been approved by the director of financial management in accordance  
29 with chapter 43.88 RCW.

30 (b) ~~((Beginning July 1, 1995, through June 30, 1997, in addition to  
31 the requirements of (a) of this subsection:~~

32 ~~(i) The board may approve the implementation of salary increases  
33 resulting from adjustments to the classification plan during the 1995-  
34 97 fiscal biennium only if:~~

35 ~~(A) The implementation will not result in additional net costs and  
36 the proposed implementation has been approved by the director of  
37 financial management in accordance with chapter 43.88 RCW;~~

38 ~~(B) The implementation will take effect on July 1, 1996, and the  
39 total net cost of all such actions approved by the board for~~

1 implementation during the 1995-97 fiscal biennium does not exceed the  
2 amounts specified by the legislature specifically for this purpose; or

3 (C) The implementation is a result of emergent conditions.  
4 Emergent conditions are defined as emergency situations requiring the  
5 establishment of positions necessary for the preservation of the public  
6 health, safety, or general welfare, which do not exceed \$250,000 of the  
7 moneys identified in section 718(2), chapter 18, Laws of 1995 2nd sp.  
8 sess.

9 (ii) The board shall approve only those salary increases resulting  
10 from adjustments to the classification plan if they are due to  
11 documented recruitment and retention difficulties, salary compression  
12 or inversion, increased duties and responsibilities, or inequities.  
13 For these purposes, inequities are defined as similar work assigned to  
14 different job classes with a salary disparity greater than 7.5 percent.

15 (iii) Adjustments made to the higher education hospital special pay  
16 plan are exempt from (b)(i) through (ii) of this subsection.

17 (e)) Reclassifications, class studies, and salary adjustments ((to  
18 be implemented during the 1997-99 and subsequent fiscal biennia)) are  
19 governed by (a) of this subsection and RCW 41.06.152;

20 ((+16+)) (13) Allocation and reallocation of positions within the  
21 classification plan;

22 ((+17+)) (14) Adoption and revision of a state salary schedule to  
23 reflect the prevailing rates in Washington state private industries and  
24 other governmental units but the rates in the salary schedules or plans  
25 shall be increased if necessary to attain comparable worth under an  
26 implementation plan under RCW 41.06.155 and that, for institutions of  
27 higher education and related boards, shall be competitive for positions  
28 of a similar nature in the state or the locality in which an  
29 institution of higher education or related board is located, such  
30 adoption and revision subject to approval by the director of financial  
31 management in accordance with the provisions of chapter 43.88 RCW;

32 ((+18+)) (15) Increment increases within the series of steps for  
33 each pay grade based on length of service for all employees whose  
34 standards of performance are such as to permit them to retain job  
35 status in the classified service;

36 ((+19+)) (16) Optional lump sum relocation compensation approved by  
37 the agency director, whenever it is reasonably necessary that a person  
38 make a domiciliary move in accepting a transfer or other employment  
39 with the state. An agency must provide lump sum compensation within

1 existing resources. If the person receiving the relocation payment  
2 terminates or causes termination with the state, for reasons other than  
3 layoff, disability separation, or other good cause as determined by an  
4 agency director, within one year of the date of the employment, the  
5 state is entitled to reimbursement of the lump sum compensation from  
6 the person;

7 ~~((+20+))~~ (17) Providing for veteran's preference as required by  
8 existing statutes, with recognition of preference in regard to layoffs  
9 and subsequent reemployment for veterans and their surviving spouses by  
10 giving such eligible veterans and their surviving spouses additional  
11 credit in computing their seniority by adding to their unbroken state  
12 service, as defined by the board, the veteran's service in the military  
13 not to exceed five years. For the purposes of this section, "veteran"  
14 means any person who has one or more years of active military service  
15 in any branch of the armed forces of the United States or who has less  
16 than one year's service and is discharged with a disability incurred in  
17 the line of duty or is discharged at the convenience of the government  
18 and who, upon termination of such service has received an honorable  
19 discharge, a discharge for physical reasons with an honorable record,  
20 or a release from active military service with evidence of service  
21 other than that for which an undesirable, bad conduct, or dishonorable  
22 discharge shall be given: PROVIDED, HOWEVER, That the surviving spouse  
23 of a veteran is entitled to the benefits of this section regardless of  
24 the veteran's length of active military service: PROVIDED FURTHER,  
25 That for the purposes of this section "veteran" does not include any  
26 person who has voluntarily retired with twenty or more years of active  
27 military service and whose military retirement pay is in excess of five  
28 hundred dollars per month;

29 ~~((+21+))~~ (18) Permitting agency heads to delegate the authority to  
30 appoint, reduce, dismiss, suspend, or demote employees within their  
31 agencies if such agency heads do not have specific statutory authority  
32 to so delegate: PROVIDED, That the board may not authorize such  
33 delegation to any position lower than the head of a major subdivision  
34 of the agency;

35 ~~((+22+))~~ (19) Assuring persons who are or have been employed in  
36 classified positions before July 1, 1993, will be eligible for  
37 employment, reemployment, transfer, and promotion in respect to  
38 classified positions covered by this chapter;

1        ~~((23))~~ (20) Affirmative action in appointment, promotion,  
2 transfer, recruitment, training, and career development; development  
3 and implementation of affirmative action goals and timetables; and  
4 monitoring of progress against those goals and timetables.

5        The board shall consult with the human rights commission in the  
6 development of rules pertaining to affirmative action. The department  
7 of personnel shall transmit a report annually to the human rights  
8 commission which states the progress each state agency has made in  
9 meeting affirmative action goals and timetables.

10        **Sec. 203.** RCW 41.06.150 and 2000 c . . . s 202 (section 202 of  
11 this act) are each amended to read as follows:

12        The ~~((board))~~ director shall adopt rules, consistent with the  
13 purposes and provisions of this chapter(~~(, as now or hereafter~~  
14 ~~amended,)~~) and with the best standards of personnel administration,  
15 regarding the basis and procedures to be followed for:

16        (1) ~~((The reduction, dismissal, suspension, or demotion of an~~  
17 ~~employee;~~

18        ~~(2))~~ Certification of names for vacancies(~~(, including~~  
19 ~~departmental promotions, with the number of names equal to six more~~  
20 ~~names than there are vacancies to be filled, such names representing~~  
21 ~~applicants rated highest on eligibility lists: PROVIDED, That when~~  
22 ~~other applicants have scores equal to the lowest score among the names~~  
23 ~~certified, their names shall also be certified))~~);

24        ~~((3))~~ (2) Examinations for all positions in the competitive and  
25 noncompetitive service;

26        ~~((4))~~ (3) Appointments;

27        ~~((5) Training and career development;~~

28        ~~(6) Probationary periods of six to twelve months and rejections of~~  
29 ~~probationary employees, depending on the job requirements of the class,~~  
30 ~~except that entry level state park rangers shall serve a probationary~~  
31 ~~period of twelve months;~~

32        ~~(7) Transfers;~~

33        ~~(8) Sick leaves and vacations;~~

34        ~~(9) Hours of work;~~

35        ~~(10) Layoffs when necessary and subsequent reemployment, both~~  
36 ~~according to seniority;~~

37        ~~(11) Collective bargaining procedures;~~

1           ~~(a) After certification of an exclusive bargaining representative~~  
2 ~~and upon the representative's request, the director shall hold an~~  
3 ~~election among employees in a bargaining unit to determine by a~~  
4 ~~majority whether to require as a condition of employment membership in~~  
5 ~~the certified exclusive bargaining representative on or after the~~  
6 ~~thirtieth day following the beginning of employment or the date of such~~  
7 ~~election, whichever is the later, and the failure of an employee to~~  
8 ~~comply with such a condition of employment constitutes cause for~~  
9 ~~dismissal: PROVIDED FURTHER, That no more often than once in each~~  
10 ~~twelve month period after expiration of twelve months following the~~  
11 ~~date of the original election in a bargaining unit and upon petition of~~  
12 ~~thirty percent of the members of a bargaining unit the director shall~~  
13 ~~hold an election to determine whether a majority wish to rescind such~~  
14 ~~condition of employment: PROVIDED FURTHER, That for purposes of this~~  
15 ~~clause, membership in the certified exclusive bargaining representative~~  
16 ~~is satisfied by the payment of monthly or other periodic dues and does~~  
17 ~~not require payment of initiation, reinstatement, or any other fees or~~  
18 ~~finances and includes full and complete membership rights: AND PROVIDED~~  
19 ~~FURTHER, That in order to safeguard the right of nonassociation of~~  
20 ~~public employees, based on bona fide religious tenets or teachings of~~  
21 ~~a church or religious body of which such public employee is a member,~~  
22 ~~such public employee shall pay to the union, for purposes within the~~  
23 ~~program of the union as designated by such employee that would be in~~  
24 ~~harmony with his or her individual conscience, an amount of money~~  
25 ~~equivalent to regular union dues minus any included monthly premiums~~  
26 ~~for union sponsored insurance programs, and such employee shall not be~~  
27 ~~a member of the union but is entitled to all the representation rights~~  
28 ~~of a union member;~~

29           ~~(b) Agreements between agencies and certified exclusive bargaining~~  
30 ~~representatives providing for grievance procedures and collective~~  
31 ~~negotiations on all personnel matters over which the appointing~~  
32 ~~authority of the appropriate bargaining unit of such agency may~~  
33 ~~lawfully exercise discretion;~~

34           ~~(c) Written agreements may contain provisions for payroll~~  
35 ~~deductions of employee organization dues upon authorization by the~~  
36 ~~employee member and for the cancellation of such payroll deduction by~~  
37 ~~the filing of a proper prior notice by the employee with the appointing~~  
38 ~~authority and the employee organization: PROVIDED, That nothing~~

1 contained herein permits or grants to any employee the right to strike  
2 or refuse to perform his or her official duties;

3 ~~(d) A collective bargaining agreement entered into under this~~  
4 ~~subsection before July 1, 2002, covering employees subject to sections~~  
5 ~~301 through 314 of this act, that expires after July 1, 2002, shall~~  
6 ~~remain in full force during its duration, or until superseded by a~~  
7 ~~collective bargaining agreement entered into by the parties under~~  
8 ~~sections 301 through 314 of this act. However, an agreement entered~~  
9 ~~into before July 1, 2002, may not be renewed or extended beyond July 1,~~  
10 ~~2003. This subsection (11) does not apply to collective bargaining~~  
11 ~~negotiations or collective bargaining agreements entered into under~~  
12 ~~sections 301 through 314 of this act;~~

13 ~~(12)) (4) Adoption and revision of a comprehensive classification~~  
14 ~~plan, in accordance with rules adopted by the board under section 205~~  
15 ~~of this act, for all positions in the classified service, based on~~  
16 ~~investigation and analysis of the duties and responsibilities of each~~  
17 ~~such position and allocation and reallocation of positions within the~~  
18 ~~classification plan.~~

19 (a) The ~~((board))~~ director shall not adopt job classification  
20 revisions or class studies unless implementation of the proposed  
21 revision or study will result in net cost savings, increased  
22 efficiencies, or improved management of personnel or services, and the  
23 proposed revision or study has been approved by the director of  
24 financial management in accordance with chapter 43.88 RCW.

25 (b) Reclassifications, class studies, and salary adjustments are  
26 governed by (a) of this subsection and RCW 41.06.152;

27 ~~((13) Allocation and reallocation of positions within the~~  
28 ~~classification plan;~~

29 ~~(14) Adoption and revision of a state salary schedule to reflect~~  
30 ~~the prevailing rates in Washington state private industries and other~~  
31 ~~governmental units but the rates in the salary schedules or plans shall~~  
32 ~~be increased if necessary to attain comparable worth under an~~  
33 ~~implementation plan under RCW 41.06.155 and that, for institutions of~~  
34 ~~higher education and related boards, shall be competitive for positions~~  
35 ~~of a similar nature in the state or the locality in which an~~  
36 ~~institution of higher education or related board is located, such~~  
37 ~~adoption and revision subject to approval by the director of financial~~  
38 ~~management in accordance with the provisions of chapter 43.88 RCW;~~

1       ~~(15) Increment increases within the series of steps for each pay~~  
2 ~~grade based on length of service for all employees whose standards of~~  
3 ~~performance are such as to permit them to retain job status in the~~  
4 ~~classified service;~~

5       ~~(16) Optional lump sum relocation compensation approved by the~~  
6 ~~agency director, whenever it is reasonably necessary that a person make~~  
7 ~~a domiciliary move in accepting a transfer or other employment with the~~  
8 ~~state. An agency must provide lump sum compensation within existing~~  
9 ~~resources. If the person receiving the relocation payment terminates~~  
10 ~~or causes termination with the state, for reasons other than layoff,~~  
11 ~~disability separation, or other good cause as determined by an agency~~  
12 ~~director, within one year of the date of the employment, the state is~~  
13 ~~entitled to reimbursement of the lump sum compensation from the person;~~

14       ~~(17) Providing for veteran's preference as required by existing~~  
15 ~~statutes, with recognition of preference in regard to layoffs and~~  
16 ~~subsequent reemployment for veterans and their surviving spouses by~~  
17 ~~giving such eligible veterans and their surviving spouses additional~~  
18 ~~credit in computing their seniority by adding to their unbroken state~~  
19 ~~service, as defined by the board, the veteran's service in the military~~  
20 ~~not to exceed five years. For the purposes of this section, "veteran"~~  
21 ~~means any person who has one or more years of active military service~~  
22 ~~in any branch of the armed forces of the United States or who has less~~  
23 ~~than one year's service and is discharged with a disability incurred in~~  
24 ~~the line of duty or is discharged at the convenience of the government~~  
25 ~~and who, upon termination of such service has received an honorable~~  
26 ~~discharge, a discharge for physical reasons with an honorable record,~~  
27 ~~or a release from active military service with evidence of service~~  
28 ~~other than that for which an undesirable, bad conduct, or dishonorable~~  
29 ~~discharge shall be given: PROVIDED, HOWEVER, That the surviving spouse~~  
30 ~~of a veteran is entitled to the benefits of this section regardless of~~  
31 ~~the veteran's length of active military service: PROVIDED FURTHER,~~  
32 ~~That for the purposes of this section "veteran" does not include any~~  
33 ~~person who has voluntarily retired with twenty or more years of active~~  
34 ~~military service and whose military retirement pay is in excess of five~~  
35 ~~hundred dollars per month;~~

36       ~~(18))) (5) Permitting agency heads to delegate the authority to~~  
37 ~~appoint, reduce, dismiss, suspend, or demote employees within their~~  
38 ~~agencies if such agency heads do not have specific statutory authority~~  
39 ~~to so delegate: PROVIDED, That the ((board)) director may not~~

1 authorize such delegation to any position lower than the head of a  
2 major subdivision of the agency;

3 ~~((19))~~ (6) Assuring persons who are or have been employed in  
4 classified positions before July 1, 1993, will be eligible for  
5 employment, reemployment, transfer, and promotion in respect to  
6 classified positions covered by this chapter;

7 ~~((20))~~ (7) Affirmative action in appointment, promotion,  
8 transfer, recruitment, training, and career development; development  
9 and implementation of affirmative action goals and timetables; and  
10 monitoring of progress against those goals and timetables.

11 The ~~((board))~~ director shall consult with the human rights  
12 commission in the development of rules pertaining to affirmative  
13 action. The department of personnel shall transmit a report annually  
14 to the human rights commission which states the progress each state  
15 agency has made in meeting affirmative action goals and timetables.

16 Rules adopted under this section by the director shall provide for  
17 local administration and management by the institutions of higher  
18 education and related boards, subject to periodic audit and review by  
19 the director.

20 NEW SECTION. Sec. 204. A new section is added to chapter 41.06  
21 RCW to read as follows:

22 The director shall adopt rules, consistent with the purposes and  
23 provisions of this chapter and with the best standards of personnel  
24 administration, regarding the basis and procedures to be followed for:

25 (1) The reduction, dismissal, suspension, or demotion of an  
26 employee;

27 (2) Training and career development;

28 (3) Probationary periods of six to twelve months and rejections of  
29 probationary employees, depending on the job requirements of the class,  
30 except that entry level state park rangers shall serve a probationary  
31 period of twelve months;

32 (4) Transfers;

33 (5) Promotional preferences;

34 (6) Sick leaves and vacations;

35 (7) Hours of work;

36 (8) Layoffs when necessary and subsequent reemployment, except for  
37 the financial basis for layoffs;

38 (9) The number of names to be certified for vacancies;

1 (10) Adoption and revision of a state salary schedule to reflect  
2 the prevailing rates in Washington state private industries and other  
3 governmental units. The rates in the salary schedules or plans shall  
4 be increased if necessary to attain comparable worth under an  
5 implementation plan under RCW 41.06.155 and, for institutions of higher  
6 education and related boards, shall be competitive for positions of a  
7 similar nature in the state or the locality in which an institution of  
8 higher education or related board is located. Such adoption and  
9 revision is subject to approval by the director of financial management  
10 in accordance with chapter 43.88 RCW;

11 (11) Increment increases within the series of steps for each pay  
12 grade based on length of service for all employees whose standards of  
13 performance are such as to permit them to retain job status in the  
14 classified service;

15 (12) Optional lump sum relocation compensation approved by the  
16 agency director, whenever it is reasonably necessary that a person make  
17 a domiciliary move in accepting a transfer or other employment with the  
18 state. An agency must provide lump sum compensation within existing  
19 resources. If the person receiving the relocation payment terminates  
20 or causes termination with the state, for reasons other than layoff,  
21 disability separation, or other good cause as determined by an agency  
22 director, within one year of the date of the employment, the state is  
23 entitled to reimbursement of the lump sum compensation from the person;

24 (13) Providing for veteran's preference as required by existing  
25 statutes, with recognition of preference in regard to layoffs and  
26 subsequent reemployment for veterans and their surviving spouses by  
27 giving such eligible veterans and their surviving spouses additional  
28 credit in computing their seniority by adding to their unbroken state  
29 service, as defined by the director, the veteran's service in the  
30 military not to exceed five years. For the purposes of this section,  
31 "veteran" means any person who has one or more years of active military  
32 service in any branch of the armed forces of the United States or who  
33 has less than one year's service and is discharged with a disability  
34 incurred in the line of duty or is discharged at the convenience of the  
35 government and who, upon termination of such service, has received an  
36 honorable discharge, a discharge for physical reasons with an honorable  
37 record, or a release from active military service with evidence of  
38 service other than that for which an undesirable, bad conduct, or  
39 dishonorable discharge shall be given. However, the surviving spouse

1 of a veteran is entitled to the benefits of this section regardless of  
2 the veteran's length of active military service. For the purposes of  
3 this section, "veteran" does not include any person who has voluntarily  
4 retired with twenty or more years of active military service and whose  
5 military retirement pay is in excess of five hundred dollars per month.

6 Rules adopted under this section by the director shall provide for  
7 local administration and management by the institutions of higher  
8 education and related boards, subject to periodic audit and review by  
9 the director.

10 NEW SECTION. **Sec. 205.** A new section is added to chapter 41.06  
11 RCW to read as follows:

12 (1) The board shall conduct a comprehensive review of all rules in  
13 effect on the effective date of this section governing the  
14 classification, allocation, and reallocation of positions within the  
15 classified service. In conducting this review, the board shall consult  
16 with state agencies, institutions of higher education, employee  
17 organizations, and members of the general public. The department shall  
18 assist the board in the conduct of this review, which shall be  
19 completed by the board no later than July 1, 2002.

20 (2) By March 15, 2003, the board shall adopt new rules governing  
21 the classification, allocation, and reallocation of positions in the  
22 classified service. In adopting such rules, the board shall adhere to  
23 the following goals:

24 (a) To improve the effectiveness and efficiency of the delivery of  
25 services to the citizens of the state through the use of current  
26 personnel management processes and to promote a workplace where the  
27 overall focus is on the recipient of governmental services;

28 (b) To develop a simplified classification system that will  
29 substantially reduce the number of job classifications in the  
30 classified service and facilitate the most effective use of the state  
31 personnel resources;

32 (c) To develop a classification system to permit state agencies to  
33 respond flexibly to changing technologies, economic and social  
34 conditions, and the needs of its citizens;

35 (d) To value workplace diversity;

36 (e) To facilitate the reorganization and decentralization of  
37 governmental services; and

38 (f) To enhance mobility and career advancement opportunities.

1           NEW SECTION.   **Sec. 206.**   A new section is added to chapter 41.06  
2 RCW to read as follows:

3           In accordance with rules adopted by the board under section 205 of  
4 this act, the director shall, by January 1, 2004, begin to implement a  
5 new classification system for positions in the classified service. Any  
6 employee who believes that the director has incorrectly applied the  
7 rules of the board in determining a job classification for a job held  
8 by that employee may appeal the director's decision to the board by  
9 filing a notice in writing within thirty days of the action from which  
10 the appeal is taken. Decisions of the board concerning such appeals  
11 are final and not subject to further appeal.

12           **Sec. 207.**   RCW 41.06.022 and 1993 c 281 s 8 are each amended to  
13 read as follows:

14           For purposes of this chapter, "manager" means any employee who:

15           (1) Formulates state-wide policy or directs the work of an agency  
16 or agency subdivision;

17           (2) Is responsible to administer one or more state-wide policies or  
18 programs of an agency or agency subdivision;

19           (3) Manages, administers, and controls a local branch office of an  
20 agency or agency subdivision, including the physical, financial, or  
21 personnel resources;

22           (4) Has substantial responsibility in personnel administration,  
23 legislative relations, public information, or the preparation and  
24 administration of budgets; or

25           (5) Functionally is above the first level of supervision and  
26 exercises authority that is not merely routine or clerical in nature  
27 and requires the consistent use of independent judgment.

28           No employee who is a member of the Washington management service  
29 may be included in a collective bargaining unit.

30           NEW SECTION.   **Sec. 208.**   A new section is added to chapter 41.06  
31 RCW to read as follows:

32           (1) Any department, agency, or institution of higher education may  
33 purchase services, including services that have been customarily and  
34 historically provided by employees in the classified service under this  
35 chapter, by contracting with individuals, nonprofit organizations,

1 businesses, employee business units, or other entities if the following  
2 criteria are met:

3 (a) The invitation for bid or request for proposal contains  
4 measurable standards for the performance of the contract;

5 (b) Employees in the classified service whose positions or work  
6 would be displaced by the contract are provided an opportunity to offer  
7 alternatives to purchasing services by contract and, if these  
8 alternatives are not accepted, compete for the contract under  
9 competitive contracting procedures in subsection (4) of this section;

10 (c) The contract with an entity other than an employee business  
11 unit includes a provision requiring the entity to consider employment  
12 of state employees who may be displaced by the contract;

13 (d) The department, agency, or institution of higher education has  
14 established a contract monitoring process to measure contract  
15 performance, costs, service delivery quality, and other contract  
16 standards, and to cancel contracts that do not meet those standards;  
17 and

18 (e) The department, agency, or institution of higher education has  
19 demonstrated that the contract results in savings or efficiency  
20 improvements. The contracting agency must consider the consequences  
21 and potential mitigation of improper or failed performance by the  
22 contractor.

23 (2) Any provision contrary to or in conflict with this section in  
24 any collective bargaining agreement in effect on the effective date of  
25 this section is not effective beyond the expiration date of the  
26 agreement.

27 (3) Contracting for services that was authorized by law prior to  
28 the effective date of this section shall not be subject to the  
29 processes set forth in subsections (1) and (4) through (6) of this  
30 section.

31 (4) Competitive contracting shall be implemented as follows:

32 (a) At least ninety days prior to the date the contracting agency  
33 requests bids from private entities for a contract for services  
34 provided by classified employees, the contracting agency shall notify  
35 the classified employees whose positions or work would be displaced by  
36 the contract. The employees shall have sixty days from the date of  
37 notification to offer alternatives to purchasing services by contract,  
38 and the agency shall consider the alternatives before requesting bids.

1 (b) If the employees decide to compete for the contract, they shall  
2 notify the contracting agency of their decision. Employees must form  
3 one or more employee business units for the purpose of submitting a bid  
4 or bids to perform the services.

5 (c) The director of personnel, with the advice and assistance of  
6 the department of general administration, shall develop and make  
7 available to employee business units training in the bidding process  
8 and general bid preparation.

9 (d) The director of general administration, with the advice and  
10 assistance of the department of personnel, shall, by rule, establish  
11 procedures to ensure that bids are submitted and evaluated in a fair  
12 and objective manner and that there exists a competitive market for the  
13 service. Such rules shall include, but not be limited to: (i)  
14 Prohibitions against participation in the bid evaluation process by  
15 employees who prepared the business unit's bid or who perform any of  
16 the services to be contracted; (ii) provisions to ensure no bidder  
17 receives an advantage over other bidders and that bid requirements are  
18 applied equitably to all parties; and (iii) procedures that require the  
19 contracting agency to receive complaints regarding the bidding process  
20 and to consider them before awarding the contract. Appeal of an  
21 agency's actions under this subsection is an adjudicative proceeding  
22 and subject to the applicable provisions of chapter 34.05 RCW, the  
23 administrative procedure act, with the final decision to be rendered by  
24 an administrative law judge assigned under chapter 34.12 RCW.

25 (e) An employee business unit's bid must include the fully  
26 allocated costs of the service, including the cost of the employees'  
27 salaries and benefits, space, equipment, materials, and other costs  
28 necessary to perform the function. An employee business unit's cost  
29 shall not include the state's indirect overhead costs unless those  
30 costs can be attributed directly to the function in question and would  
31 not exist if that function were not performed in state service.

32 (f) A department, agency, or institution of higher education may  
33 contract with the department of general administration to conduct the  
34 bidding process.

35 (5) As used in this section:

36 (a) "Employee business unit" means a group of employees who perform  
37 services to be contracted under this section and who submit a bid for  
38 the performance of those services under subsection (4) of this section.

1 (b) "Indirect overhead costs" means the pro rata share of existing  
2 agency administrative salaries and benefits, and rent, equipment costs,  
3 utilities, and materials associated with those administrative  
4 functions.

5 (c) "Competitive contracting" means the process by which classified  
6 employees of a department, agency, or institution of higher education  
7 compete with businesses, individuals, nonprofit organizations, or other  
8 entities for contracts authorized by subsection (1) of this section.

9 (6) The joint legislative audit and review committee shall conduct  
10 a performance audit of the implementation of this section, including  
11 the adequacy of the appeals process in subsection (4)(d) of this  
12 section, and report to the legislature by January 1, 2005, on the  
13 results of the audit.

14 **Sec. 209.** RCW 41.06.070 and 1998 c 245 s 40 are each amended to  
15 read as follows:

16 (1) The provisions of this chapter do not apply to:

17 (a) The members of the legislature or to any employee of, or  
18 position in, the legislative branch of the state government including  
19 members, officers, and employees of the legislative council, joint  
20 legislative audit and review committee, statute law committee, and any  
21 interim committee of the legislature;

22 (b) The justices of the supreme court, judges of the court of  
23 appeals, judges of the superior courts or of the inferior courts, or to  
24 any employee of, or position in the judicial branch of state  
25 government;

26 (c) Officers, academic personnel, and employees of technical  
27 colleges;

28 (d) The officers of the Washington state patrol;

29 (e) Elective officers of the state;

30 (f) The chief executive officer of each agency;

31 (g) In the departments of employment security and social and health  
32 services, the director and the director's confidential secretary; in  
33 all other departments, the executive head of which is an individual  
34 appointed by the governor, the director, his or her confidential  
35 secretary, and his or her statutory assistant directors;

36 (h) In the case of a multimember board, commission, or committee,  
37 whether the members thereof are elected, appointed by the governor or  
38 other authority, serve ex officio, or are otherwise chosen:

1 (i) All members of such boards, commissions, or committees;  
2 (ii) If the members of the board, commission, or committee serve on  
3 a part-time basis and there is a statutory executive officer: The  
4 secretary of the board, commission, or committee; the chief executive  
5 officer of the board, commission, or committee; and the confidential  
6 secretary of the chief executive officer of the board, commission, or  
7 committee;  
8 (iii) If the members of the board, commission, or committee serve  
9 on a full-time basis: The chief executive officer or administrative  
10 officer as designated by the board, commission, or committee; and a  
11 confidential secretary to the chair of the board, commission, or  
12 committee;  
13 (iv) If all members of the board, commission, or committee serve ex  
14 officio: The chief executive officer; and the confidential secretary  
15 of such chief executive officer;  
16 (i) The confidential secretaries and administrative assistants in  
17 the immediate offices of the elective officers of the state;  
18 (j) Assistant attorneys general;  
19 (k) Commissioned and enlisted personnel in the military service of  
20 the state;  
21 (l) Inmate, student, part-time, or temporary employees, and part-  
22 time professional consultants, as defined by the Washington personnel  
23 resources board;  
24 (m) The public printer or to any employees of or positions in the  
25 state printing plant;  
26 (n) Officers and employees of the Washington state fruit  
27 commission;  
28 (o) Officers and employees of the Washington state apple  
29 advertising commission;  
30 (p) Officers and employees of the Washington state dairy products  
31 commission;  
32 (q) Officers and employees of the Washington tree fruit research  
33 commission;  
34 (r) Officers and employees of the Washington state beef commission;  
35 (s) Officers and employees of any commission formed under chapter  
36 15.66 RCW;  
37 (t) (~~Officers and employees of the state wheat commission formed~~  
38 ~~under chapter 15.63 RCW;~~

1        ~~(u)~~) Officers and employees of agricultural commissions formed  
2 under chapter 15.65 RCW;

3        ~~((v))~~ (u) Officers and employees of the nonprofit corporation  
4 formed under chapter 67.40 RCW;

5        ~~((w))~~ (v) Executive assistants for personnel administration and  
6 labor relations in all state agencies employing such executive  
7 assistants including but not limited to all departments, offices,  
8 commissions, committees, boards, or other bodies subject to the  
9 provisions of this chapter and this subsection shall prevail over any  
10 provision of law inconsistent herewith unless specific exception is  
11 made in such law;

12        ~~((x))~~ (w) In each agency with fifty or more employees: Deputy  
13 agency heads, assistant directors or division directors, and not more  
14 than three principal policy assistants who report directly to the  
15 agency head or deputy agency heads;

16        ~~((y))~~ (x) All employees of the marine employees' commission;

17        ~~((z) Up to a total of five senior staff positions of the western  
18 library network under chapter 27.26 RCW responsible for formulating  
19 policy or for directing program management of a major administrative  
20 unit. This subsection (1)(z) shall expire on June 30, 1997;~~

21        ~~(aa))~~ (y) Staff employed by the department of community, trade,  
22 and economic development to administer energy policy functions and  
23 manage energy site evaluation council activities under RCW  
24 43.21F.045(2)(m);

25        ~~((bb))~~ (z) Staff employed by Washington State University to  
26 administer energy education, applied research, and technology transfer  
27 programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5).

28        (2) The following classifications, positions, and employees of  
29 institutions of higher education and related boards are hereby exempted  
30 from coverage of this chapter:

31        (a) Members of the governing board of each institution of higher  
32 education and related boards, all presidents, vice-presidents, and  
33 their confidential secretaries, administrative, and personal  
34 assistants; deans, directors, and chairs; academic personnel; and  
35 executive heads of major administrative or academic divisions employed  
36 by institutions of higher education; principal assistants to executive  
37 heads of major administrative or academic divisions; other managerial  
38 or professional employees in an institution or related board having  
39 substantial responsibility for directing or controlling program

1 operations and accountable for allocation of resources and program  
2 results, or for the formulation of institutional policy, or for  
3 carrying out personnel administration or labor relations functions,  
4 legislative relations, public information, development, senior computer  
5 systems and network programming, or internal audits and investigations;  
6 and any employee of a community college district whose place of work is  
7 one which is physically located outside the state of Washington and who  
8 is employed pursuant to RCW 28B.50.092 and assigned to an educational  
9 program operating outside of the state of Washington;

10 ~~((Student, part-time, or temporary employees, and part-time  
11 professional consultants, as defined by the Washington personnel  
12 resources board, employed by institutions of higher education and  
13 related boards;~~

14 ~~(e))~~ The governing board of each institution, and related boards,  
15 may also exempt from this chapter classifications involving research  
16 activities, counseling of students, extension or continuing education  
17 activities, graphic arts or publications activities requiring  
18 prescribed academic preparation or special training as determined by  
19 the board: PROVIDED, That no nonacademic employee engaged in office,  
20 clerical, maintenance, or food and trade services may be exempted by  
21 the board under this provision;

22 ~~((d))~~ (c) Printing craft employees in the department of printing  
23 at the University of Washington.

24 (3) In addition to the exemptions specifically provided by this  
25 chapter, the ~~((Washington personnel resources board))~~ director of  
26 personnel may provide for further exemptions pursuant to the following  
27 procedures. The governor or other appropriate elected official may  
28 submit requests for exemption to the ~~((Washington personnel resources~~  
29 ~~board))~~ director of personnel stating the reasons for requesting such  
30 exemptions. The ~~((Washington personnel resources board))~~ director of  
31 personnel shall hold a public hearing, after proper notice, on requests  
32 submitted pursuant to this subsection. If the ~~((board))~~ director  
33 determines that the position for which exemption is requested is one  
34 involving substantial responsibility for the formulation of basic  
35 agency or executive policy or one involving directing and controlling  
36 program operations of an agency or a major administrative division  
37 thereof, the ~~((Washington personnel resources board))~~ director of  
38 personnel shall grant the request and such determination shall be final  
39 as to any decision made before July 1, 1993. The total number of

1 additional exemptions permitted under this subsection shall not exceed  
2 one percent of the number of employees in the classified service not  
3 including employees of institutions of higher education and related  
4 boards for those agencies not directly under the authority of any  
5 elected public official other than the governor, and shall not exceed  
6 a total of twenty-five for all agencies under the authority of elected  
7 public officials other than the governor.

8 The salary and fringe benefits of all positions presently or  
9 hereafter exempted except for the chief executive officer of each  
10 agency, full-time members of boards and commissions, administrative  
11 assistants and confidential secretaries in the immediate office of an  
12 elected state official, and the personnel listed in subsections (1)(j)  
13 through ~~((v), (y), (z),)~~ (u) and (x) and (2) of this section, shall  
14 be determined by the ~~((Washington personnel resources board))~~ director  
15 of personnel. ~~((However, beginning with changes proposed for the 1997-~~  
16 ~~99 fiscal biennium,))~~ Changes to the classification plan affecting  
17 exempt salaries must meet the same provisions for classified salary  
18 increases resulting from adjustments to the classification plan as  
19 outlined in RCW 41.06.152.

20 Any person holding a classified position subject to the provisions  
21 of this chapter shall, when and if such position is subsequently  
22 exempted from the application of this chapter, be afforded the  
23 following rights: If such person previously held permanent status in  
24 another classified position, such person shall have a right of  
25 reversion to the highest class of position previously held, or to a  
26 position of similar nature and salary.

27 Any classified employee having civil service status in a classified  
28 position who accepts an appointment in an exempt position shall have  
29 the right of reversion to the highest class of position previously  
30 held, or to a position of similar nature and salary.

31 A person occupying an exempt position who is terminated from the  
32 position for gross misconduct or malfeasance does not have the right of  
33 reversion to a classified position as provided for in this section.

34 **Sec. 210.** RCW 41.06.110 and 1993 c 281 s 25 are each amended to  
35 read as follows:

36 (1) There is hereby created a Washington personnel resources board  
37 composed of three members appointed by the governor, subject to  
38 confirmation by the senate. The members of the personnel board serving

1 June 30, 1993, shall be the members of the Washington personnel  
2 resources board, and they shall complete their terms as under the  
3 personnel board. Each odd-numbered year thereafter the governor shall  
4 appoint a member for a six-year term. Each member shall continue to  
5 hold office after the expiration of the member's term until a successor  
6 has been appointed. Persons so appointed shall have clearly  
7 demonstrated an interest and belief in the merit principle, shall not  
8 hold any other employment with the state, shall not have been an  
9 officer of a political party for a period of one year immediately prior  
10 to such appointment, and shall not be or become a candidate for  
11 partisan elective public office during the term to which they are  
12 appointed;

13 (2) Each member of the board shall be compensated in accordance  
14 with RCW 43.03.250. The members of the board may receive any number of  
15 daily payments for official meetings of the board actually attended.  
16 Members of the board shall also be reimbursed for travel expenses  
17 incurred in the discharge of their official duties in accordance with  
18 RCW 43.03.050 and 43.03.060.

19 (3) At its first meeting following the appointment of all of its  
20 members, and annually thereafter, the board shall elect a chair and  
21 vice-chair from among its members to serve one year. The presence of  
22 at least two members of the board shall constitute a quorum to transact  
23 business. A written public record shall be kept by the board of all  
24 actions of the board. The director of personnel shall serve as  
25 secretary.

26 (4) The board may appoint and compensate hearing officers to hear  
27 and conduct appeals (~~((until December 31, 1982))~~). Such compensation  
28 shall be paid on a contractual basis for each hearing, in accordance  
29 with the provisions of chapter 43.88 RCW and rules adopted pursuant  
30 thereto, as they relate to personal service contracts.

31 **Sec. 211.** RCW 41.06.160 and 1993 c 281 s 29 are each amended to  
32 read as follows:

33 In preparing classification and salary schedules as set forth in  
34 RCW 41.06.150 (~~((as now or hereafter amended))~~) the department of  
35 personnel shall give full consideration to prevailing rates in other  
36 public employment and in private employment in this state. For this  
37 purpose the department shall undertake comprehensive salary and fringe  
38 benefit surveys(~~(, with such surveys to be conducted in the year prior~~

1 to the convening of every other one hundred five day regular session of  
2 the state legislature. In the year prior to the convening of each one  
3 hundred five day regular session during which a comprehensive salary  
4 and fringe benefit survey is not conducted, the department shall plan  
5 and conduct a trend salary and fringe benefit survey. This survey  
6 shall measure average salary and fringe benefit movement for broad  
7 occupational groups which has occurred since the last comprehensive  
8 salary and fringe benefit survey was conducted. The results of each  
9 comprehensive and trend salary and fringe benefit survey shall be  
10 completed and forwarded by September 30 with a recommended state salary  
11 schedule to the governor and director of financial management for their  
12 use in preparing budgets to be submitted to the succeeding legislature.  
13 A copy of the data and supporting documentation shall be furnished by  
14 the department of personnel to the standing committees for  
15 appropriations of the senate and house of representatives.

16 In the case of comprehensive salary and fringe benefit surveys, the  
17 department shall furnish the following supplementary data in support of  
18 its recommended salary schedule:

19 (1) A total dollar figure which reflects the recommended increase  
20 or decrease in state salaries as a direct result of the specific salary  
21 and fringe benefit survey that has been conducted and which is  
22 categorized to indicate what portion of the increase or decrease is  
23 represented by salary survey data and what portion is represented by  
24 fringe benefit survey data;

25 (2) An additional total dollar figure which reflects the impact of  
26 recommended increases or decreases to state salaries based on other  
27 factors rather than directly on prevailing rate data obtained through  
28 the survey process and which is categorized to indicate the sources of  
29 the requests for deviation from prevailing rates and the reasons for  
30 the changes;

31 (3) A list of class codes and titles indicating recommended monthly  
32 salary ranges for all state classes under the control of the department  
33 of personnel with those salary ranges which do not substantially  
34 conform to the prevailing rates developed from the salary and fringe  
35 benefit survey distinctly marked and an explanation of the reason for  
36 the deviation included;

37 (4) A supplemental salary schedule which indicates the additional  
38 salary to be paid state employees for hazardous duties or other  
39 considerations requiring extra compensation under specific

1 circumstances. ~~Additional compensation for these circumstances shall~~  
2 ~~not be included in the basic salary schedule but shall be maintained as~~  
3 ~~a separate pay schedule for purposes of full disclosure and visibility;~~  
4 ~~and~~

5 ~~(5) A supplemental salary schedule which indicates those cases~~  
6 ~~where the board determines that prevailing rates do not provide similar~~  
7 ~~salaries for positions that require or impose similar responsibilities,~~  
8 ~~judgment, knowledge, skills, and working conditions. This~~  
9 ~~supplementary salary schedule shall contain proposed salary adjustments~~  
10 ~~necessary to eliminate any such dissimilarities in compensation.~~  
11 ~~Additional compensation needed to eliminate such salary dissimilarities~~  
12 ~~shall not be included in the basic salary schedule but shall be~~  
13 ~~maintained as a separate salary schedule for purposes of full~~  
14 ~~disclosure and visibility.~~

15 ~~It is the intention of the legislature that requests for funds to~~  
16 ~~support recommendations for salary deviations from the prevailing rate~~  
17 ~~survey data shall be kept to a minimum, and that the requests be fully~~  
18 ~~documented when forwarded by the department of personnel)).~~

19 ~~Salary and fringe benefit survey information collected from private~~  
20 ~~employers which identifies a specific employer with the salary and~~  
21 ~~fringe benefit rates which that employer pays to its employees shall~~  
22 ~~not be subject to public disclosure under chapter 42.17 RCW.~~

23 ~~((The first comprehensive salary and fringe benefit survey required~~  
24 ~~by this section shall be completed and forwarded to the governor and~~  
25 ~~the director of financial management by September 30, 1986. The first~~  
26 ~~trend salary and fringe benefit survey required by this section shall~~  
27 ~~be completed and forwarded to the governor and the director of~~  
28 ~~financial management by September 30, 1988.))~~

29 **Sec. 212.** ~~RCW 41.06.167 and 1991 c 196 s 1 are each amended to~~  
30 ~~read as follows:~~

31 ~~The department of personnel shall undertake comprehensive~~  
32 ~~compensation surveys for officers and entry-level officer candidates of~~  
33 ~~the Washington state patrol, with such surveys to be conducted in the~~  
34 ~~year prior to the convening of every other one hundred five day regular~~  
35 ~~session of the state legislature. ((In the year prior to the convening~~  
36 ~~of each one hundred five day regular session during which a~~  
37 ~~comprehensive compensation survey is not conducted, the department~~  
38 ~~shall conduct a trend compensation survey. This survey shall measure~~

1 average compensation movement which has occurred since the last  
2 comprehensive compensation survey was conducted. The results of each  
3 comprehensive and trend survey shall be completed and forwarded by  
4 September 30th, after review and preparation of recommendations by the  
5 chief of the Washington state patrol, to the governor and director of  
6 financial management for their use in preparing budgets to be submitted  
7 to the succeeding legislature. A copy of the data and supporting  
8 documentation shall be furnished by the department of personnel to the  
9 legislative transportation committee and the standing committees for  
10 appropriations of the senate and house of representatives. The office  
11 of financial management shall analyze the survey results and conduct  
12 investigations which may be necessary to arbitrate differences between  
13 interested parties regarding the accuracy of collected survey data and  
14 the use of such data for salary adjustment.

15 Surveys conducted by the department of personnel for the Washington  
16 state patrol shall be undertaken in a manner consistent with  
17 statistically accurate sampling techniques, including comparisons of  
18 medians, base ranges, and weighted averages of salaries. The surveys  
19 shall compare competitive labor markets of law enforcement officers.  
20 This service performed by the department of personnel shall be on a  
21 reimbursable basis in accordance with the provisions of RCW 41.06.080.

22 A comprehensive compensation survey plan and the recommendations of  
23 the chief of the Washington state patrol shall be submitted jointly by  
24 the department of personnel and the Washington state patrol to the  
25 director of financial management, the legislative transportation  
26 committee, the committee on ways and means of the senate, and the  
27 committee on appropriations of the house of representatives six months  
28 before the beginning of each periodic survey.)) Salary and fringe  
29 benefit survey information collected from private employers which  
30 identifies a specific employer with the salary and fringe benefit rates  
31 which that employer pays to its employees shall not be subject to  
32 public disclosure under chapter 42.17 RCW.

33 **Sec. 213.** RCW 41.06.170 and 1993 c 281 s 31 are each amended to  
34 read as follows:

35 (1) The ((board or)) director, in the adoption of rules governing  
36 suspensions for cause, shall not authorize an appointing authority to  
37 suspend an employee for more than fifteen calendar days as a single  
38 penalty or more than thirty calendar days in any one calendar year as

1 an accumulation of several penalties. The (~~board or~~) director shall  
2 require that the appointing authority give written notice to the  
3 employee not later than one day after the suspension takes effect,  
4 stating the reasons for and the duration thereof.

5 (2) Any employee who is reduced, dismissed, suspended, or demoted,  
6 after completing his or her probationary period of service as provided  
7 by the rules of the (~~board~~) director, or any employee who is  
8 adversely affected by a violation of the state civil service law,  
9 chapter 41.06 RCW, or rules adopted under it, shall have the right to  
10 appeal (~~to the personnel appeals board created by RCW 41.64.010~~),  
11 either individually or through his or her authorized representative,  
12 not later than thirty days after the effective date of such action to  
13 the personnel appeals board through June 30, 2003, and to the  
14 Washington personnel resources board after June 30, 2003. The employee  
15 shall be furnished with specified charges in writing when a reduction,  
16 dismissal, suspension, or demotion action is taken. Such appeal shall  
17 be in writing. Decisions of the Washington personnel resources board  
18 on appeals filed after June 30, 2003, shall be final and not subject to  
19 further appeal.

20 (3) Any employee whose position has been exempted after July 1,  
21 1993, shall have the right to appeal (~~to the personnel appeals board~~  
22 ~~created by RCW 41.64.010~~), either individually or through his or her  
23 authorized representative, not later than thirty days after the  
24 effective date of such action to the personnel appeals board through  
25 June 30, 2003, and to the Washington personnel resources board after  
26 June 30, 2003.

27 (4) An employee incumbent in a position at the time of its  
28 allocation or reallocation, or the agency utilizing the position, may  
29 appeal the allocation or reallocation to the personnel appeals board  
30 (~~created by RCW 41.64.010~~) through December 31, 2003, and to the  
31 Washington personnel resources board after December 31, 2003. Notice  
32 of such appeal must be filed in writing within thirty days of the  
33 action from which appeal is taken.

34 (5) Subsections (1) and (2) of this section do not apply to any  
35 employee who is subject to the provisions of a collective bargaining  
36 agreement negotiated under sections 301 through 314 of this act.

37 NEW SECTION. Sec. 214. The transfer of the powers, duties, and  
38 functions of the personnel appeals board to the personnel resources

1 board under section 234 of this act and the transfer of jurisdiction  
2 for appeals filed under section 213, chapter . . . , Laws of 2000  
3 (section 213 of this act) after June 30, 2003, shall not affect the  
4 right of an appellant to have an appeal filed on or before June 30,  
5 2003, resolved by the personnel appeals board in accordance with the  
6 authorities, rules, and procedures that were established under chapter  
7 41.64 RCW as it existed before the effective date of this section.

8 **Sec. 215.** RCW 41.06.186 and 1993 c 281 s 32 are each amended to  
9 read as follows:

10 The ((~~Washington personnel resources board~~)) director shall adopt  
11 rules designed to terminate the state employment of any employee whose  
12 performance is so inadequate as to warrant termination.

13 **Sec. 216.** RCW 41.06.196 and 1993 c 281 s 33 are each amended to  
14 read as follows:

15 The ((~~Washington personnel resources board~~)) director shall adopt  
16 rules designed to remove from supervisory positions those supervisors  
17 who in violation of the rules adopted under RCW 41.06.186 have  
18 tolerated the continued employment of employees under their supervision  
19 whose performance has warranted termination from state employment.

20 **Sec. 217.** RCW 41.06.270 and 1979 c 151 s 61 are each amended to  
21 read as follows:

22 A disbursing officer shall not pay any employee holding a position  
23 covered by this chapter unless the employment is in accordance with  
24 this chapter or the rules, regulations and orders issued hereunder.  
25 The ((~~board and the~~)) directors of personnel and financial management  
26 shall jointly establish procedures for the certification of payrolls.

27 **Sec. 218.** RCW 41.06.350 and 1993 c 281 s 36 are each amended to  
28 read as follows:

29 The ((~~Washington personnel resources board~~)) director is authorized  
30 to receive federal funds now available or hereafter made available for  
31 the assistance and improvement of public personnel administration,  
32 which may be expended in addition to the department of personnel  
33 service fund established by RCW 41.06.280.

1           **Sec. 219.** RCW 41.06.400 and 1980 c 118 s 4 are each amended to  
2 read as follows:

3           (1) In addition to other powers and duties specified in this  
4 chapter, the ~~((board))~~ director shall, by rule, prescribe the purpose  
5 and minimum standards for training and career development programs and,  
6 in so doing, regularly consult with and consider the needs of  
7 individual agencies and employees.

8           (2) In addition to other powers and duties specified in this  
9 chapter, the director shall:

10           (a) Provide for the evaluation of training and career development  
11 programs and plans of agencies ~~((based on minimum standards established  
12 by the board))~~. The director shall report the results of such  
13 evaluations to the agency which is the subject of the evaluation;

14           (b) Provide training and career development programs which may be  
15 conducted more efficiently and economically on an interagency basis;

16           (c) Promote interagency sharing of resources for training and  
17 career development;

18           (d) Monitor and review the impact of training and career  
19 development programs to ensure that the responsibilities of the state  
20 to provide equal employment opportunities are diligently carried out.  
21 ~~((The director shall report to the board the impact of training and  
22 career development programs on the fulfillment of such  
23 responsibilities.))~~

24           (3) At an agency's request, the director may provide training and  
25 career development programs for an agency's internal use which may be  
26 conducted more efficiently and economically by the department of  
27 personnel.

28           **Sec. 220.** RCW 41.06.410 and 1980 c 118 s 5 are each amended to  
29 read as follows:

30           Each agency subject to the provisions of this chapter shall:

31           (1) Prepare an employee training and career development plan which  
32 shall at least meet minimum standards established by the ~~((board))~~  
33 director. A copy of such plan shall be submitted to the director for  
34 purposes of administering the provisions of RCW 41.06.400(2);

35           (2) Provide for training and career development for its employees  
36 in accordance with the agency plan;

1 (3) Report on its training and career development program  
2 operations and costs to the director in accordance with reporting  
3 procedures adopted by the (~~board~~) director;

4 (4) Budget for training and career development in accordance with  
5 procedures of the office of financial management.

6 **Sec. 221.** RCW 41.06.450 and 1993 c 281 s 37 are each amended to  
7 read as follows:

8 (1) (~~By January 1, 1983, the Washington personnel resources~~  
9 ~~board~~) The director shall adopt rules applicable to each agency to  
10 ensure that information relating to employee misconduct or alleged  
11 misconduct is destroyed or maintained as follows:

12 (a) All such information determined to be false and all such  
13 information in situations where the employee has been fully exonerated  
14 of wrongdoing, shall be promptly destroyed;

15 (b) All such information having no reasonable bearing on the  
16 employee's job performance or on the efficient and effective management  
17 of the agency, shall be promptly destroyed;

18 (c) All other information shall be retained only so long as it has  
19 a reasonable bearing on the employee's job performance or on the  
20 efficient and effective management of the agency.

21 (2) Notwithstanding subsection (1) of this section, an agency may  
22 retain information relating to employee misconduct or alleged  
23 misconduct if:

24 (a) The employee requests that the information be retained; or

25 (b) The information is related to pending legal action or legal  
26 action may be reasonably expected to result.

27 (3) In adopting rules under this section, the (~~Washington~~  
28 ~~personnel resources board~~) director shall consult with the public  
29 disclosure commission to ensure that the public policy of the state, as  
30 expressed in chapter 42.17 RCW, is adequately protected.

31 **Sec. 222.** RCW 41.06.475 and 1993 c 281 s 38 are each amended to  
32 read as follows:

33 The (~~Washington personnel resources board~~) director shall adopt  
34 rules, in cooperation with the secretary of social and health services,  
35 for the background investigation of persons being considered for state  
36 employment in positions directly responsible for the supervision, care,  
37 or treatment of children or developmentally disabled persons.

1           **Sec. 223.** RCW 41.06.490 and 1990 c 204 s 3 are each amended to  
2 read as follows:

3           (1) In addition to the rules adopted under RCW 41.06.150, the  
4 (~~board~~) director shall adopt rules establishing a state employee  
5 return-to-work program. The program shall, at a minimum:

6           (a) Direct each agency to adopt a return-to-work policy. The  
7 program shall allow each agency program to take into consideration the  
8 special nature of employment in the agency;

9           (b) Provide for eligibility in the return-to-work program, for a  
10 minimum of two years from the date the temporary disability commenced,  
11 for any permanent employee who is receiving compensation under RCW  
12 51.32.090 and who is, by reason of his or her temporary disability,  
13 unable to return to his or her previous work, but who is physically  
14 capable of carrying out work of a lighter or modified nature;

15           (c) Allow opportunity for return-to-work state-wide when  
16 appropriate job classifications are not available in the agency that is  
17 the appointing authority at the time of injury;

18           (d) Require each agency to name an agency representative  
19 responsible for coordinating the return-to-work program of the agency;

20           (e) Provide that applicants receiving appointments for classified  
21 service receive an explanation of the return-to-work policy;

22           (f) Require training of supervisors on implementation of the  
23 return-to-work policy, including but not limited to assessment of the  
24 appropriateness of the return-to-work job for the employee; and

25           (g) Coordinate participation of applicable employee assistance  
26 programs, as appropriate.

27           (2) The agency full-time equivalents necessary to implement the  
28 return-to-work program established under this section shall be used  
29 only for the purposes of the return-to-work program and the net  
30 increase in full-time equivalents shall be temporary.

31           **Sec. 224.** RCW 28B.12.060 and 1994 c 130 s 6 are each amended to  
32 read as follows:

33           The higher education coordinating board shall adopt rules as may be  
34 necessary or appropriate for effecting the provisions of this chapter,  
35 and not in conflict with this chapter, in accordance with the  
36 provisions of chapter 34.05 RCW, the state higher education  
37 administrative procedure act. Such rules shall include provisions  
38 designed to make employment under the work-study program reasonably

1 available, to the extent of available funds, to all eligible students  
2 in eligible post-secondary institutions in need thereof. The rules  
3 shall include:

4 (1) Providing work under the state work-study program that will not  
5 result in the displacement of employed workers or impair existing  
6 contracts for services;

7 (2) Furnishing work only to a student who:

8 (a) Is capable, in the opinion of the eligible institution, of  
9 maintaining good standing in such course of study while employed under  
10 the program covered by the agreement; and

11 (b) Has been accepted for enrollment as at least a half-time  
12 student at the eligible institution or, in the case of a student  
13 already enrolled in and attending the eligible institution, is in good  
14 standing and in at least half-time attendance there either as an  
15 undergraduate, graduate or professional student; and

16 (c) Is not pursuing a degree in theology;

17 (3) Placing priority on providing:

18 (a) Work opportunities for students who are residents of the state  
19 of Washington as defined in RCW 28B.15.012 and 28B.15.013 except  
20 resident students defined in RCW 28B.15.012(2)(e);

21 (b) Job placements in fields related to each student's academic or  
22 vocational pursuits, with an emphasis on off-campus job placements  
23 whenever appropriate; and

24 (c) Off-campus community service placements;

25 (4) Provisions to assure that in the state institutions of higher  
26 education, utilization of this work-study program:

27 (a) Shall only supplement and not supplant classified positions  
28 under jurisdiction of chapter 41.06 RCW;

29 (b) That all positions established which are comparable shall be  
30 identified to a job classification under the (~~Washington personnel~~  
31 ~~resources board's~~) director of personnel's classification plan and  
32 shall receive equal compensation;

33 (c) Shall not take place in any manner that would replace  
34 classified positions reduced due to lack of funds or work; and

35 (d) That work study positions shall only be established at entry  
36 level positions of the classified service unless the overall scope and  
37 responsibilities of the position indicate a higher level; and

38 (5) Provisions to encourage job placements in occupations that meet  
39 Washington's economic development goals, especially those in

1 international trade and international relations. The board shall  
2 permit appropriate job placements in other states and other countries.

3 **Sec. 225.** RCW 34.05.030 and 1994 c 39 s 1 are each amended to read  
4 as follows:

5 (1) This chapter shall not apply to:

6 (a) The state militia, or

7 (b) The board of clemency and pardons, or

8 (c) The department of corrections or the indeterminate sentencing  
9 review board with respect to persons who are in their custody or are  
10 subject to the jurisdiction of those agencies.

11 (2) The provisions of RCW 34.05.410 through 34.05.598 shall not  
12 apply:

13 (a) To adjudicative proceedings of the board of industrial  
14 insurance appeals except as provided in RCW 7.68.110 and 51.48.131;

15 (b) Except for actions pursuant to chapter 46.29 RCW, to the  
16 denial, suspension, or revocation of a driver's license by the  
17 department of licensing;

18 (c) To the department of labor and industries where another statute  
19 expressly provides for review of adjudicative proceedings of a  
20 department action, order, decision, or award before the board of  
21 industrial insurance appeals;

22 (d) To actions of the Washington personnel resources board(~~(7)~~) or  
23 the director of personnel(~~(7, or the personnel appeals board)~~); or

24 (e) To the extent they are inconsistent with any provisions of  
25 chapter 43.43 RCW.

26 (3) Unless a party makes an election for a formal hearing pursuant  
27 to RCW 82.03.140 or 82.03.190, RCW 34.05.410 through 34.05.598 do not  
28 apply to a review hearing conducted by the board of tax appeals.

29 (4) The rule-making provisions of this chapter do not apply to  
30 reimbursement unit values, fee schedules, arithmetic conversion  
31 factors, and similar arithmetic factors used to determine payment rates  
32 that apply to goods and services purchased under contract for clients  
33 eligible under chapter 74.09 RCW.

34 (5) All other agencies, whether or not formerly specifically  
35 excluded from the provisions of all or any part of the Administrative  
36 Procedure Act, shall be subject to the entire act.

1           **Sec. 226.** RCW 34.12.020 and 1995 c 331 s 1 are each amended to  
2 read as follows:

3           Unless the context clearly requires otherwise, the definitions in  
4 this section apply throughout this chapter.

5           (1) "Office" means the office of administrative hearings.

6           (2) "Administrative law judge" means any person appointed by the  
7 chief administrative law judge to conduct or preside over hearings as  
8 provided in this chapter.

9           (3) "Hearing" means an adjudicative proceeding within the meaning  
10 of RCW 34.05.010(1) conducted by a state agency under RCW 34.05.413  
11 through 34.05.476.

12           (4) "State agency" means any state board, commission, department,  
13 or officer authorized by law to make rules or to conduct adjudicative  
14 proceedings, except those in the legislative or judicial branches, the  
15 growth management hearings boards, the utilities and transportation  
16 commission, the pollution control hearings board, the shorelines  
17 hearings board, the forest practices appeals board, the environmental  
18 hearings office, the board of industrial insurance appeals, the  
19 Washington personnel resources board, the public employment relations  
20 commission, (~~the personnel appeals board,~~) and the board of tax  
21 appeals.

22           **Sec. 227.** RCW 41.04.340 and 1998 c 254 s 1 and 1998 c 116 s 2 are  
23 each reenacted and amended to read as follows:

24           (1) An attendance incentive program is established for all eligible  
25 employees. As used in this section the term "eligible employee" means  
26 any employee of the state, other than eligible employees of the  
27 community and technical colleges and the state board for community and  
28 technical colleges identified in RCW 28B.50.553, and teaching and  
29 research faculty at the state and regional universities and The  
30 Evergreen State College, entitled to accumulate sick leave and for whom  
31 accurate sick leave records have been maintained. No employee may  
32 receive compensation under this section for any portion of sick leave  
33 accumulated at a rate in excess of one day per month. The state and  
34 regional universities and The Evergreen State College shall maintain  
35 complete and accurate sick leave records for all teaching and research  
36 faculty.

37           (2) In January of the year following any year in which a minimum of  
38 sixty days of sick leave is accrued, and each January thereafter, any

1 eligible employee may receive remuneration for unused sick leave  
2 accumulated in the previous year at a rate equal to one day's monetary  
3 compensation of the employee for each four full days of accrued sick  
4 leave in excess of sixty days. Sick leave for which compensation has  
5 been received shall be deducted from accrued sick leave at the rate of  
6 four days for every one day's monetary compensation.

7 (3) At the time of separation from state service due to retirement  
8 or death, an eligible employee or the employee's estate may elect to  
9 receive remuneration at a rate equal to one day's current monetary  
10 compensation of the employee for each four full days of accrued sick  
11 leave.

12 (4) Remuneration or benefits received under this section shall not  
13 be included for the purpose of computing a retirement allowance under  
14 any public retirement system in this state.

15 (5) Except as provided in subsections (7) through (9) of this  
16 section for employees not covered by chapter 41.06 RCW, this section  
17 shall be administered, and rules shall be adopted to carry out its  
18 purposes, by the (~~Washington personnel resources board~~) director of  
19 personnel for persons subject to chapter 41.06 RCW: PROVIDED, That  
20 determination of classes of eligible employees shall be subject to  
21 approval by the office of financial management.

22 (6) Should the legislature revoke any remuneration or benefits  
23 granted under this section, no affected employee shall be entitled  
24 thereafter to receive such benefits as a matter of contractual right.

25 (7) In lieu of remuneration for unused sick leave at retirement as  
26 provided in subsection (3) of this section, an agency head or designee  
27 may with equivalent funds, provide eligible employees with a benefit  
28 plan that provides for reimbursement for medical expenses. This plan  
29 shall be implemented only after consultation with affected groups of  
30 employees. For eligible employees covered by chapter 41.06 RCW,  
31 procedures for the implementation of these plans shall be adopted by  
32 the (~~Washington personnel resources board~~) director of personnel.  
33 For eligible employees exempt from chapter 41.06 RCW, and classified  
34 employees who have opted out of coverage of chapter 41.06 RCW as  
35 provided in RCW 41.56.201, implementation procedures shall be adopted  
36 by an agency head having jurisdiction over the employees.

37 (8) Implementing procedures adopted by the (~~Washington personnel~~  
38 ~~resources board~~) director of personnel or agency heads shall require  
39 that each medical expense plan authorized by subsection (7) of this

1 section apply to all eligible employees in any one of the following  
2 groups: (a) Employees in an agency; (b) employees in a major  
3 organizational subdivision of an agency; (c) employees at a major  
4 operating location of an agency; (d) exempt employees under the  
5 jurisdiction of an elected or appointed Washington state executive; (e)  
6 employees of the Washington state senate; (f) employees of the  
7 Washington state house of representatives; (g) classified employees in  
8 a bargaining unit established by the (~~Washington personnel resources~~  
9 ~~board~~) director of personnel; or (h) other group of employees defined  
10 by an agency head that is not designed to provide an individual-  
11 employee choice regarding participation in a medical expense plan.  
12 However, medical expense plans for eligible employees in any of the  
13 groups under (a) through (h) of this subsection who are covered by a  
14 collective bargaining agreement shall be implemented only by written  
15 agreement with the bargaining unit's exclusive representative and a  
16 separate medical expense plan may be provided for unrepresented  
17 employees.

18 (9) Medical expense plans authorized by subsection (7) of this  
19 section must require as a condition of participation in the plan that  
20 employees in the group affected by the plan sign an agreement with the  
21 employer. The agreement must include a provision to hold the employer  
22 harmless should the United States government find that the employer or  
23 the employee is in debt to the United States as a result of the  
24 employee not paying income taxes due on the equivalent funds placed  
25 into the plan, or as a result of the employer not withholding or  
26 deducting a tax, assessment, or other payment on the funds as required  
27 by federal law. The agreement must also include a provision that  
28 requires an eligible employee to forfeit remuneration under subsection  
29 (3) of this section if the employee belongs to a group that has been  
30 designated to participate in the medical expense plan permitted under  
31 this section and the employee refuses to execute the required  
32 agreement.

33 **Sec. 228.** RCW 41.50.804 and 1993 c 281 s 40 are each amended to  
34 read as follows:

35 Nothing contained in this chapter shall be construed to alter any  
36 existing collective bargaining agreement until any such agreement has  
37 expired or until any such bargaining unit has been modified by action

1 of the (~~Washington personnel resources board~~) public employment  
2 relations commission as provided by law.

3 **Sec. 229.** RCW 43.06.425 and 1993 c 281 s 48 are each amended to  
4 read as follows:

5 The (~~Washington personnel resources board~~) director of personnel  
6 shall adopt rules to provide that:

7 (1) Successful completion of an internship under RCW 43.06.420  
8 shall be considered as employment experience at the level at which the  
9 intern was placed;

10 (2) Persons leaving classified or exempt positions in state  
11 government in order to take an internship under RCW 43.06.420: (a)  
12 Have the right of reversion to the previous position at any time during  
13 the internship or upon completion of the internship; and (b) shall  
14 continue to receive all fringe benefits as if they had never left their  
15 classified or exempt positions;

16 (3) Participants in the undergraduate internship program who were  
17 not public employees prior to accepting a position in the program  
18 receive sick leave allowances commensurate with other state employees;

19 (4) Participants in the executive fellows program who were not  
20 public employees prior to accepting a position in the program receive  
21 sick and vacation leave allowances commensurate with other state  
22 employees.

23 **Sec. 230.** RCW 43.33A.100 and 1993 c 281 s 50 are each amended to  
24 read as follows:

25 The state investment board shall maintain appropriate offices and  
26 employ such personnel as may be necessary to perform its duties.  
27 Employment by the investment board shall include but not be limited to  
28 an executive director, investment officers, and a confidential  
29 secretary, which positions are exempt from classified service under  
30 chapter 41.06 RCW. Employment of the executive director by the board  
31 shall be for a term of three years, and such employment shall be  
32 subject to confirmation of the state finance committee: PROVIDED, That  
33 nothing shall prevent the board from dismissing the director for cause  
34 before the expiration of the term nor shall anything prohibit the  
35 board, with the confirmation of the state finance committee, from  
36 employing the same individual as director in succeeding terms.  
37 Compensation levels for the investment officers employed by the

1 investment board shall be established by the (~~Washington personnel~~  
2 ~~resources board~~) director of personnel.

3 As of July 1, 1981, all employees classified under chapter 41.06  
4 RCW and engaged in duties assumed by the state investment board on July  
5 1, 1981, are assigned to the state investment board. The transfer  
6 shall not diminish any rights granted these employees under chapter  
7 41.06 RCW nor exempt the employees from any action which may occur  
8 thereafter in accordance with chapter 41.06 RCW.

9 All existing contracts and obligations pertaining to the functions  
10 transferred to the state investment board in (~~this 1980 act~~) chapter  
11 3, Laws of 1981 shall remain in full force and effect, and shall be  
12 performed by the board. None of the transfers directed by (~~this 1980~~  
13 ~~act~~) chapter 3, Laws of 1981 shall affect the validity of any act  
14 performed by a state entity or by any official or employee thereof  
15 prior to July 1, 1981.

16 **Sec. 231.** RCW 43.131.090 and 1993 c 281 s 54 are each amended to  
17 read as follows:

18 Unless the legislature specifies a shorter period of time, a  
19 terminated state agency shall continue in existence until June 30th of  
20 the next succeeding year for the purpose of concluding its affairs:  
21 PROVIDED, That the powers and authority of the state agency shall not  
22 be reduced or otherwise limited during this period. Unless otherwise  
23 provided:

24 (1) All employees of terminated state agencies classified under  
25 chapter 41.06 RCW, the state civil service law, shall be transferred as  
26 appropriate or as otherwise provided in the procedures adopted by the  
27 (~~Washington personnel resources board~~) director of personnel pursuant  
28 to RCW 41.06.150;

29 (2) All documents and papers, equipment, or other tangible property  
30 in the possession of the terminated state agency shall be delivered to  
31 the custody of the agency assuming the responsibilities of the  
32 terminated agency or if such responsibilities have been eliminated,  
33 documents and papers shall be delivered to the state archivist and  
34 equipment or other tangible property to the department of general  
35 administration;

36 (3) All funds held by, or other moneys due to, the terminated state  
37 agency shall revert to the fund from which they were appropriated, or  
38 if that fund is abolished to the general fund;

1 (4) Notwithstanding the provisions of RCW 34.05.020, all rules made  
2 by a terminated state agency shall be repealed, without further action  
3 by the state agency, at the end of the period provided in this section,  
4 unless assumed and reaffirmed by the agency assuming the related legal  
5 responsibilities of the terminated state agency;

6 (5) All contractual rights and duties of a state agency shall be  
7 assigned or delegated to the agency assuming the responsibilities of  
8 the terminated state agency, or if there is none to such agency as the  
9 governor shall direct.

10 **Sec. 232.** RCW 49.46.010 and 1997 c 203 s 3 are each amended to  
11 read as follows:

12 As used in this chapter:

13 (1) "Director" means the director of labor and industries;

14 (2) "Wage" means compensation due to an employee by reason of  
15 employment, payable in legal tender of the United States or checks on  
16 banks convertible into cash on demand at full face value, subject to  
17 such deductions, charges, or allowances as may be permitted by rules of  
18 the director;

19 (3) "Employ" includes to permit to work;

20 (4) "Employer" includes any individual, partnership, association,  
21 corporation, business trust, or any person or group of persons acting  
22 directly or indirectly in the interest of an employer in relation to an  
23 employee;

24 (5) "Employee" includes any individual employed by an employer but  
25 shall not include:

26 (a) Any individual (i) employed as a hand harvest laborer and paid  
27 on a piece rate basis in an operation which has been, and is generally  
28 and customarily recognized as having been, paid on a piece rate basis  
29 in the region of employment; (ii) who commutes daily from his or her  
30 permanent residence to the farm on which he or she is employed; and  
31 (iii) who has been employed in agriculture less than thirteen weeks  
32 during the preceding calendar year;

33 (b) Any individual employed in casual labor in or about a private  
34 home, unless performed in the course of the employer's trade, business,  
35 or profession;

36 (c) Any individual employed in a bona fide executive,  
37 administrative, or professional capacity or in the capacity of outside  
38 salesman as those terms are defined and delimited by rules of the

1 director. However, those terms shall be defined and delimited by the  
2 (~~Washington personnel resources board~~) director of personnel pursuant  
3 to chapter 41.06 RCW for employees employed under the director of  
4 personnel's jurisdiction;

5 (d) Any individual engaged in the activities of an educational,  
6 charitable, religious, state or local governmental body or agency, or  
7 nonprofit organization where the employer-employee relationship does  
8 not in fact exist or where the services are rendered to such  
9 organizations gratuitously. If the individual receives reimbursement  
10 in lieu of compensation for normally incurred out-of-pocket expenses or  
11 receives a nominal amount of compensation per unit of voluntary service  
12 rendered, an employer-employee relationship is deemed not to exist for  
13 the purpose of this section or for purposes of membership or  
14 qualification in any state, local government or publicly supported  
15 retirement system other than that provided under chapter 41.24 RCW;

16 (e) Any individual employed full time by any state or local  
17 governmental body or agency who provides voluntary services but only  
18 with regard to the provision of the voluntary services. The voluntary  
19 services and any compensation therefor shall not affect or add to  
20 qualification, entitlement or benefit rights under any state, local  
21 government, or publicly supported retirement system other than that  
22 provided under chapter 41.24 RCW;

23 (f) Any newspaper vendor or carrier;

24 (g) Any carrier subject to regulation by Part 1 of the Interstate  
25 Commerce Act;

26 (h) Any individual engaged in forest protection and fire prevention  
27 activities;

28 (i) Any individual employed by any charitable institution charged  
29 with child care responsibilities engaged primarily in the development  
30 of character or citizenship or promoting health or physical fitness or  
31 providing or sponsoring recreational opportunities or facilities for  
32 young people or members of the armed forces of the United States;

33 (j) Any individual whose duties require that he or she reside or  
34 sleep at the place of his or her employment or who otherwise spends a  
35 substantial portion of his or her work time subject to call, and not  
36 engaged in the performance of active duties;

37 (k) Any resident, inmate, or patient of a state, county, or  
38 municipal correctional, detention, treatment or rehabilitative  
39 institution;

1 (1) Any individual who holds a public elective or appointive office  
2 of the state, any county, city, town, municipal corporation or quasi  
3 municipal corporation, political subdivision, or any instrumentality  
4 thereof, or any employee of the state legislature;

5 (m) All vessel operating crews of the Washington state ferries  
6 operated by the department of transportation;

7 (n) Any individual employed as a seaman on a vessel other than an  
8 American vessel;

9 (6) "Occupation" means any occupation, service, trade, business,  
10 industry, or branch or group of industries or employment or class of  
11 employment in which employees are gainfully employed;

12 (7) "Retail or service establishment" means an establishment  
13 seventy-five percent of whose annual dollar volume of sales of goods or  
14 services, or both, is not for resale and is recognized as retail sales  
15 or services in the particular industry.

16 **Sec. 233.** RCW 41.06.340 and 1993 c 281 s 35 are each amended to  
17 read as follows:

18 (1) With respect to collective bargaining, the public employment  
19 relations commission created by chapter 41.58 RCW shall have authority  
20 to adopt rules, on and after the effective date of this section,  
21 relating to determination of appropriate bargaining units within any  
22 agency. In making such determination the commission shall consider the  
23 duties, skills, and working conditions of the employees, the history of  
24 collective bargaining by the employees and their bargaining  
25 representatives, the extent of organization among the employees, and  
26 the desires of the employees. The public employment relations  
27 commission created in chapter 41.58 RCW shall adopt rules and make  
28 determinations relating to the certification and decertification of  
29 exclusive bargaining representatives.

30 (2) Each and every provision of RCW 41.56.140 through ((41.56.190))  
31 41.56.160 shall be applicable to this chapter as it relates to state  
32 civil service employees ((and the Washington personnel resources board,  
33 or its designee, whose final decision shall be appealable to the  
34 Washington personnel resources board, which is granted all powers and  
35 authority granted to the department of labor and industries by RCW  
36 41.56.140 through 41.56.190)).

1           NEW SECTION.   **Sec. 234.**   A new section is added to chapter 41.06  
2 RCW to read as follows:

3           (1) The personnel appeals board is hereby abolished and its powers,  
4 duties, and functions are hereby transferred to the Washington  
5 personnel resources board. All references to the executive secretary  
6 or the personnel appeals board in the Revised Code of Washington shall  
7 be construed to mean the director of the department of personnel or the  
8 Washington personnel resources board.

9           (2)(a) All reports, documents, surveys, books, records, files,  
10 papers, or written material in the possession of the personnel appeals  
11 board shall be delivered to the custody of the department of personnel.  
12 All cabinets, furniture, office equipment, motor vehicles, and other  
13 tangible property employed by the personnel appeals board shall be made  
14 available to the department of personnel. All funds, credits, leases,  
15 or other assets held by the personnel appeals board shall be assigned  
16 to the department of personnel.

17           (b) Any appropriations made to the personnel appeals board shall,  
18 on the effective date of this section, be transferred and credited to  
19 the department of personnel.

20           (c) If any question arises as to the transfer of any personnel,  
21 funds, books, documents, records, papers, files, equipment, or other  
22 tangible property used or held in the exercise of the powers and the  
23 performance of the duties and functions transferred, the director of  
24 financial management shall make a determination as to the proper  
25 allocation and certify the same to the state agencies concerned.

26           (3) All employees of the personnel appeals board are transferred to  
27 the jurisdiction of the department of personnel. All employees  
28 classified under chapter 41.06 RCW, the state civil service law, are  
29 assigned to the department of personnel to perform their usual duties  
30 upon the same terms as formerly, without any loss of rights, subject to  
31 any action that may be appropriate thereafter in accordance with the  
32 laws and rules governing state civil service.

33           (4) All rules and all pending business before the personnel appeals  
34 board shall be continued and acted upon by the Washington personnel  
35 resources board. All existing contracts and obligations shall remain  
36 in full force and shall be performed by the department of personnel.

37           (5) The transfer of the powers, duties, functions, and personnel of  
38 the personnel appeals board shall not affect the validity of any act  
39 performed before the effective date of this section.

1 (6) If apportionments of budgeted funds are required because of the  
2 transfers directed by this section, the director of financial  
3 management shall certify the apportionments to the agencies affected,  
4 the state auditor, and the state treasurer. Each of these shall make  
5 the appropriate transfer and adjustments in funds and appropriation  
6 accounts and equipment records in accordance with the certification.

7 **Sec. 235.** RCW 13.40.320 and 1997 c 338 s 38 are each amended to  
8 read as follows:

9 (1) The department of social and health services shall establish  
10 and operate a medium security juvenile offender basic training camp  
11 program. The department shall site a juvenile offender basic training  
12 camp facility in the most cost-effective facility possible and shall  
13 review the possibility of using an existing abandoned and/or available  
14 state, federally, or military-owned site or facility.

15 (2) The department may contract under this chapter with private  
16 companies, the national guard, or other federal, state, or local  
17 agencies to operate the juvenile offender basic training camp(~~(7~~  
18 ~~notwithstanding the provisions of RCW 41.06.380)~~). Requests for  
19 proposals from possible contractors shall not call for payment on a per  
20 diem basis.

21 (3) The juvenile offender basic training camp shall accommodate at  
22 least seventy offenders. The beds shall count as additions to, and not  
23 be used as replacements for, existing bed capacity at existing  
24 department of social and health services juvenile facilities.

25 (4) The juvenile offender basic training camp shall be a structured  
26 and regimented model lasting one hundred twenty days emphasizing the  
27 building up of an offender's self-esteem, confidence, and discipline.  
28 The juvenile offender basic training camp program shall provide  
29 participants with basic education, prevocational training, work-based  
30 learning, live work, work ethic skills, conflict resolution counseling,  
31 substance abuse intervention, anger management counseling, and  
32 structured intensive physical training. The juvenile offender basic  
33 training camp program shall have a curriculum training and work  
34 schedule that incorporates a balanced assignment of these or other  
35 rehabilitation and training components for no less than sixteen hours  
36 per day, six days a week.

37 The department shall adopt rules for the safe and effective  
38 operation of the juvenile offender basic training camp program,

1 standards for an offender's successful program completion, and rules  
2 for the continued after-care supervision of offenders who have  
3 successfully completed the program.

4 (5) Offenders eligible for the juvenile offender basic training  
5 camp option shall be those with a disposition of not more than sixty-  
6 five weeks. Violent and sex offenders shall not be eligible for the  
7 juvenile offender basic training camp program.

8 (6) If the court determines that the offender is eligible for the  
9 juvenile offender basic training camp option, the court may recommend  
10 that the department place the offender in the program. The department  
11 shall evaluate the offender and may place the offender in the program.  
12 The evaluation shall include, at a minimum, a risk assessment developed  
13 by the department and designed to determine the offender's suitability  
14 for the program. No juvenile who is assessed as a high risk offender  
15 or suffers from any mental or physical problems that could endanger his  
16 or her health or drastically affect his or her performance in the  
17 program shall be admitted to or retained in the juvenile offender basic  
18 training camp program.

19 (7) All juvenile offenders eligible for the juvenile offender basic  
20 training camp sentencing option shall spend one hundred twenty days of  
21 their disposition in a juvenile offender basic training camp. If the  
22 juvenile offender's activities while in the juvenile offender basic  
23 training camp are so disruptive to the juvenile offender basic training  
24 camp program, as determined by the secretary according to rules adopted  
25 by the department, as to result in the removal of the juvenile offender  
26 from the juvenile offender basic training camp program, or if the  
27 offender cannot complete the juvenile offender basic training camp  
28 program due to medical problems, the secretary shall require that the  
29 offender be committed to a juvenile institution to serve the entire  
30 remainder of his or her disposition, less the amount of time already  
31 served in the juvenile offender basic training camp program.

32 (8) All offenders who successfully graduate from the one hundred  
33 twenty day juvenile offender basic training camp program shall spend  
34 the remainder of their disposition on parole in a division of juvenile  
35 rehabilitation intensive aftercare program in the local community. The  
36 program shall provide for the needs of the offender based on his or her  
37 progress in the aftercare program as indicated by ongoing assessment of  
38 those needs and progress. The intensive aftercare program shall  
39 monitor postprogram juvenile offenders and assist them to successfully

1 reintegrate into the community. In addition, the program shall develop  
2 a process for closely monitoring and assessing public safety risks.  
3 The intensive aftercare program shall be designed and funded by the  
4 department of social and health services.

5 (9) The department shall also develop and maintain a data base to  
6 measure recidivism rates specific to this incarceration program. The  
7 data base shall maintain data on all juvenile offenders who complete  
8 the juvenile offender basic training camp program for a period of two  
9 years after they have completed the program. The data base shall also  
10 maintain data on the criminal activity, educational progress, and  
11 employment activities of all juvenile offenders who participated in the  
12 program.

13 **Sec. 236.** RCW 39.29.006 and 1998 c 101 s 2 are each amended to  
14 read as follows:

15 As used in this chapter:

16 (1) "Agency" means any state office or activity of the executive  
17 and judicial branches of state government, including state agencies,  
18 departments, offices, divisions, boards, commissions, and educational,  
19 correctional, and other types of institutions.

20 (2) "Client services" means services provided directly to agency  
21 clients including, but not limited to, medical and dental services,  
22 employment and training programs, residential care, and subsidized  
23 housing.

24 (3) "Competitive solicitation" means a documented formal process  
25 providing an equal and open opportunity to qualified parties and  
26 culminating in a selection based on criteria which may include such  
27 factors as the consultant's fees or costs, ability, capacity,  
28 experience, reputation, responsiveness to time limitations,  
29 responsiveness to solicitation requirements, quality of previous  
30 performance, and compliance with statutes and rules relating to  
31 contracts or services.

32 (4) "Consultant" means an independent individual or firm  
33 contracting with an agency to perform a service or render an opinion or  
34 recommendation according to the consultant's methods and without being  
35 subject to the control of the agency except as to the result of the  
36 work. The agency monitors progress under the contract and authorizes  
37 payment.

1 (5) "Emergency" means a set of unforeseen circumstances beyond the  
2 control of the agency that either:

3 (a) Present a real, immediate threat to the proper performance of  
4 essential functions; or

5 (b) May result in material loss or damage to property, bodily  
6 injury, or loss of life if immediate action is not taken.

7 (6) "Evidence of competition" means documentation demonstrating  
8 that the agency has solicited responses from multiple firms in  
9 selecting a consultant.

10 (7) "Personal service" means professional or technical expertise  
11 provided by a consultant to accomplish a specific study, project, task,  
12 or other work statement. This term does not include purchased services  
13 as defined under subsection (9) of this section. This term does  
14 include client services.

15 (8) "Personal service contract" means an agreement, or any  
16 amendment thereto, with a consultant for the rendering of personal  
17 services to the state which is consistent with ((RCW 41.06.380))  
18 section 208 of this act.

19 (9) "Purchased services" means services provided by a vendor to  
20 accomplish routine, continuing and necessary functions. This term  
21 includes, but is not limited to, services acquired under RCW 43.19.190  
22 or 43.105.041 for equipment maintenance and repair; operation of a  
23 physical plant; security; computer hardware and software maintenance;  
24 data entry; key punch services; and computer time-sharing, contract  
25 programming, and analysis.

26 (10) "Sole source" means a consultant providing professional or  
27 technical expertise of such a unique nature that the consultant is  
28 clearly and justifiably the only practicable source to provide the  
29 service. The justification shall be based on either the uniqueness of  
30 the service or sole availability at the location required.

31 **Sec. 237.** RCW 41.04.385 and 1993 c 194 s 5 are each amended to  
32 read as follows:

33 The legislature finds that (1) demographic, economic, and social  
34 trends underlie a critical and increasing demand for child care in the  
35 state of Washington; (2) working parents and their children benefit  
36 when the employees' child care needs have been resolved; (3) the state  
37 of Washington should serve as a model employer by creating a supportive  
38 atmosphere, to the extent feasible, in which its employees may meet

1 their child care needs; and (4) the state of Washington should  
2 encourage the development of partnerships between state agencies, state  
3 employees, state employee labor organizations, and private employers to  
4 expand the availability of affordable quality child care. The  
5 legislature finds further that resolving employee child care concerns  
6 not only benefits the employees and their children, but may benefit the  
7 employer by reducing absenteeism, increasing employee productivity,  
8 improving morale, and enhancing the employer's position in recruiting  
9 and retaining employees. Therefore, the legislature declares that it  
10 is the policy of the state of Washington to assist state employees by  
11 creating a supportive atmosphere in which they may meet their child  
12 care needs. Policies and procedures for state agencies to address  
13 employee child care needs will be the responsibility of the director of  
14 personnel in consultation with the child care coordinating committee,  
15 as provided in RCW 74.13.090, and state employee representatives ((as  
16 provided under RCW 41.06.140)).

17 **Sec. 238.** RCW 47.46.040 and 1995 2nd sp.s. c 19 s 3 are each  
18 amended to read as follows:

19 (1) All projects designed, constructed, and operated under this  
20 authority must comply with all applicable rules and statutes in  
21 existence at the time the agreement is executed, including but not  
22 limited to the following provisions: Chapter 39.12 RCW, this title,  
23 ((RCW 41.06.380)) section 208 of this act, chapter 47.64 RCW, RCW  
24 49.60.180, and 49 C.F.R. Part 21.

25 (2) The secretary or a designee shall consult with legal,  
26 financial, and other experts within and outside state government in the  
27 negotiation and development of the agreements.

28 (3) Agreements shall provide for private ownership of the projects  
29 during the construction period. After completion and final acceptance  
30 of each project or discrete segment thereof, the agreement shall  
31 provide for state ownership of the transportation systems and  
32 facilities and lease to the private entity unless the state elects to  
33 provide for ownership of the facility by the private entity during the  
34 term of the agreement.

35 The state shall lease each of the demonstration projects, or  
36 applicable project segments, to the private entities for operating  
37 purposes for up to fifty years.

1 (4) The department may exercise any power possessed by it to  
2 facilitate the development, construction, financing operation, and  
3 maintenance of transportation projects under this chapter. Agreements  
4 for maintenance services entered into under this section shall provide  
5 for full reimbursement for services rendered by the department or other  
6 state agencies. Agreements for police services for projects, involving  
7 state highway routes, developed under agreements shall be entered into  
8 with the Washington state patrol. The agreement for police services  
9 shall provide that the state patrol will be reimbursed for costs on a  
10 comparable basis with the costs incurred for comparable service on  
11 other state highway routes. The department may provide services for  
12 which it is reimbursed, including but not limited to preliminary  
13 planning, environmental certification, and preliminary design of the  
14 demonstration projects.

15 (5) The plans and specifications for each project constructed under  
16 this section shall comply with the department's standards for state  
17 projects. A facility constructed by and leased to a private entity is  
18 deemed to be a part of the state highway system for purposes of  
19 identification, maintenance, and enforcement of traffic laws and for  
20 the purposes of applicable sections of this title. Upon reversion of  
21 the facility to the state, the project must meet all applicable state  
22 standards. Agreements shall address responsibility for reconstruction  
23 or renovations that are required in order for a facility to meet all  
24 applicable state standards upon reversion of the facility to the state.

25 (6) For the purpose of facilitating these projects and to assist  
26 the private entity in the financing, development, construction, and  
27 operation of the transportation systems and facilities, the agreements  
28 may include provisions for the department to exercise its authority,  
29 including the lease of facilities, rights of way, and airspace,  
30 exercise of the power of eminent domain, granting of development rights  
31 and opportunities, granting of necessary easements and rights of  
32 access, issuance of permits and other authorizations, protection from  
33 competition, remedies in the event of default of either of the parties,  
34 granting of contractual and real property rights, liability during  
35 construction and the term of the lease, authority to negotiate  
36 acquisition of rights of way in excess of appraised value, and any  
37 other provision deemed necessary by the secretary.

38 (7) The agreements entered into under this section may include  
39 provisions authorizing the state to grant necessary easements and lease

1 to a private entity existing rights of way or rights of way  
2 subsequently acquired with public or private financing. The agreements  
3 may also include provisions to lease to the entity airspace above or  
4 below the right of way associated or to be associated with the private  
5 entity's transportation facility. In consideration for the reversion  
6 rights in these privately constructed facilities, the department may  
7 negotiate a charge for the lease of airspace rights during the term of  
8 the agreement for a period not to exceed fifty years. If, after the  
9 expiration of this period, the department continues to lease these  
10 airspace rights to the private entity, it shall do so only at fair  
11 market value. The agreement may also provide the private entity the  
12 right of first refusal to undertake projects utilizing airspace owned  
13 by the state in the vicinity of the public-private project.

14 (8) Agreements under this section may include any contractual  
15 provision that is necessary to protect the project revenues required to  
16 repay the costs incurred to study, plan, design, finance, acquire,  
17 build, install, operate, enforce laws, and maintain toll highways,  
18 bridges, and tunnels and which will not unreasonably inhibit or  
19 prohibit the development of additional public transportation systems  
20 and facilities. Agreements under this section must secure and maintain  
21 liability insurance coverage in amounts appropriate to protect the  
22 project's viability and may address state indemnification of the  
23 private entity for design and construction liability where the state  
24 has approved relevant design and construction plans.

25 (9) Agreements shall include a process that provides for public  
26 involvement in decision making with respect to the development of the  
27 projects.

28 (10)(a) In carrying out the public involvement process required in  
29 subsection (9) of this section, the private entity shall proactively  
30 seek public participation through a process appropriate to the  
31 characteristics of the project that assesses and demonstrates public  
32 support among: Users of the project, residents of communities in the  
33 vicinity of the project, and residents of communities impacted by the  
34 project.

35 (b) The private entity shall conduct a comprehensive public  
36 involvement process that provides, periodically throughout the  
37 development and implementation of the project, users and residents of  
38 communities in the affected project area an opportunity to comment upon  
39 key issues regarding the project including, but not limited to: (i)

1 Alternative sizes and scopes; (ii) design; (iii) environmental  
2 assessment; (iv) right of way and access plans; (v) traffic impacts;  
3 (vi) tolling or user fee strategies and tolling or user fee ranges;  
4 (vii) project cost; (viii) construction impacts; (ix) facility  
5 operation; and (x) any other salient characteristics.

6 (c) If the affected project area has not been defined, the private  
7 entity shall define the affected project area by conducting, at a  
8 minimum: (i) A comparison of the estimated percentage of residents of  
9 communities in the vicinity of the project and in other communities  
10 impacted by the project who could be subject to tolls or user fees and  
11 the estimated percentage of other users and transient traffic that  
12 could be subject to tolls or user fees; (ii) an analysis of the  
13 anticipated traffic diversion patterns; (iii) an analysis of the  
14 potential economic impact resulting from proposed toll rates or user  
15 fee rates imposed on residents, commercial traffic, and commercial  
16 entities in communities in the vicinity of and impacted by the project;  
17 (iv) an analysis of the economic impact of tolls or user fees on the  
18 price of goods and services generally; and (v) an analysis of the  
19 relationship of the project to state transportation needs and benefits.

20 The agreement may require an advisory vote by users of and  
21 residents in the affected project area.

22 (d) In seeking public participation, the private entity shall  
23 establish a local involvement committee or committees comprised of  
24 residents of the affected project area, individuals who represent  
25 cities and counties in the affected project area, organizations formed  
26 to support or oppose the project, if such organizations exist, and  
27 users of the project. The private entity shall, at a minimum,  
28 establish a committee as required under the specifications of RCW  
29 47.46.030(~~(+5)~~) (6)(b) (ii) and (iii) and appointments to such  
30 committee shall be made no later than thirty days after the project  
31 area is defined.

32 (e) Local involvement committees shall act in an advisory capacity  
33 to the department and the private entity on all issues related to the  
34 development and implementation of the public involvement process  
35 established under this section.

36 (f) The department and the private entity shall provide the  
37 legislative transportation committee and local involvement committees  
38 with progress reports on the status of the public involvement process  
39 including the results of an advisory vote, if any occurs.

1 (11) Nothing in this chapter limits the right of the secretary and  
2 his or her agents to render such advice and to make such  
3 recommendations as they deem to be in the best interests of the state  
4 and the public.

5 **Sec. 239.** RCW 72.09.100 and 1995 1st sp.s. c 19 s 33 are each  
6 amended to read as follows:

7 It is the intent of the legislature to vest in the department the  
8 power to provide for a comprehensive inmate work program and to remove  
9 statutory and other restrictions which have limited work programs in  
10 the past. For purposes of establishing such a comprehensive program,  
11 the legislature recommends that the department consider adopting any or  
12 all, or any variation of, the following classes of work programs:

13 (1) CLASS I: FREE VENTURE INDUSTRIES. The employer model  
14 industries in this class shall be operated and managed in total or in  
15 part by any profit or nonprofit organization pursuant to an agreement  
16 between the organization and the department. The organization shall  
17 produce goods or services for sale to both the public and private  
18 sector.

19 The customer model industries in this class shall be operated and  
20 managed by the department to provide Washington state manufacturers or  
21 businesses with products or services currently produced or provided by  
22 out-of-state or foreign suppliers. The correctional industries board  
23 of directors shall review these proposed industries before the  
24 department contracts to provide such products or services. The review  
25 shall include an analysis of the potential impact of the proposed  
26 products and services on the Washington state business community and  
27 labor market.

28 The department of corrections shall supply appropriate security and  
29 custody services without charge to the participating firms.

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

36 An inmate who is employed in the class I program of correctional  
37 industries shall not be eligible for unemployment compensation benefits

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

3 (2) CLASS II: TAX REDUCTION INDUSTRIES. Industries in this class  
4 shall be state-owned and operated enterprises designed to reduce the  
5 costs for goods and services for tax-supported agencies and for  
6 nonprofit organizations. The industries selected for development  
7 within this class shall, as much as possible, match the available pool  
8 of inmate work skills and aptitudes with the work opportunities in the  
9 free community. The industries shall be closely patterned after  
10 private sector industries but with the objective of reducing public  
11 support costs rather than making a profit. The products and services  
12 of this industry, including purchased products and services necessary  
13 for a complete product line, may be sold to public agencies, to  
14 nonprofit organizations, and to private contractors when the goods  
15 purchased will be ultimately used by a public agency or a nonprofit  
16 organization. Clothing manufactured by an industry in this class may  
17 be donated to nonprofit organizations that provide clothing free of  
18 charge to low-income persons. Correctional industries products and  
19 services shall be reviewed by the correctional industries board of  
20 directors before offering such products and services for sale to  
21 private contractors. The board of directors shall conduct a yearly  
22 marketing review of the products and services offered under this  
23 subsection. Such review shall include an analysis of the potential  
24 impact of the proposed products and services on the Washington state  
25 business community. To avoid waste or spoilage and consequent loss to  
26 the state, when there is no public sector market for such goods,  
27 byproducts and surpluses of timber, agricultural, and animal husbandry  
28 enterprises may be sold to private persons, at private sale. Surplus  
29 byproducts and surpluses of timber, agricultural and animal husbandry  
30 enterprises that cannot be sold to public agencies or to private  
31 persons may be donated to nonprofit organizations. All sales of  
32 surplus products shall be carried out in accordance with rules  
33 prescribed by the secretary.

34 Security and custody services shall be provided without charge by  
35 the department of corrections.

36 Inmates working in this class of industries shall do so at their  
37 own choice and shall be paid for their work on a gratuity scale which  
38 shall not exceed the wage paid for work of a similar nature in the

1 locality in which the industry is located and which is approved by the  
2 director of correctional industries.

3 Subject to approval of the correctional industries board,  
4 provisions of ((RCW ~~41.06.380~~ ~~prohibiting contracting out work~~  
5 ~~performed by classified employees~~)) section 208 of this act shall not  
6 apply to contracts with Washington state businesses entered into by the  
7 department of corrections through class II industries.

8 (3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES. Industries in  
9 this class shall be operated by the department of corrections. They  
10 shall be designed and managed to accomplish the following objectives:

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

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

18 (c) Whenever possible, to offset tax and other public support  
19 costs.

20 Supervising, management, and custody staff shall be employees of  
21 the department.

22 All able and eligible inmates who are assigned work and who are not  
23 working in other classes of industries shall work in this class.

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

28 (4) CLASS IV: COMMUNITY WORK INDUSTRIES. Industries in this class  
29 shall be operated by the department of corrections. They shall be  
30 designed and managed to provide services in the inmate's resident  
31 community at a reduced cost. The services shall be provided to public  
32 agencies, to persons who are poor or infirm, or to nonprofit  
33 organizations.

34 Inmates in this program shall reside in facilities owned by,  
35 contracted for, or licensed by the department of corrections. A unit  
36 of local government shall provide work supervision services without  
37 charge to the state and shall pay the inmate's wage.

1 The department of corrections shall reimburse participating units  
2 of local government for liability and workers compensation insurance  
3 costs.

4 Inmates who work in this class of industries shall do so at their  
5 own choice and shall receive a gratuity which shall not exceed the wage  
6 paid for work of a similar nature in the locality in which the industry  
7 is located.

8 (5) CLASS V: COMMUNITY SERVICE PROGRAMS. Programs in this class  
9 shall be subject to supervision by the department of corrections. The  
10 purpose of this class of industries is to enable an inmate, placed on  
11 community supervision, to work off all or part of a community service  
12 order as ordered by the sentencing court.

13 Employment shall be in a community service program operated by the  
14 state, local units of government, or a nonprofit agency.

15 To the extent that funds are specifically made available for such  
16 purposes, the department of corrections shall reimburse nonprofit  
17 agencies for workers compensation insurance costs.

18 **Sec. 240.** RCW 41.06.079 and 1993 c 281 s 23 are each amended to  
19 read as follows:

20 In addition to the exemptions set forth in RCW 41.06.070, the  
21 provisions of this chapter shall not apply in the department of  
22 transportation to the secretary, a deputy secretary, an administrative  
23 assistant to the secretary, if any, one assistant secretary for each  
24 division designated pursuant to RCW 47.01.081, one confidential  
25 secretary for each of the above-named officers, up to six  
26 transportation district administrators and one confidential secretary  
27 for each district administrator, up to six additional new  
28 administrators or confidential secretaries designated by the secretary  
29 of the department of transportation and approved by the Washington  
30 personnel resources board pursuant to the provisions of RCW  
31 41.06.070(((1)(z))), the legislative liaison for the department, the  
32 state construction engineer, the state aid engineer, the personnel  
33 manager, the state project development engineer, the state maintenance  
34 and operations engineer, one confidential secretary for each of the  
35 last-named five positions, and a confidential secretary for the public  
36 affairs administrator. The individuals appointed under this section  
37 shall be exempt from the provisions of the state civil service law, and  
38 shall be paid salaries to be fixed by the governor in accordance with

1 the procedure established by law for the fixing of salaries for  
2 individuals exempt from the operation of the state civil service law.

3 **Sec. 241.** RCW 41.06.152 and 1999 c 309 s 914 are each amended to  
4 read as follows:

5 (1) The board shall adopt only those job classification revisions,  
6 class studies, and salary adjustments under RCW 41.06.150(~~(+15+)~~) (12)  
7 that:

8 (a) Are due to documented recruitment and retention difficulties,  
9 salary compression or inversion, increased duties and responsibilities,  
10 or inequities. For these purposes, inequities are defined as similar  
11 work assigned to different job classes with a salary disparity greater  
12 than 7.5 percent; and

13 (b) Are such that the office of financial management has reviewed  
14 the agency's fiscal impact statement and has concurred that the agency  
15 can absorb the biennialized cost of the reclassification, class study,  
16 or salary adjustment within the agency's current authorized level of  
17 funding for the current fiscal biennium and subsequent fiscal biennia.

18 (2) In addition to reclassifications, class studies, and salary  
19 adjustments under subsection (1)(b) of this section, the board may  
20 approve other reclassifications, class studies, and salary adjustments  
21 that meet the requirements of subsection (1)(a) of this section and  
22 have been approved under the procedures established under this  
23 subsection.

24 Before the department of personnel's biennial budget request is due  
25 to the office of financial management, the board shall prioritize  
26 requests for reclassifications, class studies, and salary adjustments  
27 for the next fiscal biennium. The board shall prioritize according to  
28 such criteria as are developed by the board consistent with RCW  
29 41.06.150(~~(+15+)~~) (12)(a).

30 The board shall submit the prioritized list to the governor's  
31 office and the fiscal committees of the house of representatives and  
32 senate at the same time the department of personnel's biennial budget  
33 request is submitted. The office of financial management shall review  
34 the biennial cost of each proposed salary adjustment on the board's  
35 prioritized list.

36 In the biennial appropriations acts, the legislature may establish  
37 a level of funding, from the state general fund and other accounts, to  
38 be applied by the board to the prioritized list. Upon enactment of the

1 appropriations act, the board may approve reclassifications, class  
2 studies, and salary adjustments only to the extent that the total cost  
3 does not exceed the level of funding established in the appropriations  
4 acts and the board's actions are consistent with the priorities  
5 established in the list. The legislature may also specify or otherwise  
6 limit in the appropriations act the implementation dates for actions  
7 approved by the board under this section.

8 (3) When the board develops its priority list in the 1999-2001  
9 biennium, for increases proposed for funding in the 2001-2003 biennium,  
10 the board shall give top priority to proposed increases to address  
11 documented recruitment and retention increases, and shall give lowest  
12 priority to proposed increases to recognize increased duties and  
13 responsibilities. When the board submits its prioritized list for the  
14 2001-2003 biennium, the board shall also provide: A comparison of any  
15 differences between the salary increases recommended by the department  
16 of personnel staff and those adopted by the board; a review of any  
17 salary compression, inversion, or inequities that would result from  
18 implementing a recommended increase; and a complete description of the  
19 information relied upon by the board in adopting its proposals and  
20 priorities.

21 (4) This section does not apply to the higher education hospital  
22 special pay plan or to any adjustments to the classification plan under  
23 RCW 41.06.150(~~((+15))~~) (12) that are due to emergent conditions.  
24 Emergent conditions are defined as emergency conditions requiring the  
25 establishment of positions necessary for the preservation of the public  
26 health, safety, or general welfare.

27 **Sec. 242.** RCW 41.06.152 and 2000 c . . . s 241 (section 241 of  
28 this act) are each amended to read as follows:

29 (1) The (~~board~~) director shall adopt only those job  
30 classification revisions, class studies, and salary adjustments under  
31 RCW 41.06.150(~~((+12))~~) (4) that:

32 (a) Are due to documented recruitment and retention difficulties,  
33 salary compression or inversion, increased duties and responsibilities,  
34 or inequities. For these purposes, inequities are defined as similar  
35 work assigned to different job classes with a salary disparity greater  
36 than 7.5 percent; and

37 (b) Are such that the office of financial management has reviewed  
38 the agency's fiscal impact statement and has concurred that the agency

1 can absorb the biennialized cost of the reclassification, class study,  
2 or salary adjustment within the agency's current authorized level of  
3 funding for the current fiscal biennium and subsequent fiscal biennia.

4 (2) In addition to reclassifications, class studies, and salary  
5 adjustments under subsection (1)(b) of this section, the board may  
6 approve other reclassifications, class studies, and salary adjustments  
7 that meet the requirements of subsection (1)(a) of this section and  
8 have been approved under the procedures established under this  
9 subsection.

10 Before the department of personnel's biennial budget request is due  
11 to the office of financial management, the board shall prioritize  
12 requests for reclassifications, class studies, and salary adjustments  
13 for the next fiscal biennium. The board shall prioritize according to  
14 such criteria as are developed by the board consistent with RCW  
15 41.06.150(~~(12)~~) (4)(a).

16 The board shall submit the prioritized list to the governor's  
17 office and the fiscal committees of the house of representatives and  
18 senate at the same time the department of personnel's biennial budget  
19 request is submitted. The office of financial management shall review  
20 the biennial cost of each proposed salary adjustment on the board's  
21 prioritized list.

22 In the biennial appropriations acts, the legislature may establish  
23 a level of funding, from the state general fund and other accounts, to  
24 be applied by the board to the prioritized list. Upon enactment of the  
25 appropriations act, the board may approve reclassifications, class  
26 studies, and salary adjustments only to the extent that the total cost  
27 does not exceed the level of funding established in the appropriations  
28 acts and the board's actions are consistent with the priorities  
29 established in the list. The legislature may also specify or otherwise  
30 limit in the appropriations act the implementation dates for actions  
31 approved by the board under this section.

32 (3) When the board develops its priority list in the 1999-2001  
33 biennium, for increases proposed for funding in the 2001-2003 biennium,  
34 the board shall give top priority to proposed increases to address  
35 documented recruitment and retention increases, and shall give lowest  
36 priority to proposed increases to recognize increased duties and  
37 responsibilities. When the board submits its prioritized list for the  
38 2001-2003 biennium, the board shall also provide: A comparison of any  
39 differences between the salary increases recommended by the department

1 of personnel staff and those adopted by the board; a review of any  
2 salary compression, inversion, or inequities that would result from  
3 implementing a recommended increase; and a complete description of the  
4 information relied upon by the board in adopting its proposals and  
5 priorities.

6 (4) This section does not apply to the higher education hospital  
7 special pay plan or to any adjustments to the classification plan under  
8 RCW 41.06.150(~~(+12)~~) (4) that are due to emergent conditions.  
9 Emergent conditions are defined as emergency conditions requiring the  
10 establishment of positions necessary for the preservation of the public  
11 health, safety, or general welfare.

12 **Sec. 243.** RCW 41.06.500 and 1996 c 319 s 4 are each amended to  
13 read as follows:

14 (1) Except as provided in RCW 41.06.070, notwithstanding any other  
15 provisions of this chapter, the director is authorized to adopt, after  
16 consultation with state agencies and employee organizations, rules for  
17 managers as defined in RCW 41.06.022. These rules shall not apply to  
18 managers employed by institutions of higher education or related boards  
19 or whose positions are exempt. The rules shall govern recruitment,  
20 appointment, classification and allocation of positions, examination,  
21 training and career development, hours of work, probation,  
22 certification, compensation, transfer, affirmative action, promotion,  
23 layoff, reemployment, performance appraisals, discipline, and any and  
24 all other personnel practices for managers. These rules shall be  
25 separate from rules adopted by the board for other employees, and to  
26 the extent that the rules adopted apply only to managers shall take  
27 precedence over rules adopted by the board, and are not subject to  
28 review by the board.

29 (2) In establishing rules for managers, the director shall adhere  
30 to the following goals:

31 (a) Development of a simplified classification system that  
32 facilitates movement of managers between agencies and promotes upward  
33 mobility;

34 (b) Creation of a compensation system consistent with the policy  
35 set forth in RCW 41.06.150(~~(+17)~~) (14). The system shall provide  
36 flexibility in setting and changing salaries, and shall require review  
37 and approval by the director in the case of any salary changes greater  
38 than five percent proposed for any group of employees;

1 (c) Establishment of a performance appraisal system that emphasizes  
2 individual accountability for program results and efficient management  
3 of resources; effective planning, organization, and communication  
4 skills; valuing and managing workplace diversity; development of  
5 leadership and interpersonal abilities; and employee development;

6 (d) Strengthening management training and career development  
7 programs that build critical management knowledge, skills, and  
8 abilities; focusing on managing and valuing workplace diversity;  
9 empowering employees by enabling them to share in workplace decision  
10 making and to be innovative, willing to take risks, and able to accept  
11 and deal with change; promoting a workplace where the overall focus is  
12 on the recipient of the government services and how these services can  
13 be improved; and enhancing mobility and career advancement  
14 opportunities;

15 (e) Permitting flexible recruitment and hiring procedures that  
16 enable agencies to compete effectively with other employers, both  
17 public and private, for managers with appropriate skills and training;  
18 allowing consideration of all qualified candidates for positions as  
19 managers; and achieving affirmative action goals and diversity in the  
20 workplace;

21 (f) Providing that managers may only be reduced, dismissed,  
22 suspended, or demoted for cause; and

23 (g) Facilitating decentralized and regional administration.

24 **Sec. 244.** RCW 41.06.500 and 2000 c . . . s 243 (section 243 of  
25 this act) are each amended to read as follows:

26 (1) Except as provided in RCW 41.06.070, notwithstanding any other  
27 provisions of this chapter, the director is authorized to adopt, after  
28 consultation with state agencies and employee organizations, rules for  
29 managers as defined in RCW 41.06.022. These rules shall not apply to  
30 managers employed by institutions of higher education or related boards  
31 or whose positions are exempt. The rules shall govern recruitment,  
32 appointment, classification and allocation of positions, examination,  
33 training and career development, hours of work, probation,  
34 certification, compensation, transfer, affirmative action, promotion,  
35 layoff, reemployment, performance appraisals, discipline, and any and  
36 all other personnel practices for managers. These rules shall be  
37 separate from rules adopted (~~by the board~~) for other employees, and  
38 to the extent that the rules adopted under this section apply only to

1 managers shall take precedence over rules adopted (~~by the board~~) for  
2 other employees, and are not subject to review by the board.

3 (2) In establishing rules for managers, the director shall adhere  
4 to the following goals:

5 (a) Development of a simplified classification system that  
6 facilitates movement of managers between agencies and promotes upward  
7 mobility;

8 (b) Creation of a compensation system (~~consistent with the policy~~  
9 ~~set forth in RCW 41.06.150(14). The system shall provide~~) that  
10 provides flexibility in setting and changing salaries, and shall  
11 require review and approval by the director in the case of any salary  
12 changes greater than five percent proposed for any group of employees;

13 (c) Establishment of a performance appraisal system that emphasizes  
14 individual accountability for program results and efficient management  
15 of resources; effective planning, organization, and communication  
16 skills; valuing and managing workplace diversity; development of  
17 leadership and interpersonal abilities; and employee development;

18 (d) Strengthening management training and career development  
19 programs that build critical management knowledge, skills, and  
20 abilities; focusing on managing and valuing workplace diversity;  
21 empowering employees by enabling them to share in workplace decision  
22 making and to be innovative, willing to take risks, and able to accept  
23 and deal with change; promoting a workplace where the overall focus is  
24 on the recipient of the government services and how these services can  
25 be improved; and enhancing mobility and career advancement  
26 opportunities;

27 (e) Permitting flexible recruitment and hiring procedures that  
28 enable agencies to compete effectively with other employers, both  
29 public and private, for managers with appropriate skills and training;  
30 allowing consideration of all qualified candidates for positions as  
31 managers; and achieving affirmative action goals and diversity in the  
32 workplace;

33 (f) Providing that managers may only be reduced, dismissed,  
34 suspended, or demoted for cause; and

35 (g) Facilitating decentralized and regional administration.

36 **Sec. 245.** RCW 43.21I.010 and 1992 c 73 s 4 are each amended to  
37 read as follows:

1 (1) There is hereby created an agency of state government to be  
2 known as the office of marine safety. The office shall be vested with  
3 all powers and duties transferred to it and such other powers and  
4 duties as may be authorized by law. The main administrative office of  
5 the office shall be located in the city of Olympia. The administrator  
6 may establish administrative facilities in other locations, if deemed  
7 necessary for the efficient operation of the office, and if consistent  
8 with the principles set forth in subsection (2) of this section.

9 (2) The office of marine safety shall be organized consistent with  
10 the goals of providing state government with a focus in marine  
11 transportation and serving the people of this state. The legislature  
12 recognizes that the administrator needs sufficient organizational  
13 flexibility to carry out the office's various duties. To the extent  
14 practical, the administrator shall consider the following  
15 organizational principles:

16 (a) Clear lines of authority which avoid functional duplication  
17 within and between subelements of the office;

18 (b) A clear and simplified organizational design promoting  
19 accessibility, responsiveness, and accountability to the legislature,  
20 the consumer, and the general public; and

21 (c) Maximum span of control without jeopardizing adequate  
22 supervision.

23 (3) The office shall provide leadership and coordination in  
24 identifying and resolving threats to the safety of marine  
25 transportation and the impact of marine transportation on the  
26 environment:

27 (a) Working with other state agencies and local governments to  
28 strengthen the state and local governmental partnership in providing  
29 public protection;

30 (b) Providing expert advice to the executive and legislative  
31 branches of state government;

32 (c) Providing active and fair enforcement of rules;

33 (d) Working with other federal, state, and local agencies and  
34 facilitating their involvement in planning and implementing marine  
35 safety measures;

36 (e) Providing information to the public; and

37 (f) Carrying out such other related actions as may be appropriate  
38 to this purpose.

1 (4) In accordance with the administrative procedure act, chapter  
2 34.05 RCW, the office shall ensure an opportunity for consultation,  
3 review, and comment before the adoption of standards, guidelines, and  
4 rules.

5 (5) Consistent with the principles set forth in subsection (2) of  
6 this section, the administrator may create such administrative  
7 divisions, offices, bureaus, and programs within the office as the  
8 administrator deems necessary. The administrator shall have complete  
9 charge of and supervisory powers over the office, except where the  
10 administrator's authority is specifically limited by law.

11 (6) The administrator shall appoint such personnel as are necessary  
12 to carry out the duties of the office. In addition to exemptions set  
13 forth in RCW 41.06.070(~~(+28)~~) (3), the administrator, the  
14 administrator's confidential secretary, and up to four professional  
15 staff members shall be exempt from the provisions of chapter 41.06 RCW.  
16 All other employees of the office shall be subject to the provisions of  
17 chapter 41.06 RCW.

18 **Sec. 246.** RCW 43.23.010 and 1990 c 37 s 1 are each amended to read  
19 as follows:

20 In order to obtain maximum efficiency and effectiveness within the  
21 department of agriculture, the director may create such administrative  
22 divisions within the department as he or she deems necessary. The  
23 director shall appoint a deputy director as well as such assistant  
24 directors as shall be needed to administer the several divisions within  
25 the department. The director shall appoint no more than eight  
26 assistant directors. The officers appointed under this section are  
27 exempt from the provisions of the state civil service law as provided  
28 in RCW 41.06.070(~~(+7)~~) (1)(g), and shall be paid salaries to be fixed  
29 by the governor in accordance with the procedure established by law for  
30 the fixing of salaries for officers exempt from the operation of the  
31 state civil service law. The director shall also appoint and deputize  
32 a state veterinarian who shall be an experienced veterinarian properly  
33 licensed to practice veterinary medicine in this state.

34 The director of agriculture shall have charge and general  
35 supervision of the department and may assign supervisory and  
36 administrative duties other than those specified in RCW 43.23.070 to  
37 the division which in his or her judgment can most efficiently carry on  
38 those functions.

1       **Sec. 247.** RCW 49.74.030 and 1993 c 281 s 58 are each amended to  
2 read as follows:

3       The commission in conjunction with the department of personnel or  
4 the state patrol, whichever is appropriate, shall attempt to resolve  
5 the noncompliance through conciliation. If an agreement is reached for  
6 the elimination of noncompliance, the agreement shall be reduced to  
7 writing and an order shall be issued by the commission setting forth  
8 the terms of the agreement. The noncomplying state agency, institution  
9 of higher education, or state patrol shall make a good faith effort to  
10 conciliate and make a full commitment to correct the noncompliance with  
11 any action that may be necessary to achieve compliance, provided such  
12 action is not inconsistent with the rules adopted under RCW  
13 41.06.150(~~((21))~~) (19) and 43.43.340(5), whichever is appropriate.

14       **Sec. 248.** RCW 49.74.030 and 2000 c . . . s 247 (section 247 of  
15 this act) are each amended to read as follows:

16       The commission in conjunction with the department of personnel or  
17 the state patrol, whichever is appropriate, shall attempt to resolve  
18 the noncompliance through conciliation. If an agreement is reached for  
19 the elimination of noncompliance, the agreement shall be reduced to  
20 writing and an order shall be issued by the commission setting forth  
21 the terms of the agreement. The noncomplying state agency, institution  
22 of higher education, or state patrol shall make a good faith effort to  
23 conciliate and make a full commitment to correct the noncompliance with  
24 any action that may be necessary to achieve compliance, provided such  
25 action is not inconsistent with the rules adopted under RCW  
26 41.06.150(~~((19))~~) (6) and 43.43.340(5), whichever is appropriate.

27       **Sec. 249.** RCW 49.74.040 and 1985 c 365 s 11 are each amended to  
28 read as follows:

29       If no agreement can be reached under RCW 49.74.030, the commission  
30 may refer the matter to the administrative law judge for hearing  
31 pursuant to RCW 49.60.250. If the administrative law judge finds that  
32 the state agency, institution of higher education, or state patrol has  
33 not made a good faith effort to correct the noncompliance, the  
34 administrative law judge shall order the state agency, institution of  
35 higher education, or state patrol to comply with this chapter. The  
36 administrative law judge may order any action that may be necessary to  
37 achieve compliance, provided such action is not inconsistent with the

1 rules adopted under RCW (~~(28B.16.100(20))~~) 41.06.150(~~(+21))~~) (19) and  
2 43.43.340(5), whichever is appropriate.

3 An order by the administrative law judge may be appealed to  
4 superior court.

5 **Sec. 250.** RCW 49.74.040 and 2000 c . . . s 249 (section 249 of  
6 this act) are each amended to read as follows:

7 If no agreement can be reached under RCW 49.74.030, the commission  
8 may refer the matter to the administrative law judge for hearing  
9 pursuant to RCW 49.60.250. If the administrative law judge finds that  
10 the state agency, institution of higher education, or state patrol has  
11 not made a good faith effort to correct the noncompliance, the  
12 administrative law judge shall order the state agency, institution of  
13 higher education, or state patrol to comply with this chapter. The  
14 administrative law judge may order any action that may be necessary to  
15 achieve compliance, provided such action is not inconsistent with the  
16 rules adopted under RCW 41.06.150(~~(+19))~~) (6) and 43.43.340(5),  
17 whichever is appropriate.

18 An order by the administrative law judge may be appealed to  
19 superior court.

20 **Sec. 251.** RCW 41.56.201 and 1993 c 379 s 304 are each amended to  
21 read as follows:

22 (1) At any time after July 1, 1993, an institution of higher  
23 education and the exclusive bargaining representative of a bargaining  
24 unit of employees classified under chapter (~~(28B.16-er)~~) 41.06 RCW as  
25 appropriate may exercise their option to have their relationship and  
26 corresponding obligations governed entirely by the provisions of this  
27 chapter by complying with the following:

28 (a) The parties will file notice of the parties' intent to be so  
29 governed, subject to the mutual adoption of a collective bargaining  
30 agreement permitted by this section recognizing the notice of intent.  
31 The parties shall provide the notice to the higher education personnel  
32 board or its successor and the commission;

33 (b) During the negotiation of an initial contract between the  
34 parties under this chapter, the parties' scope of bargaining shall be  
35 governed by this chapter and any disputes arising out of the collective  
36 bargaining rights and obligations under this subsection shall be  
37 determined by the commission. If the commission finds that the parties

1 are at impasse, the notice filed under (a) of this subsection shall be  
2 void and have no effect; and

3 (c) On the first day of the month following the month during which  
4 the institution of higher education and the exclusive bargaining  
5 representative provide notice to the higher education personnel board  
6 or its successor and the commission that they have executed an initial  
7 collective bargaining agreement recognizing the notice of intent filed  
8 under (a) of this subsection, chapter ((28B.16—er)) 41.06 RCW as  
9 appropriate shall cease to apply to all employees in the bargaining  
10 unit covered by the agreement.

11 (2) All collective bargaining rights and obligations concerning  
12 relations between an institution of higher education and the exclusive  
13 bargaining representative of its employees who have agreed to exercise  
14 the option permitted by this section shall be determined under this  
15 chapter, subject to the following:

16 (a) The commission shall recognize, in its current form, the  
17 bargaining unit as certified by the higher education personnel board or  
18 its successor and the limitations on collective bargaining contained in  
19 RCW 41.56.100 shall not apply to that bargaining unit.

20 (b) If, on the date of filing the notice under subsection (1)(a) of  
21 this section, there is a union shop authorized for the bargaining unit  
22 under rules adopted by the higher education personnel board or its  
23 successor, the union shop requirement shall continue in effect for the  
24 bargaining unit and shall be deemed incorporated into the collective  
25 bargaining agreement applicable to the bargaining unit.

26 (c) Salary increases negotiated for the employees in the bargaining  
27 unit shall be subject to the following:

28 (i) Salary increases shall continue to be appropriated by the  
29 legislature. The exclusive bargaining representative shall meet before  
30 a legislative session with the governor or governor's designee and the  
31 representative of the institution of higher education concerning the  
32 total dollar amount for salary increases and health care contributions  
33 that will be contained in the appropriations proposed by the governor  
34 under RCW 43.88.060;

35 (ii) The collective bargaining agreements may provide for salary  
36 increases from local efficiency savings that are different from or that  
37 exceed the amount or percentage for salary increases provided by the  
38 legislature in the omnibus appropriations act for the institution of  
39 higher education or allocated to the board of trustees by the state

1 board for community and technical colleges, but the base for salary  
2 increases provided by the legislature under (c)(i) of this subsection  
3 shall include only those amounts appropriated by the legislature, and  
4 the base shall not include any additional salary increases provided  
5 under this subsection (2)(c)(ii);

6 (iii) Any provisions of the collective bargaining agreements  
7 pertaining to salary increases provided under (c)(i) of this subsection  
8 shall be subject to modification by the legislature. If any provision  
9 of a salary increase provided under (c)(i) of this subsection is  
10 changed by subsequent modification of the appropriations act by the  
11 legislature, both parties shall immediately enter into collective  
12 bargaining for the sole purpose of arriving at a mutually agreed upon  
13 replacement for the modified provision.

14 (3) Nothing in this section may be construed to permit an  
15 institution of higher education to bargain collectively with an  
16 exclusive bargaining representative concerning any matter covered by:  
17 (a) Chapter 41.05 RCW, except for the related cost or dollar  
18 contributions or additional or supplemental benefits as permitted by  
19 chapter 492, Laws of 1993; or (b) chapter 41.32 or 41.40 RCW.

20 **PART III**

21 **COLLECTIVE BARGAINING REFORM**

22 NEW SECTION. **Sec. 301.** All powers, duties, and functions of the  
23 department of personnel pertaining to collective bargaining are  
24 transferred to the public employment relations commission except  
25 mediation of grievances and contracts, arbitration of grievances and  
26 contracts, and unfair labor practices, filed under a collective  
27 bargaining agreement existing before the effective date of this  
28 section. Any mediation, arbitration, or unfair labor practice issue  
29 filed between July 1, 2002, and July 1, 2003, under a collective  
30 bargaining agreement existing before the effective date of this  
31 section, shall be resolved by the Washington personnel resources board  
32 in accordance with the authorities, rules, and procedures that were  
33 established under RCW 41.06.150(11) as it existed before the effective  
34 date of this section.

1           NEW SECTION.   **Sec. 302.** All reports, documents, surveys, books,  
2 records, files, papers, or written material in the possession of the  
3 department of personnel pertaining to the powers, functions, and duties  
4 transferred in section 301 of this act shall be delivered to the  
5 custody of the public employment relations commission. All cabinets,  
6 furniture, office equipment, motor vehicles, and other tangible  
7 property employed by the department of personnel in carrying out the  
8 powers, functions, and duties transferred in section 301 of this act  
9 shall be made available to the public employment relations commission.  
10 All funds, credits, leases, and other assets held in connection with  
11 the powers, functions, and duties transferred in section 301 of this  
12 act shall be assigned to the public employment relations commission.

13           Any appropriations made to the department of personnel for carrying  
14 out the powers, functions, and duties transferred in section 301 of  
15 this act shall be deleted at the time that such powers, functions, and  
16 duties are transferred to the public employment relations commission.  
17 All funding required to perform these transferred powers, functions,  
18 and duties is to be provided by the public employment relations  
19 commission once the transfers occur.

20           Whenever any question arises as to the transfer of any personnel,  
21 funds, books, documents, records, papers, files, equipment, or other  
22 tangible property used or held in the exercise of the powers and the  
23 performance of the duties and functions transferred, the director of  
24 financial management shall make a determination as to the proper  
25 allocation and certify the same to the state agencies concerned.

26           NEW SECTION.   **Sec. 303.** After the effective date of this section,  
27 the director of personnel and the executive director of the public  
28 employment relations commission shall meet and agree upon a schedule  
29 for the transfer of department of personnel labor relation employees  
30 and property to the commission. Whenever a question arises as to the  
31 transfer of any personnel, funds, books, documents, records, papers,  
32 files, equipment, or other tangible property used or held in the  
33 exercise of the powers and the performance of the duties and functions  
34 transferred, the director of financial management shall make a  
35 determination as to the proper allocation and certify the same to the  
36 state agencies concerned.



1 (2) RCW 41.50.804 (Existing collective bargaining agreements not  
2 affected) and 2000 c . . . s 228 (section 228 of this act), 1993 c 281  
3 s 40, & 1975-'76 2nd ex.s. c 105 s 17; and

4 (3) RCW 41.06.520 (Administration, management of institutions of  
5 higher education--Rules--Audit and review by board) and 1993 c 281 s  
6 11.

7 NEW SECTION. **Sec. 403.** The following acts or parts of acts, as  
8 now existing or hereafter amended, are each repealed:

9 (1) RCW 41.06.380 (Purchasing services by contract not prohibited--  
10 Limitations) and 1979 ex.s. c 46 s 2;

11 (2) RCW 41.06.382 (Purchasing services by contract not prohibited--  
12 Limitations) and 1979 ex.s. c 46 s 1;

13 (3) RCW 41.56.023 (Application of chapter to employees of  
14 institutions of higher education) and 1993 c 379 s 301;

15 (4) RCW 41.56.201 (Employees of institutions of higher education--  
16 Option to have relationship and obligations governed by chapter) and  
17 1993 c 379 s 304; and

18 (5) RCW 28B.16.015 (Option to have relationship and obligations  
19 governed by chapter 41.56 RCW) and 1993 c 379 s 310.

20 NEW SECTION. **Sec. 404.** The following acts or parts of acts, as  
21 now existing or hereafter amended, are each repealed:

22 (1) RCW 41.64.010 (Personnel appeals board--Created--Membership--  
23 Definitions) and 1981 c 311 s 1;

24 (2) RCW 41.64.020 (Removal of members--Hearing) and 1981 c 311 s 3;

25 (3) RCW 41.64.030 (Compensation of members--Travel expenses--  
26 Disclosure of financial affairs) and 1984 c 287 s 73, 1984 c 34 s 4, &  
27 1981 c 311 s 4;

28 (4) RCW 41.64.040 (Election of chairperson--Biennial meetings) and  
29 1981 c 311 s 5;

30 (5) RCW 41.64.050 (Executive secretary--Appointment of assistants)  
31 and 1981 c 311 s 6;

32 (6) RCW 41.64.060 (Location of principal office--Hearings--  
33 Procedure) and 1981 c 311 s 7;

34 (7) RCW 41.64.070 (Journal of official actions) and 1981 c 311 s 8;

35 (8) RCW 41.64.080 (Employee appeals--Hearings examiners) and 1981  
36 c 311 s 9;

1 (9) RCW 41.64.090 (Employee appeals--Jurisdiction) and 1993 c 281  
2 s 41 & 1981 c 311 s 10;

3 (10) RCW 41.64.100 (Employee appeals--Hearing--Decision to be  
4 rendered within ninety days, exceptions) and 1997 c 386 s 43 & 1981 c  
5 311 s 11;

6 (11) RCW 41.64.110 (Employee appeals--Hearing--Procedure--Official  
7 record) and 1985 c 461 s 7 & 1981 c 311 s 12;

8 (12) RCW 41.64.120 (Employee appeals--Findings of fact, conclusions  
9 of law, order--Notice to employee and employing agency) and 1981 c 311  
10 s 13;

11 (13) RCW 41.64.130 (Employee appeals--Review by superior court--  
12 Grounds--Notice, service--Certified transcript) and 1981 c 311 s 14;

13 (14) RCW 41.64.140 (Employee appeals--Review by superior court--  
14 Procedure--Appellate review) and 1988 c 202 s 42 & 1981 c 311 s 15; and

15 (15) RCW 41.64.910 (Severability--1981 c 311) and 1981 c 311 s 24.

16 NEW SECTION. **Sec. 405.** SECTION CAPTIONS. Part headings and  
17 section captions used in this act do not constitute part of the law.

18 NEW SECTION. **Sec. 406.** Until July 1, 2004, the public employment  
19 relations commission is authorized to contract with the department of  
20 personnel for labor relations staffing necessary to carry out its  
21 functions.

22 NEW SECTION. **Sec. 407.** If any provision of this act or its  
23 application to any person or circumstance is held invalid, the  
24 remainder of the act or the application of the provision to other  
25 persons or circumstances is not affected.

26 NEW SECTION. **Sec. 408.** (1) Sections 203, 204, 213 through 223,  
27 227, 229 through 232, 242, 244, 248, 250, 301, 302, 305, and 402 of  
28 this act take effect July 1, 2002.

29 (2) Section 224 of this act takes effect March 15, 2003.

30 (3) Sections 208, 235 through 239, and 403 of this act take effect  
31 July 1, 2003.

32 (4) Sections 225, 226, 234, and 404 of this act take effect July 1,  
33 2004."

--- END ---

Renumber the sections consecutively and correct any internal references accordingly.

**SB 6402** - S AMD - 041  
By Senator McDonald

NOT ADOPTED 2/7/00

On page 1, on line 10 of the title, after "41.06 RCW;" strike "adding a new chapter to Title 41 RCW;"

--- END ---

**EFFECT:** Removes all collective bargaining provisions from the bill.