

**HOUSE BILL 1268**

**State of Washington**

**57th Legislature**

**2001 Regular Session**

**By** Representatives Romero, Campbell, Conway, Kenney, Kessler, Hurst, Keiser, Simpson, Ogden, Lovick, McIntire, Ruderman, O'Brien, Schual-Berke, Poulsen, Kagi, Cody, Edmonds, Wood and Haigh; by request of Governor Locke

Read first time 01/22/2001. Referred to Committee on State Government.

1 AN ACT Relating to personnel; amending RCW 41.06.030, 41.06.150,  
2 41.06.150, 41.06.022, 41.06.070, 41.06.110, 41.06.160, 41.06.167,  
3 41.06.170, 41.06.186, 41.06.196, 41.06.270, 41.06.350, 41.06.400,  
4 41.06.410, 41.06.450, 41.06.475, 41.06.490, 28B.12.060, 34.05.030,  
5 34.12.020, 41.50.804, 43.06.425, 43.33A.100, 43.131.090, 49.46.010,  
6 41.06.340, 13.40.320, 39.29.006, 41.04.385, 47.46.040, 72.09.100,  
7 41.06.079, 41.06.152, 41.06.152, 41.06.500, 41.06.500, 43.23.010,  
8 49.74.030, 49.74.030, 49.74.040, 49.74.040, and 41.56.201; reenacting  
9 and amending RCW 41.04.340; adding new sections to chapter 41.06 RCW;  
10 adding a new chapter to Title 41 RCW; creating new sections; repealing  
11 RCW 41.06.163, 41.06.165, 41.06.140, 41.50.804, 41.06.520, 41.06.380,  
12 41.06.382, 41.56.023, 41.56.201, 28B.16.015, 41.64.010, 41.64.020,  
13 41.64.030, 41.64.040, 41.64.050, 41.64.060, 41.64.070, 41.64.080,  
14 41.64.090, 41.64.100, 41.64.110, 41.64.120, 41.64.130, 41.64.140, and  
15 41.64.910; providing effective dates; and providing expiration dates.

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

17 **PART I**

18 **TITLE**

1           NEW SECTION.   **Sec. 101.**   SHORT TITLE.   This act may be known and  
2   cited as the personnel system reform act of 2001.

3   **PART II**  
4   **CIVIL SERVICE REFORM**

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

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

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

12          The board shall adopt rules, consistent with the purposes and  
13   provisions of this chapter, as now or hereafter amended, and with the  
14   best standards of personnel administration, regarding the basis and  
15   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 departmental  
19   promotions, with the number of names equal to six more names than there  
20   are vacancies to be filled, such names representing applicants rated  
21   highest on eligibility lists:   PROVIDED, That when other applicants  
22   have scores equal to the lowest score among the names certified, their  
23   names shall also be certified;

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

26          (4) 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;

1       ~~((Determination of appropriate bargaining units within any~~  
2 ~~agency: PROVIDED, That in making such determination the board shall~~  
3 ~~consider the duties, skills, and working conditions of the employees,~~  
4 ~~the history of collective bargaining by the employees and their~~  
5 ~~bargaining representatives, the extent of organization among the~~  
6 ~~employees, and the desires of the employees;~~

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

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

37       ~~((13))~~ (b) Agreements between agencies and certified exclusive  
38 bargaining representatives providing for grievance procedures and  
39 collective negotiations on all personnel matters over which the

1 appointing authority of the appropriate bargaining unit of such agency  
2 may lawfully exercise discretion;

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

10 ~~((15))~~ (d) A collective bargaining agreement entered into under  
11 this subsection before July 1, 2002, covering employees subject to  
12 sections 301 through 314 of this act, that expires after July 1, 2002,  
13 shall remain in full force during its duration, or until superseded by  
14 a collective bargaining agreement entered into by the parties under  
15 sections 301 through 314 of this act. However, an agreement entered  
16 into before July 1, 2002, may not be renewed or extended beyond July 1,  
17 2003. This subsection (11) does not apply to collective bargaining  
18 negotiations or collective bargaining agreements entered into under  
19 sections 301 through 314 of this act;

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

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

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

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

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

37 ~~(B) The implementation will take effect on July 1, 1996, and the~~  
38 ~~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 2001 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 Rules adopted by the director under this section may be superseded  
11 by the provisions of a collective bargaining agreement negotiated under  
12 sections 301 through 314 of this act. The supersession of such rules  
13 shall only affect employees in the respective collective bargaining  
14 units.

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

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

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

29 (a) To improve the effectiveness and efficiency of the delivery of  
30 services to the citizens of the state through the use of current  
31 personnel management processes and to promote a workplace where the  
32 overall focus is on the recipient of governmental services;

33 (b) To develop a simplified classification system that will  
34 substantially reduce the number of job classifications in the  
35 classified service and facilitate the most effective use of the state  
36 personnel resources;

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

4 (d) To value workplace diversity;

5 (e) To facilitate the reorganization and decentralization of  
6 governmental services; and

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

8 (3) Rules adopted by the board under subsection (2) of this section  
9 shall permit an appointing authority and an employee organization  
10 representing classified employees of the appointing authority for  
11 collective bargaining purposes to make a joint request for the  
12 initiation of a classification study.

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

15 In accordance with rules adopted by the board under section 205 of  
16 this act, the director shall, by January 1, 2004, begin to implement a  
17 new classification system for positions in the classified service. Any  
18 employee who believes that the director has incorrectly applied the  
19 rules of the board in determining a job classification for a job held  
20 by that employee may appeal the director's decision to the board by  
21 filing a notice in writing within thirty days of the action from which  
22 the appeal is taken. Decisions of the board concerning such appeals  
23 are final and not subject to further appeal.

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

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

27 (1) Formulates statewide policy or directs the work of an agency or  
28 agency subdivision;

29 (2) Is responsible to administer one or more statewide policies or  
30 programs of an agency or agency subdivision;

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

34 (4) Has substantial responsibility in personnel administration,  
35 legislative relations, public information, or the preparation and  
36 administration of budgets; or

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

4 No employee who is a member of the Washington management service  
5 may be included in a collective bargaining unit established under  
6 sections 301 through 314 of this act.

7 NEW SECTION. Sec. 208. A new section is added to chapter 41.06  
8 RCW to read as follows:

9 (1) Any department, agency, or institution of higher education may  
10 purchase services, including services that have been customarily and  
11 historically provided by employees in the classified service under this  
12 chapter, by contracting with individuals, nonprofit organizations,  
13 businesses, employee business units, or other entities if the following  
14 criteria are met:

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

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

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

25 (d) The department, agency, or institution of higher education has  
26 established a contract monitoring process to measure contract  
27 performance, costs, service delivery quality, and other contract  
28 standards, and to cancel contracts that do not meet those standards;  
29 and

30 (e) The department, agency, or institution of higher education has  
31 demonstrated that the contract results in savings or efficiency  
32 improvements. The contracting agency must consider the consequences  
33 and potential mitigation of improper or failed performance by the  
34 contractor.

35 (2) Any provision contrary to or in conflict with this section in  
36 any collective bargaining agreement in effect on the effective date of  
37 this section is not effective beyond the expiration date of the  
38 agreement.

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

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

6 (a) At least ninety days prior to the date the contracting agency  
7 requests bids from private entities for a contract for services  
8 provided by classified employees, the contracting agency shall notify  
9 the classified employees whose positions or work would be displaced by  
10 the contract. The employees shall have sixty days from the date of  
11 notification to offer alternatives to purchasing services by contract,  
12 and the agency shall consider the alternatives before requesting bids.

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

17 (c) The director of personnel, with the advice and assistance of  
18 the department of general administration, shall develop and make  
19 available to employee business units training in the bidding process  
20 and general bid preparation.

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

37 (e) An employee business unit's bid must include the fully  
38 allocated costs of the service, including the cost of the employees'  
39 salaries and benefits, space, equipment, materials, and other costs



1 necessary to perform the function. An employee business unit's cost  
2 shall not include the state's indirect overhead costs unless those  
3 costs can be attributed directly to the function in question and would  
4 not exist if that function were not performed in state service.

5 (f) A department, agency, or institution of higher education may  
6 contract with the department of general administration to conduct the  
7 bidding process.

8 (5) As used in this section:

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

12 (b) "Indirect overhead costs" means the pro rata share of existing  
13 agency administrative salaries and benefits, and rent, equipment costs,  
14 utilities, and materials associated with those administrative  
15 functions.

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

20 (6) The joint legislative audit and review committee shall conduct  
21 a performance audit of the implementation of this section, including  
22 the adequacy of the appeals process in subsection (4)(d) of this  
23 section, and report to the legislature by January 1, 2005, on the  
24 results of the audit.

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

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

28 (a) The members of the legislature or to any employee of, or  
29 position in, the legislative branch of the state government including  
30 members, officers, and employees of the legislative council, joint  
31 legislative audit and review committee, statute law committee, and any  
32 interim committee of the legislature;

33 (b) The justices of the supreme court, judges of the court of  
34 appeals, judges of the superior courts or of the inferior courts, or to  
35 any employee of, or position in the judicial branch of state  
36 government;

37 (c) Officers, academic personnel, and employees of technical  
38 colleges;

1 (d) The officers of the Washington state patrol;  
2 (e) Elective officers of the state;  
3 (f) The chief executive officer of each agency;  
4 (g) In the departments of employment security and social and health  
5 services, the director and the director's confidential secretary; in  
6 all other departments, the executive head of which is an individual  
7 appointed by the governor, the director, his or her confidential  
8 secretary, and his or her statutory assistant directors;  
9 (h) In the case of a multimember board, commission, or committee,  
10 whether the members thereof are elected, appointed by the governor or  
11 other authority, serve ex officio, or are otherwise chosen:  
12 (i) All members of such boards, commissions, or committees;  
13 (ii) If the members of the board, commission, or committee serve on  
14 a part-time basis and there is a statutory executive officer: The  
15 secretary of the board, commission, or committee; the chief executive  
16 officer of the board, commission, or committee; and the confidential  
17 secretary of the chief executive officer of the board, commission, or  
18 committee;  
19 (iii) If the members of the board, commission, or committee serve  
20 on a full-time basis: The chief executive officer or administrative  
21 officer as designated by the board, commission, or committee; and a  
22 confidential secretary to the chair of the board, commission, or  
23 committee;  
24 (iv) If all members of the board, commission, or committee serve ex  
25 officio: The chief executive officer; and the confidential secretary  
26 of such chief executive officer;  
27 (i) The confidential secretaries and administrative assistants in  
28 the immediate offices of the elective officers of the state;  
29 (j) Assistant attorneys general;  
30 (k) Commissioned and enlisted personnel in the military service of  
31 the state;  
32 (l) Inmate, student, part-time, or temporary employees, and part-  
33 time professional consultants, as defined by the Washington personnel  
34 resources board;  
35 (m) The public printer or to any employees of or positions in the  
36 state printing plant;  
37 (n) Officers and employees of the Washington state fruit  
38 commission;

1 (o) Officers and employees of the Washington state apple  
2 advertising commission;

3 (p) Officers and employees of the Washington state dairy products  
4 commission;

5 (q) Officers and employees of the Washington tree fruit research  
6 commission;

7 (r) Officers and employees of the Washington state beef commission;

8 (s) Officers and employees of any commission formed under chapter  
9 15.66 RCW;

10 ~~(t) ((Officers and employees of the state wheat commission formed  
11 under chapter 15.63 RCW;~~

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

14 ~~((v))~~ (v) Officers and employees of the nonprofit corporation  
15 formed under chapter 67.40 RCW;

16 ~~((w))~~ (w) Executive assistants for personnel administration and  
17 labor relations in all state agencies employing such executive  
18 assistants including but not limited to all departments, offices,  
19 commissions, committees, boards, or other bodies subject to the  
20 provisions of this chapter and this subsection shall prevail over any  
21 provision of law inconsistent herewith unless specific exception is  
22 made in such law;

23 ~~((x))~~ (x) In each agency with fifty or more employees: Deputy  
24 agency heads, assistant directors or division directors, and not more  
25 than three principal policy assistants who report directly to the  
26 agency head or deputy agency heads;

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

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

32 ~~(aa))~~ (y) Staff employed by the department of community, trade,  
33 and economic development to administer energy policy functions and  
34 manage energy site evaluation council activities under RCW  
35 43.21F.045(2)(m);

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

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

4 (a) Members of the governing board of each institution of higher  
5 education and related boards, all presidents, vice-presidents, and  
6 their confidential secretaries, administrative, and personal  
7 assistants; deans, directors, and chairs; academic personnel; and  
8 executive heads of major administrative or academic divisions employed  
9 by institutions of higher education; principal assistants to executive  
10 heads of major administrative or academic divisions; other managerial  
11 or professional employees in an institution or related board having  
12 substantial responsibility for directing or controlling program  
13 operations and accountable for allocation of resources and program  
14 results, or for the formulation of institutional policy, or for  
15 carrying out personnel administration or labor relations functions,  
16 legislative relations, public information, development, senior computer  
17 systems and network programming, or internal audits and investigations;  
18 and any employee of a community college district whose place of work is  
19 one which is physically located outside the state of Washington and who  
20 is employed pursuant to RCW 28B.50.092 and assigned to an educational  
21 program operating outside of the state of Washington;

22 ~~(b) ((Student, part-time, or temporary employees, and part-time  
23 professional consultants, as defined by the Washington personnel  
24 resources board, employed by institutions of higher education and  
25 related boards;~~

26 ~~(e))~~ The governing board of each institution, and related boards,  
27 may also exempt from this chapter classifications involving research  
28 activities, counseling of students, extension or continuing education  
29 activities, graphic arts or publications activities requiring  
30 prescribed academic preparation or special training as determined by  
31 the board: PROVIDED, That no nonacademic employee engaged in office,  
32 clerical, maintenance, or food and trade services may be exempted by  
33 the board under this provision;

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

36 (3) In addition to the exemptions specifically provided by this  
37 chapter, the ~~((Washington personnel resources board))~~ director of  
38 personnel may provide for further exemptions pursuant to the following  
39 procedures. The governor or other appropriate elected official may

1 submit requests for exemption to the (~~Washington personnel resources~~  
2 ~~board~~) director of personnel stating the reasons for requesting such  
3 exemptions. The (~~Washington personnel resources board~~) director of  
4 personnel shall hold a public hearing, after proper notice, on requests  
5 submitted pursuant to this subsection. If the (~~board~~) director  
6 determines that the position for which exemption is requested is one  
7 involving substantial responsibility for the formulation of basic  
8 agency or executive policy or one involving directing and controlling  
9 program operations of an agency or a major administrative division  
10 thereof, the (~~Washington personnel resources board~~) director of  
11 personnel shall grant the request and such determination shall be final  
12 as to any decision made before July 1, 1993. The total number of  
13 additional exemptions permitted under this subsection shall not exceed  
14 one percent of the number of employees in the classified service not  
15 including employees of institutions of higher education and related  
16 boards for those agencies not directly under the authority of any  
17 elected public official other than the governor, and shall not exceed  
18 a total of twenty-five for all agencies under the authority of elected  
19 public officials other than the governor.

20 The salary and fringe benefits of all positions presently or  
21 hereafter exempted except for the chief executive officer of each  
22 agency, full-time members of boards and commissions, administrative  
23 assistants and confidential secretaries in the immediate office of an  
24 elected state official, and the personnel listed in subsections (1)(j)  
25 through (~~(v), (y), (z)~~) (u) and (x) and (2) of this section, shall  
26 be determined by the (~~Washington personnel resources board~~) director  
27 of personnel. (~~However, beginning with changes proposed for the 1997-~~  
28 ~~99 fiscal biennium,~~) Changes to the classification plan affecting  
29 exempt salaries must meet the same provisions for classified salary  
30 increases resulting from adjustments to the classification plan as  
31 outlined in RCW 41.06.152.

32 Any person holding a classified position subject to the provisions  
33 of this chapter shall, when and if such position is subsequently  
34 exempted from the application of this chapter, be afforded the  
35 following rights: If such person previously held permanent status in  
36 another classified position, such person shall have a right of  
37 reversion to the highest class of position previously held, or to a  
38 position of similar nature and salary.

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

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

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

10 (1) There is hereby created a Washington personnel resources board  
11 composed of three members appointed by the governor, subject to  
12 confirmation by the senate. The members of the personnel board serving  
13 June 30, 1993, shall be the members of the Washington personnel  
14 resources board, and they shall complete their terms as under the  
15 personnel board. Each odd-numbered year thereafter the governor shall  
16 appoint a member for a six-year term. Each member shall continue to  
17 hold office after the expiration of the member's term until a successor  
18 has been appointed. Persons so appointed shall have clearly  
19 demonstrated an interest and belief in the merit principle, shall not  
20 hold any other employment with the state, shall not have been an  
21 officer of a political party for a period of one year immediately prior  
22 to such appointment, and shall not be or become a candidate for  
23 partisan elective public office during the term to which they are  
24 appointed;

25 (2) Each member of the board shall be compensated in accordance  
26 with RCW 43.03.250. The members of the board may receive any number of  
27 daily payments for official meetings of the board actually attended.  
28 Members of the board shall also be reimbursed for travel expenses  
29 incurred in the discharge of their official duties in accordance with  
30 RCW 43.03.050 and 43.03.060.

31 (3) At its first meeting following the appointment of all of its  
32 members, and annually thereafter, the board shall elect a chair and  
33 vice-chair from among its members to serve one year. The presence of  
34 at least two members of the board shall constitute a quorum to transact  
35 business. A written public record shall be kept by the board of all  
36 actions of the board. The director of personnel shall serve as  
37 secretary.

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

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

8 In preparing classification and salary schedules as set forth in  
9 RCW 41.06.150 (~~((as now or hereafter amended))~~) the department of  
10 personnel shall give full consideration to prevailing rates in other  
11 public employment and in private employment in this state. For this  
12 purpose the department shall undertake comprehensive salary and fringe  
13 benefit surveys(~~(, with such surveys to be conducted in the year prior~~  
14 ~~to the convening of every other one hundred five day regular session of~~  
15 ~~the state legislature. In the year prior to the convening of each one~~  
16 ~~hundred five day regular session during which a comprehensive salary~~  
17 ~~and fringe benefit survey is not conducted, the department shall plan~~  
18 ~~and conduct a trend salary and fringe benefit survey. This survey~~  
19 ~~shall measure average salary and fringe benefit movement for broad~~  
20 ~~occupational groups which has occurred since the last comprehensive~~  
21 ~~salary and fringe benefit survey was conducted. The results of each~~  
22 ~~comprehensive and trend salary and fringe benefit survey shall be~~  
23 ~~completed and forwarded by September 30 with a recommended state salary~~  
24 ~~schedule to the governor and director of financial management for their~~  
25 ~~use in preparing budgets to be submitted to the succeeding legislature.~~  
26 ~~A copy of the data and supporting documentation shall be furnished by~~  
27 ~~the department of personnel to the standing committees for~~  
28 ~~appropriations of the senate and house of representatives.~~

29 In the case of comprehensive salary and fringe benefit surveys, the  
30 department shall furnish the following supplementary data in support of  
31 its recommended salary schedule:

32 (1) A total dollar figure which reflects the recommended increase  
33 or decrease in state salaries as a direct result of the specific salary  
34 and fringe benefit survey that has been conducted and which is  
35 categorized to indicate what portion of the increase or decrease is  
36 represented by salary survey data and what portion is represented by  
37 fringe benefit survey data;

1       ~~(2) An additional total dollar figure which reflects the impact of~~  
2 ~~recommended increases or decreases to state salaries based on other~~  
3 ~~factors rather than directly on prevailing rate data obtained through~~  
4 ~~the survey process and which is categorized to indicate the sources of~~  
5 ~~the requests for deviation from prevailing rates and the reasons for~~  
6 ~~the changes;~~

7       ~~(3) A list of class codes and titles indicating recommended monthly~~  
8 ~~salary ranges for all state classes under the control of the department~~  
9 ~~of personnel with those salary ranges which do not substantially~~  
10 ~~conform to the prevailing rates developed from the salary and fringe~~  
11 ~~benefit survey distinctly marked and an explanation of the reason for~~  
12 ~~the deviation included;~~

13       ~~(4) A supplemental salary schedule which indicates the additional~~  
14 ~~salary to be paid state employees for hazardous duties or other~~  
15 ~~considerations requiring extra compensation under specific~~  
16 ~~circumstances. Additional compensation for these circumstances shall~~  
17 ~~not be included in the basic salary schedule but shall be maintained as~~  
18 ~~a separate pay schedule for purposes of full disclosure and visibility;~~  
19 ~~and~~

20       ~~(5) A supplemental salary schedule which indicates those cases~~  
21 ~~where the board determines that prevailing rates do not provide similar~~  
22 ~~salaries for positions that require or impose similar responsibilities,~~  
23 ~~judgment, knowledge, skills, and working conditions. This~~  
24 ~~supplementary salary schedule shall contain proposed salary adjustments~~  
25 ~~necessary to eliminate any such dissimilarities in compensation.~~  
26 ~~Additional compensation needed to eliminate such salary dissimilarities~~  
27 ~~shall not be included in the basic salary schedule but shall be~~  
28 ~~maintained as a separate salary schedule for purposes of full~~  
29 ~~disclosure and visibility.~~

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

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

38       ~~((The first comprehensive salary and fringe benefit survey required~~  
39 ~~by this section shall be completed and forwarded to the governor and~~



1 the director of financial management by September 30, 1986. The first  
2 trend salary and fringe benefit survey required by this section shall  
3 be completed and forwarded to the governor and the director of  
4 financial management by September 30, 1988.))

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

7 The department of personnel shall undertake comprehensive  
8 compensation surveys for officers and entry-level officer candidates of  
9 the Washington state patrol, with such surveys to be conducted in the  
10 year prior to the convening of every other one hundred five day regular  
11 session of the state legislature. ((In the year prior to the convening  
12 of each one hundred five day regular session during which a  
13 comprehensive compensation survey is not conducted, the department  
14 shall conduct a trend compensation survey. This survey shall measure  
15 average compensation movement which has occurred since the last  
16 comprehensive compensation survey was conducted. The results of each  
17 comprehensive and trend survey shall be completed and forwarded by  
18 September 30th, after review and preparation of recommendations by the  
19 chief of the Washington state patrol, to the governor and director of  
20 financial management for their use in preparing budgets to be submitted  
21 to the succeeding legislature. A copy of the data and supporting  
22 documentation shall be furnished by the department of personnel to the  
23 legislative transportation committee and the standing committees for  
24 appropriations of the senate and house of representatives. The office  
25 of financial management shall analyze the survey results and conduct  
26 investigations which may be necessary to arbitrate differences between  
27 interested parties regarding the accuracy of collected survey data and  
28 the use of such data for salary adjustment.

29 Surveys conducted by the department of personnel for the Washington  
30 state patrol shall be undertaken in a manner consistent with  
31 statistically accurate sampling techniques, including comparisons of  
32 medians, base ranges, and weighted averages of salaries. The surveys  
33 shall compare competitive labor markets of law enforcement officers.  
34 This service performed by the department of personnel shall be on a  
35 reimbursable basis in accordance with the provisions of RCW 41.06.080.

36 A comprehensive compensation survey plan and the recommendations of  
37 the chief of the Washington state patrol shall be submitted jointly by  
38 the department of personnel and the Washington state patrol to the

1 director of financial management, the legislative transportation  
2 committee, the committee on ways and means of the senate, and the  
3 committee on appropriations of the house of representatives six months  
4 before the beginning of each periodic survey.)) Salary and fringe  
5 benefit survey information collected from private employers which  
6 identifies a specific employer with the salary and fringe benefit rates  
7 which that employer pays to its employees shall not be subject to  
8 public disclosure under chapter 42.17 RCW.

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

11       (1) The ((~~board or~~)) director, in the adoption of rules governing  
12 suspensions for cause, shall not authorize an appointing authority to  
13 suspend an employee for more than fifteen calendar days as a single  
14 penalty or more than thirty calendar days in any one calendar year as  
15 an accumulation of several penalties. The ((~~board or~~)) director shall  
16 require that the appointing authority give written notice to the  
17 employee not later than one day after the suspension takes effect,  
18 stating the reasons for and the duration thereof.

19       (2) Any employee who is reduced, dismissed, suspended, or demoted,  
20 after completing his or her probationary period of service as provided  
21 by the rules of the ((~~board~~)) director, or any employee who is  
22 adversely affected by a violation of the state civil service law,  
23 chapter 41.06 RCW, or rules adopted under it, shall have the right to  
24 appeal ((~~to the personnel appeals board created by RCW 41.64.010~~)),  
25 either individually or through his or her authorized representative,  
26 not later than thirty days after the effective date of such action to  
27 the personnel appeals board through June 30, 2003, and to the  
28 Washington personnel resources board after June 30, 2003. The employee  
29 shall be furnished with specified charges in writing when a reduction,  
30 dismissal, suspension, or demotion action is taken. Such appeal shall  
31 be in writing. Decisions of the Washington personnel resources board  
32 on appeals filed after June 30, 2003, shall be final and not subject to  
33 further appeal.

34       (3) Any employee whose position has been exempted after July 1,  
35 1993, shall have the right to appeal ((~~to the personnel appeals board~~  
36 ~~created by RCW 41.64.010~~)), either individually or through his or her  
37 authorized representative, not later than thirty days after the  
38 effective date of such action to the personnel appeals board through

1 June 30, 2003, and to the Washington personnel resources board after  
2 June 30, 2003.

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

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

13 NEW SECTION. Sec. 214. The transfer of the powers, duties, and  
14 functions of the personnel appeals board to the personnel resources  
15 board under section 234 of this act and the transfer of jurisdiction  
16 for appeals filed under section 213, chapter . . . , Laws of 2001  
17 (section 213 of this act) after June 30, 2003, shall not affect the  
18 right of an appellant to have an appeal filed on or before June 30,  
19 2003, resolved by the personnel appeals board in accordance with the  
20 authorities, rules, and procedures that were established under chapter  
21 41.64 RCW as it existed before the effective date of this section.

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

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

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

29 The ((Washington personnel resources board)) director shall adopt  
30 rules designed to remove from supervisory positions those supervisors  
31 who in violation of the rules adopted under RCW 41.06.186 have  
32 tolerated the continued employment of employees under their supervision  
33 whose performance has warranted termination from state employment.

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

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

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

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

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

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

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

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

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

28 (c) Promote interagency sharing of resources for training and  
29 career development;

30 (d) Monitor and review the impact of training and career  
31 development programs to ensure that the responsibilities of the state  
32 to provide equal employment opportunities are diligently carried out.  
33 (~~The director shall report to the board the impact of training and~~  
34 ~~career development programs on the fulfillment of such~~  
35 ~~responsibilities.~~)

36 (3) At an agency's request, the director may provide training and  
37 career development programs for an agency's internal use which may be

1 conducted more efficiently and economically by the department of  
2 personnel.

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

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

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

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

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

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

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

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

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

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

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

32 (2) Notwithstanding subsection (1) of this section, an agency may  
33 retain information relating to employee misconduct or alleged  
34 misconduct if:

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

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

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

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

7 The ((Washington personnel resources board)) director shall adopt  
8 rules, in cooperation with the secretary of social and health services,  
9 for the background investigation of persons being considered for state  
10 employment in positions directly responsible for the supervision, care,  
11 or treatment of children or developmentally disabled persons.

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

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

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

20 (b) Provide for eligibility in the return-to-work program, for a  
21 minimum of two years from the date the temporary disability commenced,  
22 for any permanent employee who is receiving compensation under RCW  
23 51.32.090 and who is, by reason of his or her temporary disability,  
24 unable to return to his or her previous work, but who is physically  
25 capable of carrying out work of a lighter or modified nature;

26 (c) Allow opportunity for return-to-work statewide when appropriate  
27 job classifications are not available in the agency that is the  
28 appointing authority at the time of injury;

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

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

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

36 (g) Coordinate participation of applicable employee assistance  
37 programs, as appropriate.

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

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

7 The higher education coordinating board shall adopt rules as may be  
8 necessary or appropriate for effecting the provisions of this chapter,  
9 and not in conflict with this chapter, in accordance with the  
10 provisions of chapter 34.05 RCW, the state higher education  
11 administrative procedure act. Such rules shall include provisions  
12 designed to make employment under the work-study program reasonably  
13 available, to the extent of available funds, to all eligible students  
14 in eligible post-secondary institutions in need thereof. The rules  
15 shall include:

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

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

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

23 (b) Has been accepted for enrollment as at least a half-time  
24 student at the eligible institution or, in the case of a student  
25 already enrolled in and attending the eligible institution, is in good  
26 standing and in at least half-time attendance there either as an  
27 undergraduate, graduate or professional student; and

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

29 (3) Placing priority on providing:

30 (a) Work opportunities for students who are residents of the state  
31 of Washington as defined in RCW 28B.15.012 and 28B.15.013 except  
32 resident students defined in RCW 28B.15.012(2)((+e)) (f);

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

36 (c) Off-campus community service placements;

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

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

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

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

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

12 (5) Provisions to encourage job placements in occupations that meet  
13 Washington's economic development goals, especially those in  
14 international trade and international relations. The board shall  
15 permit appropriate job placements in other states and other countries.

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

18 (1) This chapter shall not apply to:

19 (a) The state militia, or

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

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

24 (2) The provisions of RCW 34.05.410 through 34.05.598 shall not  
25 apply:

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

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

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

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

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



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

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

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

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

14 Unless the context clearly requires otherwise, the definitions in  
15 this section apply throughout this chapter.

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

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

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

23 (4) "State agency" means any state board, commission, department,  
24 or officer authorized by law to make rules or to conduct adjudicative  
25 proceedings, except those in the legislative or judicial branches, the  
26 growth management hearings boards, the utilities and transportation  
27 commission, the pollution control hearings board, the shorelines  
28 hearings board, the forest practices appeals board, the environmental  
29 hearings office, the board of industrial insurance appeals, the  
30 Washington personnel resources board, the public employment relations  
31 commission, (~~the personnel appeals board,~~) and the board of tax  
32 appeals.

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

35 (1) An attendance incentive program is established for all eligible  
36 employees. As used in this section the term "eligible employee" means  
37 any employee of the state, other than eligible employees of the

1 community and technical colleges and the state board for community and  
2 technical colleges identified in RCW 28B.50.553, and teaching and  
3 research faculty at the state and regional universities and The  
4 Evergreen State College, entitled to accumulate sick leave and for whom  
5 accurate sick leave records have been maintained. No employee may  
6 receive compensation under this section for any portion of sick leave  
7 accumulated at a rate in excess of one day per month. The state and  
8 regional universities and The Evergreen State College shall maintain  
9 complete and accurate sick leave records for all teaching and research  
10 faculty.

11 (2) In January of the year following any year in which a minimum of  
12 sixty days of sick leave is accrued, and each January thereafter, any  
13 eligible employee may receive remuneration for unused sick leave  
14 accumulated in the previous year at a rate equal to one day's monetary  
15 compensation of the employee for each four full days of accrued sick  
16 leave in excess of sixty days. Sick leave for which compensation has  
17 been received shall be deducted from accrued sick leave at the rate of  
18 four days for every one day's monetary compensation.

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

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

27 (5) Except as provided in subsections (7) through (9) of this  
28 section for employees not covered by chapter 41.06 RCW, this section  
29 shall be administered, and rules shall be adopted to carry out its  
30 purposes, by the (~~Washington personnel resources board~~) director of  
31 personnel for persons subject to chapter 41.06 RCW: PROVIDED, That  
32 determination of classes of eligible employees shall be subject to  
33 approval by the office of financial management.

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

37 (7) In lieu of remuneration for unused sick leave at retirement as  
38 provided in subsection (3) of this section, an agency head or designee  
39 may with equivalent funds, provide eligible employees with a benefit

1 plan that provides for reimbursement for medical expenses. This plan  
2 shall be implemented only after consultation with affected groups of  
3 employees. For eligible employees covered by chapter 41.06 RCW,  
4 procedures for the implementation of these plans shall be adopted by  
5 the (~~Washington personnel resources board~~) director of personnel.  
6 For eligible employees exempt from chapter 41.06 RCW, and classified  
7 employees who have opted out of coverage of chapter 41.06 RCW as  
8 provided in RCW 41.56.201, implementation procedures shall be adopted  
9 by an agency head having jurisdiction over the employees.

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

30 (9) Medical expense plans authorized by subsection (7) of this  
31 section must require as a condition of participation in the plan that  
32 employees in the group affected by the plan sign an agreement with the  
33 employer. The agreement must include a provision to hold the employer  
34 harmless should the United States government find that the employer or  
35 the employee is in debt to the United States as a result of the  
36 employee not paying income taxes due on the equivalent funds placed  
37 into the plan, or as a result of the employer not withholding or  
38 deducting a tax, assessment, or other payment on the funds as required  
39 by federal law. The agreement must also include a provision that

1 requires an eligible employee to forfeit remuneration under subsection  
2 (3) of this section if the employee belongs to a group that has been  
3 designated to participate in the medical expense plan permitted under  
4 this section and the employee refuses to execute the required  
5 agreement.

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

8 Nothing contained in this chapter shall be construed to alter any  
9 existing collective bargaining agreement until any such agreement has  
10 expired or until any such bargaining unit has been modified by action  
11 of the ((~~Washington personnel resources board~~)) public employment  
12 relations commission as provided by law.

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

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

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

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

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

29 (4) Participants in the executive fellows program who were not  
30 public employees prior to accepting a position in the program receive  
31 sick and vacation leave allowances commensurate with other state  
32 employees.

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

35 The state investment board shall maintain appropriate offices and  
36 employ such personnel as may be necessary to perform its duties.

1 Employment by the investment board shall include but not be limited to  
2 an executive director, investment officers, and a confidential  
3 secretary, which positions are exempt from classified service under  
4 chapter 41.06 RCW. Employment of the executive director by the board  
5 shall be for a term of three years, and such employment shall be  
6 subject to confirmation of the state finance committee: PROVIDED, That  
7 nothing shall prevent the board from dismissing the director for cause  
8 before the expiration of the term nor shall anything prohibit the  
9 board, with the confirmation of the state finance committee, from  
10 employing the same individual as director in succeeding terms.  
11 Compensation levels for the investment officers employed by the  
12 investment board shall be established by the ((Washington personnel  
13 resources board)) director of personnel.

14 As of July 1, 1981, all employees classified under chapter 41.06  
15 RCW and engaged in duties assumed by the state investment board on July  
16 1, 1981, are assigned to the state investment board. The transfer  
17 shall not diminish any rights granted these employees under chapter  
18 41.06 RCW nor exempt the employees from any action which may occur  
19 thereafter in accordance with chapter 41.06 RCW.

20 All existing contracts and obligations pertaining to the functions  
21 transferred to the state investment board in ((this 1980 act)) chapter  
22 3, Laws of 1981 shall remain in full force and effect, and shall be  
23 performed by the board. None of the transfers directed by ((this 1980  
24 act)) chapter 3, Laws of 1981 shall affect the validity of any act  
25 performed by a state entity or by any official or employee thereof  
26 prior to July 1, 1981.

27 **Sec. 231.** RCW 43.131.090 and 2000 c 189 s 7 are each amended to  
28 read as follows:

29 Unless the legislature specifies a shorter period of time, a  
30 terminated entity shall continue in existence until June 30th of the  
31 next succeeding year for the purpose of concluding its affairs:  
32 PROVIDED, That the powers and authority of the entity shall not be  
33 reduced or otherwise limited during this period. Unless otherwise  
34 provided:

35 (1) All employees of terminated entities classified under chapter  
36 41.06 RCW, the state civil service law, shall be transferred as  
37 appropriate or as otherwise provided in the procedures adopted by the

1 ((~~Washington personnel resources board~~)) director of personnel pursuant  
2 to RCW 41.06.150;

3 (2) All documents and papers, equipment, or other tangible property  
4 in the possession of the terminated entity shall be delivered to the  
5 custody of the entity assuming the responsibilities of the terminated  
6 entity or if such responsibilities have been eliminated, documents and  
7 papers shall be delivered to the state archivist and equipment or other  
8 tangible property to the department of general administration;

9 (3) All funds held by, or other moneys due to, the terminated  
10 entity shall revert to the fund from which they were appropriated, or  
11 if that fund is abolished to the general fund;

12 (4) Notwithstanding the provisions of RCW 34.05.020, all rules made  
13 by a terminated entity shall be repealed, without further action by the  
14 entity, at the end of the period provided in this section, unless  
15 assumed and reaffirmed by the entity assuming the related legal  
16 responsibilities of the terminated entity;

17 (5) All contractual rights and duties of an entity shall be  
18 assigned or delegated to the entity assuming the responsibilities of  
19 the terminated entity, or if there is none to such entity as the  
20 governor shall direct.

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

23 As used in this chapter:

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

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

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

31 (4) "Employer" includes any individual, partnership, association,  
32 corporation, business trust, or any person or group of persons acting  
33 directly or indirectly in the interest of an employer in relation to an  
34 employee;

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

37 (a) Any individual (i) employed as a hand harvest laborer and paid  
38 on a piece rate basis in an operation which has been, and is generally

1 and customarily recognized as having been, paid on a piece rate basis  
2 in the region of employment; (ii) who commutes daily from his or her  
3 permanent residence to the farm on which he or she is employed; and  
4 (iii) who has been employed in agriculture less than thirteen weeks  
5 during the preceding calendar year;

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

9 (c) Any individual employed in a bona fide executive,  
10 administrative, or professional capacity or in the capacity of outside  
11 salesman as those terms are defined and delimited by rules of the  
12 director. However, those terms shall be defined and delimited by the  
13 (~~Washington personnel resources board~~) director of personnel pursuant  
14 to chapter 41.06 RCW for employees employed under the director of  
15 personnel's jurisdiction;

16 (d) Any individual engaged in the activities of an educational,  
17 charitable, religious, state or local governmental body or agency, or  
18 nonprofit organization where the employer-employee relationship does  
19 not in fact exist or where the services are rendered to such  
20 organizations gratuitously. If the individual receives reimbursement  
21 in lieu of compensation for normally incurred out-of-pocket expenses or  
22 receives a nominal amount of compensation per unit of voluntary service  
23 rendered, an employer-employee relationship is deemed not to exist for  
24 the purpose of this section or for purposes of membership or  
25 qualification in any state, local government or publicly supported  
26 retirement system other than that provided under chapter 41.24 RCW;

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

34 (f) Any newspaper vendor or carrier;

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

37 (h) Any individual engaged in forest protection and fire prevention  
38 activities;

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

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

10 (k) Any resident, inmate, or patient of a state, county, or  
11 municipal correctional, detention, treatment or rehabilitative  
12 institution;

13 (l) Any individual who holds a public elective or appointive office  
14 of the state, any county, city, town, municipal corporation or quasi  
15 municipal corporation, political subdivision, or any instrumentality  
16 thereof, or any employee of the state legislature;

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

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

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

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

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

30 (1) With respect to collective bargaining as authorized by sections  
31 301 through 314 of this act, the public employment relations commission  
32 created by chapter 41.58 RCW shall have authority to adopt rules, on  
33 and after the effective date of this section, relating to determination  
34 of appropriate bargaining units within any agency. In making such  
35 determination the commission shall consider the duties, skills, and  
36 working conditions of the employees, the history of collective  
37 bargaining by the employees and their bargaining representatives, the  
38 extent of organization among the employees, and the desires of the



1 employees. The public employment relations commission created in  
2 chapter 41.58 RCW shall adopt rules and make determinations relating to  
3 the certification and decertification of exclusive bargaining  
4 representatives.

5 (2) Each and every provision of RCW 41.56.140 through ~~((41.56.190))~~  
6 41.56.160 shall be applicable to this chapter as it relates to state  
7 civil service employees ~~((and the Washington personnel resources board,~~  
8 ~~or its designee, whose final decision shall be appealable to the~~  
9 ~~Washington personnel resources board, which is granted all powers and~~  
10 ~~authority granted to the department of labor and industries by RCW~~  
11 ~~41.56.140 through 41.56.190))~~.

12 (3) A collective bargaining agreement entered into under RCW  
13 41.06.150 before July 1, 2002, covering employees subject to sections  
14 301 through 314 of this act that expires after July 1, 2002, shall  
15 remain in full force during its duration, or until superseded by a  
16 collective bargaining agreement entered into by the parties under  
17 sections 301 through 314 of this act. However, an agreement entered  
18 into before July 1, 2002, may not be renewed or extended beyond July 1,  
19 2003, or until superseded by a collective bargaining agreement entered  
20 into under sections 301 through 314 of this act, whichever is later.

21 NEW SECTION. Sec. 234. A new section is added to chapter 41.06  
22 RCW to read as follows:

23 (1) The personnel appeals board is hereby abolished and its powers,  
24 duties, and functions are hereby transferred to the Washington  
25 personnel resources board. All references to the executive secretary  
26 or the personnel appeals board in the Revised Code of Washington shall  
27 be construed to mean the director of the department of personnel or the  
28 Washington personnel resources board.

29 (2)(a) All reports, documents, surveys, books, records, files,  
30 papers, or written material in the possession of the personnel appeals  
31 board shall be delivered to the custody of the department of personnel.  
32 All cabinets, furniture, office equipment, motor vehicles, and other  
33 tangible property employed by the personnel appeals board shall be made  
34 available to the department of personnel. All funds, credits, leases,  
35 or other assets held by the personnel appeals board shall be assigned  
36 to the department of personnel.

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

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

10 (3) All employees of the personnel appeals board are transferred to  
11 the jurisdiction of the department of personnel. All employees  
12 classified under chapter 41.06 RCW, the state civil service law, are  
13 assigned to the department of personnel to perform their usual duties  
14 upon the same terms as formerly, without any loss of rights, subject to  
15 any action that may be appropriate thereafter in accordance with the  
16 laws and rules governing state civil service.

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

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

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

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

32 (1) The department of social and health services shall establish  
33 and operate a medium security juvenile offender basic training camp  
34 program. The department shall site a juvenile offender basic training  
35 camp facility in the most cost-effective facility possible and shall  
36 review the possibility of using an existing abandoned and/or available  
37 state, federally, or military-owned site or facility.

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

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

11 (4) The juvenile offender basic training camp shall be a structured  
12 and regimented model lasting one hundred twenty days emphasizing the  
13 building up of an offender's self-esteem, confidence, and discipline.  
14 The juvenile offender basic training camp program shall provide  
15 participants with basic education, prevocational training, work-based  
16 learning, live work, work ethic skills, conflict resolution counseling,  
17 substance abuse intervention, anger management counseling, and  
18 structured intensive physical training. The juvenile offender basic  
19 training camp program shall have a curriculum training and work  
20 schedule that incorporates a balanced assignment of these or other  
21 rehabilitation and training components for no less than sixteen hours  
22 per day, six days a week.

23 The department shall adopt rules for the safe and effective  
24 operation of the juvenile offender basic training camp program,  
25 standards for an offender's successful program completion, and rules  
26 for the continued after-care supervision of offenders who have  
27 successfully completed the program.

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

32 (6) If the court determines that the offender is eligible for the  
33 juvenile offender basic training camp option, the court may recommend  
34 that the department place the offender in the program. The department  
35 shall evaluate the offender and may place the offender in the program.  
36 The evaluation shall include, at a minimum, a risk assessment developed  
37 by the department and designed to determine the offender's suitability  
38 for the program. No juvenile who is assessed as a high risk offender  
39 or suffers from any mental or physical problems that could endanger his

1 or her health or drastically affect his or her performance in the  
2 program shall be admitted to or retained in the juvenile offender basic  
3 training camp program.

4 (7) All juvenile offenders eligible for the juvenile offender basic  
5 training camp sentencing option shall spend one hundred twenty days of  
6 their disposition in a juvenile offender basic training camp. If the  
7 juvenile offender's activities while in the juvenile offender basic  
8 training camp are so disruptive to the juvenile offender basic training  
9 camp program, as determined by the secretary according to rules adopted  
10 by the department, as to result in the removal of the juvenile offender  
11 from the juvenile offender basic training camp program, or if the  
12 offender cannot complete the juvenile offender basic training camp  
13 program due to medical problems, the secretary shall require that the  
14 offender be committed to a juvenile institution to serve the entire  
15 remainder of his or her disposition, less the amount of time already  
16 served in the juvenile offender basic training camp program.

17 (8) All offenders who successfully graduate from the one hundred  
18 twenty day juvenile offender basic training camp program shall spend  
19 the remainder of their disposition on parole in a division of juvenile  
20 rehabilitation intensive aftercare program in the local community. The  
21 program shall provide for the needs of the offender based on his or her  
22 progress in the aftercare program as indicated by ongoing assessment of  
23 those needs and progress. The intensive aftercare program shall  
24 monitor postprogram juvenile offenders and assist them to successfully  
25 reintegrate into the community. In addition, the program shall develop  
26 a process for closely monitoring and assessing public safety risks.  
27 The intensive aftercare program shall be designed and funded by the  
28 department of social and health services.

29 (9) The department shall also develop and maintain a data base to  
30 measure recidivism rates specific to this incarceration program. The  
31 data base shall maintain data on all juvenile offenders who complete  
32 the juvenile offender basic training camp program for a period of two  
33 years after they have completed the program. The data base shall also  
34 maintain data on the criminal activity, educational progress, and  
35 employment activities of all juvenile offenders who participated in the  
36 program.

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

1 As used in this chapter:

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

6 (2) "Client services" means services provided directly to agency  
7 clients including, but not limited to, medical and dental services,  
8 employment and training programs, residential care, and subsidized  
9 housing.

10 (3) "Competitive solicitation" means a documented formal process  
11 providing an equal and open opportunity to qualified parties and  
12 culminating in a selection based on criteria which may include such  
13 factors as the consultant's fees or costs, ability, capacity,  
14 experience, reputation, responsiveness to time limitations,  
15 responsiveness to solicitation requirements, quality of previous  
16 performance, and compliance with statutes and rules relating to  
17 contracts or services.

18 (4) "Consultant" means an independent individual or firm  
19 contracting with an agency to perform a service or render an opinion or  
20 recommendation according to the consultant's methods and without being  
21 subject to the control of the agency except as to the result of the  
22 work. The agency monitors progress under the contract and authorizes  
23 payment.

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

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

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

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

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

38 (8) "Personal service contract" means an agreement, or any  
39 amendment thereto, with a consultant for the rendering of personal

1 services to the state which is consistent with ((RCW 41.06.380))  
2 section 208 of this act.

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

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

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

17 The legislature finds that (1) demographic, economic, and social  
18 trends underlie a critical and increasing demand for child care in the  
19 state of Washington; (2) working parents and their children benefit  
20 when the employees' child care needs have been resolved; (3) the state  
21 of Washington should serve as a model employer by creating a supportive  
22 atmosphere, to the extent feasible, in which its employees may meet  
23 their child care needs; and (4) the state of Washington should  
24 encourage the development of partnerships between state agencies, state  
25 employees, state employee labor organizations, and private employers to  
26 expand the availability of affordable quality child care. The  
27 legislature finds further that resolving employee child care concerns  
28 not only benefits the employees and their children, but may benefit the  
29 employer by reducing absenteeism, increasing employee productivity,  
30 improving morale, and enhancing the employer's position in recruiting  
31 and retaining employees. Therefore, the legislature declares that it  
32 is the policy of the state of Washington to assist state employees by  
33 creating a supportive atmosphere in which they may meet their child  
34 care needs. Policies and procedures for state agencies to address  
35 employee child care needs will be the responsibility of the director of  
36 personnel in consultation with the child care coordinating committee,  
37 as provided in RCW 74.13.090, and state employee representatives ((as  
38 provided under RCW 41.06.140)).

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

3       (1) All projects designed, constructed, and operated under this  
4 authority must comply with all applicable rules and statutes in  
5 existence at the time the agreement is executed, including but not  
6 limited to the following provisions: Chapter 39.12 RCW, this title,  
7 (~~RCW 41.06.380~~) section 208 of this act, chapter 47.64 RCW, RCW  
8 49.60.180, and 49 C.F.R. Part 21.

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

12       (3) Agreements shall provide for private ownership of the projects  
13 during the construction period. After completion and final acceptance  
14 of each project or discrete segment thereof, the agreement shall  
15 provide for state ownership of the transportation systems and  
16 facilities and lease to the private entity unless the state elects to  
17 provide for ownership of the facility by the private entity during the  
18 term of the agreement.

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

22       (4) The department may exercise any power possessed by it to  
23 facilitate the development, construction, financing operation, and  
24 maintenance of transportation projects under this chapter. Agreements  
25 for maintenance services entered into under this section shall provide  
26 for full reimbursement for services rendered by the department or other  
27 state agencies. Agreements for police services for projects, involving  
28 state highway routes, developed under agreements shall be entered into  
29 with the Washington state patrol. The agreement for police services  
30 shall provide that the state patrol will be reimbursed for costs on a  
31 comparable basis with the costs incurred for comparable service on  
32 other state highway routes. The department may provide services for  
33 which it is reimbursed, including but not limited to preliminary  
34 planning, environmental certification, and preliminary design of the  
35 demonstration projects.

36       (5) The plans and specifications for each project constructed under  
37 this section shall comply with the department's standards for state  
38 projects. A facility constructed by and leased to a private entity is  
39 deemed to be a part of the state highway system for purposes of

1 identification, maintenance, and enforcement of traffic laws and for  
2 the purposes of applicable sections of this title. Upon reversion of  
3 the facility to the state, the project must meet all applicable state  
4 standards. Agreements shall address responsibility for reconstruction  
5 or renovations that are required in order for a facility to meet all  
6 applicable state standards upon reversion of the facility to the state.

7 (6) For the purpose of facilitating these projects and to assist  
8 the private entity in the financing, development, construction, and  
9 operation of the transportation systems and facilities, the agreements  
10 may include provisions for the department to exercise its authority,  
11 including the lease of facilities, rights of way, and airspace,  
12 exercise of the power of eminent domain, granting of development rights  
13 and opportunities, granting of necessary easements and rights of  
14 access, issuance of permits and other authorizations, protection from  
15 competition, remedies in the event of default of either of the parties,  
16 granting of contractual and real property rights, liability during  
17 construction and the term of the lease, authority to negotiate  
18 acquisition of rights of way in excess of appraised value, and any  
19 other provision deemed necessary by the secretary.

20 (7) The agreements entered into under this section may include  
21 provisions authorizing the state to grant necessary easements and lease  
22 to a private entity existing rights of way or rights of way  
23 subsequently acquired with public or private financing. The agreements  
24 may also include provisions to lease to the entity airspace above or  
25 below the right of way associated or to be associated with the private  
26 entity's transportation facility. In consideration for the reversion  
27 rights in these privately constructed facilities, the department may  
28 negotiate a charge for the lease of airspace rights during the term of  
29 the agreement for a period not to exceed fifty years. If, after the  
30 expiration of this period, the department continues to lease these  
31 airspace rights to the private entity, it shall do so only at fair  
32 market value. The agreement may also provide the private entity the  
33 right of first refusal to undertake projects utilizing airspace owned  
34 by the state in the vicinity of the public-private project.

35 (8) Agreements under this section may include any contractual  
36 provision that is necessary to protect the project revenues required to  
37 repay the costs incurred to study, plan, design, finance, acquire,  
38 build, install, operate, enforce laws, and maintain toll highways,  
39 bridges, and tunnels and which will not unreasonably inhibit or



1 prohibit the development of additional public transportation systems  
2 and facilities. Agreements under this section must secure and maintain  
3 liability insurance coverage in amounts appropriate to protect the  
4 project's viability and may address state indemnification of the  
5 private entity for design and construction liability where the state  
6 has approved relevant design and construction plans.

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

10 (10)(a) In carrying out the public involvement process required in  
11 subsection (9) of this section, the private entity shall proactively  
12 seek public participation through a process appropriate to the  
13 characteristics of the project that assesses and demonstrates public  
14 support among: Users of the project, residents of communities in the  
15 vicinity of the project, and residents of communities impacted by the  
16 project.

17 (b) The private entity shall conduct a comprehensive public  
18 involvement process that provides, periodically throughout the  
19 development and implementation of the project, users and residents of  
20 communities in the affected project area an opportunity to comment upon  
21 key issues regarding the project including, but not limited to: (i)  
22 Alternative sizes and scopes; (ii) design; (iii) environmental  
23 assessment; (iv) right of way and access plans; (v) traffic impacts;  
24 (vi) tolling or user fee strategies and tolling or user fee ranges;  
25 (vii) project cost; (viii) construction impacts; (ix) facility  
26 operation; and (x) any other salient characteristics.

27 (c) If the affected project area has not been defined, the private  
28 entity shall define the affected project area by conducting, at a  
29 minimum: (i) A comparison of the estimated percentage of residents of  
30 communities in the vicinity of the project and in other communities  
31 impacted by the project who could be subject to tolls or user fees and  
32 the estimated percentage of other users and transient traffic that  
33 could be subject to tolls or user fees; (ii) an analysis of the  
34 anticipated traffic diversion patterns; (iii) an analysis of the  
35 potential economic impact resulting from proposed toll rates or user  
36 fee rates imposed on residents, commercial traffic, and commercial  
37 entities in communities in the vicinity of and impacted by the project;  
38 (iv) an analysis of the economic impact of tolls or user fees on the

1 price of goods and services generally; and (v) an analysis of the  
2 relationship of the project to state transportation needs and benefits.

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

5 (d) In seeking public participation, the private entity shall  
6 establish a local involvement committee or committees comprised of  
7 residents of the affected project area, individuals who represent  
8 cities and counties in the affected project area, organizations formed  
9 to support or oppose the project, if such organizations exist, and  
10 users of the project. The private entity shall, at a minimum,  
11 establish a committee as required under the specifications of RCW  
12 47.46.030(~~(+5)~~) (6)(b) (ii) and (iii) and appointments to such  
13 committee shall be made no later than thirty days after the project  
14 area is defined.

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

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

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

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

29 It is the intent of the legislature to vest in the department the  
30 power to provide for a comprehensive inmate work program and to remove  
31 statutory and other restrictions which have limited work programs in  
32 the past. For purposes of establishing such a comprehensive program,  
33 the legislature recommends that the department consider adopting any or  
34 all, or any variation of, the following classes of work programs:

35 (1) CLASS I: FREE VENTURE INDUSTRIES. The employer model  
36 industries in this class shall be operated and managed in total or in  
37 part by any profit or nonprofit organization pursuant to an agreement  
38 between the organization and the department. The organization shall

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

3 The customer model industries in this class shall be operated and  
4 managed by the department to provide Washington state manufacturers or  
5 businesses with products or services currently produced or provided by  
6 out-of-state or foreign suppliers. The correctional industries board  
7 of directors shall review these proposed industries before the  
8 department contracts to provide such products or services. The review  
9 shall include an analysis of the potential impact of the proposed  
10 products and services on the Washington state business community and  
11 labor market.

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

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

20 An inmate who is employed in the class I program of correctional  
21 industries shall not be eligible for unemployment compensation benefits  
22 pursuant to any of the provisions of Title 50 RCW until released on  
23 parole or discharged.

24 (2) CLASS II: TAX REDUCTION INDUSTRIES. Industries in this class  
25 shall be state-owned and operated enterprises designed to reduce the  
26 costs for goods and services for tax-supported agencies and for  
27 nonprofit organizations. The industries selected for development  
28 within this class shall, as much as possible, match the available pool  
29 of inmate work skills and aptitudes with the work opportunities in the  
30 free community. The industries shall be closely patterned after  
31 private sector industries but with the objective of reducing public  
32 support costs rather than making a profit. The products and services  
33 of this industry, including purchased products and services necessary  
34 for a complete product line, may be sold to public agencies, to  
35 nonprofit organizations, and to private contractors when the goods  
36 purchased will be ultimately used by a public agency or a nonprofit  
37 organization. Clothing manufactured by an industry in this class may  
38 be donated to nonprofit organizations that provide clothing free of  
39 charge to low-income persons. Correctional industries products and

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

16 Security and custody services shall be provided without charge by  
17 the department of corrections.

18 Inmates working in this class of industries shall do so at their  
19 own choice and shall be paid for their work on a gratuity scale which  
20 shall not exceed the wage paid for work of a similar nature in the  
21 locality in which the industry is located and which is approved by the  
22 director of correctional industries.

23 Subject to approval of the correctional industries board,  
24 provisions of ((RCW 41.06.380 prohibiting contracting out work  
25 performed by classified employees)) section 208 of this act shall not  
26 apply to contracts with Washington state businesses entered into by the  
27 department of corrections through class II industries.

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

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

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

38 (c) Whenever possible, to offset tax and other public support  
39 costs.

1 Supervising, management, and custody staff shall be employees of  
2 the department.

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

5 Except for inmates who work in work training programs, inmates in  
6 this class shall be paid for their work in accordance with an inmate  
7 gratuity scale. The scale shall be adopted by the secretary of  
8 corrections.

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

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

19 The department of corrections shall reimburse participating units  
20 of local government for liability and workers compensation insurance  
21 costs.

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

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

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

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

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

1 In addition to the exemptions set forth in RCW 41.06.070, the  
2 provisions of this chapter shall not apply in the department of  
3 transportation to the secretary, a deputy secretary, an administrative  
4 assistant to the secretary, if any, one assistant secretary for each  
5 division designated pursuant to RCW 47.01.081, one confidential  
6 secretary for each of the above-named officers, up to six  
7 transportation district administrators and one confidential secretary  
8 for each district administrator, up to six additional new  
9 administrators or confidential secretaries designated by the secretary  
10 of the department of transportation and approved by the Washington  
11 personnel resources board pursuant to the provisions of RCW  
12 41.06.070(~~(1)~~(z)), the legislative liaison for the department, the  
13 state construction engineer, the state aid engineer, the personnel  
14 manager, the state project development engineer, the state maintenance  
15 and operations engineer, one confidential secretary for each of the  
16 last-named five positions, and a confidential secretary for the public  
17 affairs administrator. The individuals appointed under this section  
18 shall be exempt from the provisions of the state civil service law, and  
19 shall be paid salaries to be fixed by the governor in accordance with  
20 the procedure established by law for the fixing of salaries for  
21 individuals exempt from the operation of the state civil service law.

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

24 (1) The board shall adopt only those job classification revisions,  
25 class studies, and salary adjustments under RCW 41.06.150(~~(15)~~) (12)  
26 that:

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

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

37 (2) In addition to reclassifications, class studies, and salary  
38 adjustments under subsection (1)(b) of this section, the board may

1 approve other reclassifications, class studies, and salary adjustments  
2 that meet the requirements of subsection (1)(a) of this section and  
3 have been approved under the procedures established under this  
4 subsection.

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

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

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

27 (3) When the board develops its priority list in the 1999-2001  
28 biennium, for increases proposed for funding in the 2001-2003 biennium,  
29 the board shall give top priority to proposed increases to address  
30 documented recruitment and retention increases, and shall give lowest  
31 priority to proposed increases to recognize increased duties and  
32 responsibilities. When the board submits its prioritized list for the  
33 2001-2003 biennium, the board shall also provide: A comparison of any  
34 differences between the salary increases recommended by the department  
35 of personnel staff and those adopted by the board; a review of any  
36 salary compression, inversion, or inequities that would result from  
37 implementing a recommended increase; and a complete description of the  
38 information relied upon by the board in adopting its proposals and  
39 priorities.

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

7 **Sec. 242.** RCW 41.06.152 and 2001 c . . . s 241 (section 241 of  
8 this act) are each amended to read as follows:

9 (1) The (~~board~~) director shall adopt only those job  
10 classification revisions, class studies, and salary adjustments under  
11 RCW 41.06.150(~~(12)~~) (4) that:

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

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

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

28 Before the department of personnel's biennial budget request is due  
29 to the office of financial management, the board shall prioritize  
30 requests for reclassifications, class studies, and salary adjustments  
31 for the next fiscal biennium. The board shall prioritize according to  
32 such criteria as are developed by the board consistent with RCW  
33 41.06.150(~~(12)~~) (4)(a).

34 The board shall submit the prioritized list to the governor's  
35 office and the fiscal committees of the house of representatives and  
36 senate at the same time the department of personnel's biennial budget  
37 request is submitted. The office of financial management shall review



1 the biennial cost of each proposed salary adjustment on the board's  
2 prioritized list.

3 In the biennial appropriations acts, the legislature may establish  
4 a level of funding, from the state general fund and other accounts, to  
5 be applied by the board to the prioritized list. Upon enactment of the  
6 appropriations act, the board may approve reclassifications, class  
7 studies, and salary adjustments only to the extent that the total cost  
8 does not exceed the level of funding established in the appropriations  
9 acts and the board's actions are consistent with the priorities  
10 established in the list. The legislature may also specify or otherwise  
11 limit in the appropriations act the implementation dates for actions  
12 approved by the board under this section.

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

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

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

34 (1) Except as provided in RCW 41.06.070, notwithstanding any other  
35 provisions of this chapter, the director is authorized to adopt, after  
36 consultation with state agencies and employee organizations, rules for  
37 managers as defined in RCW 41.06.022. These rules shall not apply to  
38 managers employed by institutions of higher education or related boards

1 or whose positions are exempt. The rules shall govern recruitment,  
2 appointment, classification and allocation of positions, examination,  
3 training and career development, hours of work, probation,  
4 certification, compensation, transfer, affirmative action, promotion,  
5 layoff, reemployment, performance appraisals, discipline, and any and  
6 all other personnel practices for managers. These rules shall be  
7 separate from rules adopted by the board for other employees, and to  
8 the extent that the rules adopted apply only to managers shall take  
9 precedence over rules adopted by the board, and are not subject to  
10 review by the board.

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

13 (a) Development of a simplified classification system that  
14 facilitates movement of managers between agencies and promotes upward  
15 mobility;

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

21 (c) Establishment of a performance appraisal system that emphasizes  
22 individual accountability for program results and efficient management  
23 of resources; effective planning, organization, and communication  
24 skills; valuing and managing workplace diversity; development of  
25 leadership and interpersonal abilities; and employee development;

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

35 (e) Permitting flexible recruitment and hiring procedures that  
36 enable agencies to compete effectively with other employers, both  
37 public and private, for managers with appropriate skills and training;  
38 allowing consideration of all qualified candidates for positions as

1 managers; and achieving affirmative action goals and diversity in the  
2 workplace;

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

5 (g) Facilitating decentralized and regional administration.

6 **Sec. 244.** RCW 41.06.500 and 2001 c . . . s 243 (section 243 of  
7 this act) are each amended to read as follows:

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

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

25 (a) Development of a simplified classification system that  
26 facilitates movement of managers between agencies and promotes upward  
27 mobility;

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

33 (c) Establishment of a performance appraisal system that emphasizes  
34 individual accountability for program results and efficient management  
35 of resources; effective planning, organization, and communication  
36 skills; valuing and managing workplace diversity; development of  
37 leadership and interpersonal abilities; and employee development;

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

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

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

18 (g) Facilitating decentralized and regional administration.

19 **Sec. 245.** RCW 43.23.010 and 1990 c 37 s 1 are each amended to read  
20 as follows:

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

35 The director of agriculture shall have charge and general  
36 supervision of the department and may assign supervisory and  
37 administrative duties other than those specified in RCW 43.23.070 to

1 the division which in his or her judgment can most efficiently carry on  
2 those functions.

3 **Sec. 246.** RCW 49.74.030 and 1993 c 281 s 58 are each amended to  
4 read as follows:

5 The commission in conjunction with the department of personnel or  
6 the state patrol, whichever is appropriate, shall attempt to resolve  
7 the noncompliance through conciliation. If an agreement is reached for  
8 the elimination of noncompliance, the agreement shall be reduced to  
9 writing and an order shall be issued by the commission setting forth  
10 the terms of the agreement. The noncomplying state agency, institution  
11 of higher education, or state patrol shall make a good faith effort to  
12 conciliate and make a full commitment to correct the noncompliance with  
13 any action that may be necessary to achieve compliance, provided such  
14 action is not inconsistent with the rules adopted under RCW  
15 41.06.150(~~((+21))~~) (19) and 43.43.340(5), whichever is appropriate.

16 **Sec. 247.** RCW 49.74.030 and 2001 c . . . s 246 (section 246 of  
17 this act) are each amended to read as follows:

18 The commission in conjunction with the department of personnel or  
19 the state patrol, whichever is appropriate, shall attempt to resolve  
20 the noncompliance through conciliation. If an agreement is reached for  
21 the elimination of noncompliance, the agreement shall be reduced to  
22 writing and an order shall be issued by the commission setting forth  
23 the terms of the agreement. The noncomplying state agency, institution  
24 of higher education, or state patrol shall make a good faith effort to  
25 conciliate and make a full commitment to correct the noncompliance with  
26 any action that may be necessary to achieve compliance, provided such  
27 action is not inconsistent with the rules adopted under RCW  
28 41.06.150(~~((+19))~~) (6) and 43.43.340(5), whichever is appropriate.

29 **Sec. 248.** RCW 49.74.040 and 1985 c 365 s 11 are each amended to  
30 read as follows:

31 If no agreement can be reached under RCW 49.74.030, the commission  
32 may refer the matter to the administrative law judge for hearing  
33 pursuant to RCW 49.60.250. If the administrative law judge finds that  
34 the state agency, institution of higher education, or state patrol has  
35 not made a good faith effort to correct the noncompliance, the  
36 administrative law judge shall order the state agency, institution of

1 higher education, or state patrol to comply with this chapter. The  
2 administrative law judge may order any action that may be necessary to  
3 achieve compliance, provided such action is not inconsistent with the  
4 rules adopted under RCW (~~(28B.16.100(20),)~~) 41.06.150(~~(+21),)~~) (19) and  
5 43.43.340(5), whichever is appropriate.

6 An order by the administrative law judge may be appealed to  
7 superior court.

8 **Sec. 249.** RCW 49.74.040 and 2001 c . . . s 248 (section 248 of  
9 this act) are each amended to read as follows:

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

21 An order by the administrative law judge may be appealed to  
22 superior court.

23 **Sec. 250.** RCW 41.56.201 and 2000 c 19 s 2 are each amended to read  
24 as follows:

25 (1) At any time after July 1, 1993, and prior to July 1, 2001, an  
26 institution of higher education and the exclusive bargaining  
27 representative of a bargaining unit of employees classified under  
28 chapter (~~(28B.16—er)~~) 41.06 RCW as appropriate may exercise their  
29 option to have their relationship and corresponding obligations  
30 governed entirely by the provisions of this chapter by complying with  
31 the following:

32 (a) The parties will file notice of the parties' intent to be so  
33 governed, subject to the mutual adoption of a collective bargaining  
34 agreement permitted by this section recognizing the notice of intent.  
35 The parties shall provide the notice to the Washington personnel  
36 resources board or its successor and the commission;

1 (b) During the negotiation of an initial contract between the  
2 parties under this chapter, the parties' scope of bargaining shall be  
3 governed by this chapter and any disputes arising out of the collective  
4 bargaining rights and obligations under this subsection shall be  
5 determined by the commission. If the commission finds that the parties  
6 are at impasse, the notice filed under (a) of this subsection shall be  
7 void and have no effect; and

8 (c) On the first day of the month following the month during which  
9 the institution of higher education and the exclusive bargaining  
10 representative provide notice to the Washington personnel resources  
11 board or its successor and the commission that they have executed an  
12 initial collective bargaining agreement recognizing the notice of  
13 intent filed under (a) of this subsection, chapter ((28B.16-01)) 41.06  
14 RCW as appropriate shall cease to apply to all employees in the  
15 bargaining unit covered by the agreement.

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

21 (a) The commission shall recognize, in its current form, the  
22 bargaining unit as certified by the Washington personnel resources  
23 board or its successor. For purposes of determining bargaining unit  
24 status, positions meeting the criteria established under RCW 41.06.070  
25 or its successor shall be excluded from coverage under this chapter.  
26 An employer may exclude such positions from a bargaining unit at any  
27 time the position meets the criteria established under RCW 41.06.070 or  
28 its successor. The limitations on collective bargaining contained in  
29 RCW 41.56.100 shall not apply to that bargaining unit.

30 (b) If, on the date of filing the notice under subsection (1)(a) of  
31 this section, there is a union shop authorized for the bargaining unit  
32 under rules adopted by the Washington personnel resources board or its  
33 successor, the union shop requirement shall continue in effect for the  
34 bargaining unit and shall be deemed incorporated into the collective  
35 bargaining agreement applicable to the bargaining unit.

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

38 (i) Salary increases shall continue to be appropriated by the  
39 legislature. The exclusive bargaining representative shall meet before

1 a legislative session with the governor or governor's designee and the  
2 representative of the institution of higher education concerning the  
3 total dollar amount for salary increases and health care contributions  
4 that will be contained in the appropriations proposed by the governor  
5 under RCW 43.88.060;

6 (ii) The collective bargaining agreements may provide for salary  
7 increases from local efficiency savings that are different from or that  
8 exceed the amount or percentage for salary increases provided by the  
9 legislature in the omnibus appropriations act for the institution of  
10 higher education or allocated to the board of trustees by the state  
11 board for community and technical colleges, but the base for salary  
12 increases provided by the legislature under (c)(i) of this subsection  
13 shall include only those amounts appropriated by the legislature, and  
14 the base shall not include any additional salary increases provided  
15 under this subsection (2)(c)(ii);

16 (iii) Any provisions of the collective bargaining agreements  
17 pertaining to salary increases provided under (c)(i) of this subsection  
18 shall be subject to modification by the legislature. If any provision  
19 of a salary increase provided under (c)(i) of this subsection is  
20 changed by subsequent modification of the appropriations act by the  
21 legislature, both parties shall immediately enter into collective  
22 bargaining for the sole purpose of arriving at a mutually agreed upon  
23 replacement for the modified provision.

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

30 (4) Any collective bargaining agreement entered into under this  
31 section before July 1, 2002, that expires after July 1, 2002, shall,  
32 unless a superseding agreement complying with sections 301 through 314  
33 of this act is negotiated by the parties, remain in full force and  
34 effect during its duration, but the agreement may not be renewed or  
35 extended beyond July 1, 2003, or until superseded by a collective  
36 bargaining agreement entered into under sections 301 through 314 of  
37 this act, whichever is later.



1 **PART III**

2 **COLLECTIVE BARGAINING REFORM**

3 NEW SECTION. **Sec. 301.** APPLICATION OF CHAPTER. Collective  
4 bargaining negotiations under this chapter shall commence no later than  
5 July 1, 2002. A collective bargaining agreement entered into under  
6 this chapter shall not be effective prior to July 1, 2003. However,  
7 any collective bargaining agreement entered into before July 1, 2002,  
8 covering employees affected by sections 301 through 314 of this act,  
9 that expires after July 1, 2002, shall, unless a superseding agreement  
10 complying with sections 301 through 314 of this act is negotiated by  
11 the parties, remain in full force during its duration, but the  
12 agreement may not be renewed or extended beyond July 1, 2003, or until  
13 superseded by a collective bargaining agreement entered into under  
14 sections 301 through 314 of this act, whichever is later.

15 NEW SECTION. **Sec. 302.** NEGOTIATION AND RATIFICATION OF COLLECTIVE  
16 BARGAINING AGREEMENTS. (1) For the purpose of negotiating collective  
17 bargaining agreements under this chapter, the employer shall be  
18 represented by the governor or governor's designee, except as provided  
19 for institutions of higher education in subsection (4) of this section.

20 (2)(a) If an exclusive bargaining representative represents more  
21 than one bargaining unit, the exclusive bargaining representative shall  
22 negotiate with each employer representative as designated in subsection  
23 (1) of this section one master collective bargaining agreement on  
24 behalf of all the employees in bargaining units that the exclusive  
25 bargaining representative represents. For those exclusive bargaining  
26 representatives who represent fewer than a total of five hundred  
27 employees each, negotiation shall be by a coalition of all those  
28 exclusive bargaining representatives. The coalition shall bargain for  
29 a master collective bargaining agreement covering all of the employees  
30 represented by the coalition. The governor's designee and the exclusive  
31 bargaining representative or representatives are authorized to enter  
32 into supplemental bargaining of agency-specific issues for inclusion in  
33 or as an addendum to the master collective bargaining agreement,  
34 subject to the parties' agreement regarding the issues and procedures  
35 for supplemental bargaining. This section does not prohibit  
36 cooperation and coordination of bargaining between two or more  
37 exclusive bargaining representatives.

1 (b) This subsection (2) does not apply to exclusive bargaining  
2 representatives who represent employees of institutions of higher  
3 education, except when the institution of higher education has elected  
4 to exercise its option under subsection (4) of this section to have its  
5 negotiations conducted by the governor or governor's designee under the  
6 procedures provided for general government agencies in subsections (1)  
7 through (3) of this section.

8 (c) If five hundred or more employees of an independent state  
9 elected official listed in RCW 43.01.010 are organized in a bargaining  
10 unit or bargaining units under section 308 of this act, the official  
11 shall be consulted by the governor or the governor's designee before  
12 any agreement is reached under (a) of this subsection concerning  
13 supplemental bargaining of agency specific issues affecting the  
14 employees in such bargaining unit.

15 (3) The governor shall submit a request for funds necessary to  
16 implement the compensation and fringe benefit provisions in the master  
17 collective bargaining agreement or for legislation necessary to  
18 implement the agreement within ten days of the date on which the  
19 exclusive bargaining representative or representatives ratify the  
20 agreement or, if the legislature is not in session, within ten days  
21 after the legislature next convenes. Requests for funds necessary to  
22 implement the provisions of bargaining agreements negotiated by  
23 institutions of higher education according to subsection (4) of this  
24 section shall not be submitted to the legislature by the governor  
25 unless such requests:

26 (a) Have been submitted to the director of the office of financial  
27 management prior to October 1 of the year they are negotiated; and

28 (b) Have been certified by the director of the office of financial  
29 management as being feasible financially for the state.

30 The legislature shall approve or reject the submission of the  
31 request for funds as a whole. If the legislature rejects or fails to  
32 act on the submission, either party may reopen all or part of the  
33 agreement or the exclusive bargaining representative may seek to  
34 implement the procedures provided for in section 310 of this act.

35 (4) For the purpose of negotiating agreements for institutions of  
36 higher education, the employer shall be the respective governing board  
37 of each of the universities, colleges, or community and technical  
38 colleges or a designee chosen by the board to negotiate on its behalf.  
39 A governing board may elect to have its negotiations conducted by the

1 governor or governor's designee under the procedures provided for  
2 general government agencies in subsections (1), (2), and (3) of this  
3 section. Prior to entering into negotiations under this chapter, the  
4 institutions of higher education or their designees shall consult with  
5 the director of the office of financial management regarding financial  
6 and budgetary issues that are likely to arise in the impending  
7 negotiations. If appropriations are necessary to implement the  
8 compensation and fringe benefit provisions of the bargaining agreements  
9 reached between institutions of higher education and exclusive  
10 bargaining representatives agreed to under the provisions of this  
11 chapter, the governor shall submit a request for such funds to the  
12 legislature according to the provisions of subsection (3) of this  
13 section.

14 (5) There is hereby created a joint committee on employment  
15 relations, which consists of two members with leadership positions in  
16 the house of representatives, representing each of the two largest  
17 caucuses; two members of the house appropriations committee, or its  
18 successor, representing each of the two largest caucuses; two members  
19 with leadership positions in the senate, representing each of the two  
20 largest caucuses; and two members of the senate ways and means  
21 committee, or its successor, representing each of the two largest  
22 caucuses. The governor shall periodically consult with the committee  
23 regarding appropriations necessary to implement the compensation and  
24 fringe benefit provisions in the master collective bargaining  
25 agreements, and upon completion of negotiations, advise the committee  
26 on the elements of the agreements and on any legislation necessary to  
27 implement the agreements.

28 (6) If, after the compensation and fringe benefit provisions of an  
29 agreement are approved by the legislature, a significant revenue  
30 shortfall occurs resulting in reduced appropriations, both parties  
31 shall immediately enter into collective bargaining for a mutually  
32 agreed upon modification of the agreement.

33 (7) After the expiration date of a collective bargaining agreement  
34 negotiated under this chapter, all of the terms and conditions  
35 specified in the collective bargaining agreement remain in effect until  
36 the effective date of a subsequently negotiated agreement, not to  
37 exceed one year from the expiration date stated in the agreement.  
38 Thereafter, the employer may unilaterally implement according to law.

1        NEW SECTION.     **Sec. 303.**     SCOPE OF BARGAINING.     (1) Except as

2 otherwise provided in this chapter, the matters subject to bargaining  
3 include wages, hours, and other terms and conditions of employment, and  
4 the negotiation of any question arising under a collective bargaining  
5 agreement.

6        (2) The employer is not required to bargain over matters pertaining  
7 to:

8        (a) Health care benefits or other employee insurance benefits,  
9 except as required in subsection (3) of this section;

10       (b) Any retirement system or retirement benefit; or

11       (c) Rules of the director of personnel or the Washington personnel  
12 resources board adopted under section 203, chapter . . . , Laws of 2001  
13 (section 203 of this act).

14       (3) Matters subject to bargaining include the number of names to be  
15 certified for vacancies, promotional preferences, and the dollar amount  
16 expended on behalf of each employee for health care benefits. However,  
17 except as provided otherwise in this subsection for institutions of  
18 higher education, negotiations regarding the number of names to be  
19 certified for vacancies, promotional preferences, and the dollar amount  
20 expended on behalf of each employee for health care benefits shall be  
21 conducted between the employer and one coalition of all the exclusive  
22 bargaining representatives subject to this chapter. Any such provision  
23 agreed to by the employer and the coalition shall be included in all  
24 master collective bargaining agreements negotiated by the parties. For  
25 institutions of higher education, promotional preferences and the  
26 number of names to be certified for vacancies shall be bargained under  
27 the provisions of section 302(4) of this act.

28       (4) The employer and the exclusive bargaining representative shall  
29 not agree to any proposal that would prevent the implementation of  
30 approved affirmative action plans or that would be inconsistent with  
31 the comparable worth agreement that provided the basis for the salary  
32 changes implemented beginning with the 1983-1985 biennium to achieve  
33 comparable worth.

34       (5) The employer and the exclusive bargaining representative shall  
35 not bargain over matters pertaining to management rights established in  
36 section 305 of this act.

37       (6) Except as otherwise provided in this chapter, if a conflict  
38 exists between an executive order, administrative rule, or agency  
39 policy relating to wages, hours, and terms and conditions of employment

1 and a collective bargaining agreement negotiated under this chapter,  
2 the collective bargaining agreement shall prevail. A provision of a  
3 collective bargaining agreement that conflicts with the terms of a  
4 statute is invalid and unenforceable.

5 (7) This section does not prohibit bargaining that affects  
6 contracts authorized by section 208 of this act.

7 NEW SECTION. **Sec. 304.** CONTENTS OF COLLECTIVE BARGAINING  
8 AGREEMENTS. (1) The parties to a collective bargaining agreement shall  
9 reduce the agreement to writing and both shall execute it.

10 (2) A collective bargaining agreement shall contain provisions  
11 that:

12 (a) Provide for a grievance procedure that culminates with final  
13 and binding arbitration of all disputes arising over the interpretation  
14 or application of the collective bargaining agreement and that is valid  
15 and enforceable under its terms when entered into in accordance with  
16 this chapter; and

17 (b) Require processing of disciplinary actions or terminations of  
18 employment of employees covered by the collective bargaining agreement  
19 entirely under the procedures of the collective bargaining agreement.  
20 Any employee, when fully reinstated, shall be guaranteed all employee  
21 rights and benefits, including back pay, sick leave, vacation accrual,  
22 and retirement and federal old age, survivors, and disability insurance  
23 act credits, but without back pay for any period of suspension.

24 (3)(a) If a collective bargaining agreement between an employer  
25 and an exclusive bargaining representative is concluded after the  
26 termination date of the previous collective bargaining agreement  
27 between the employer and an employee organization representing the same  
28 bargaining units, the effective date of the collective bargaining  
29 agreement may be the day after the termination of the previous  
30 collective bargaining agreement, and all benefits included in the new  
31 collective bargaining agreement, including wage or salary increases,  
32 may accrue beginning with that effective date.

33 (b) If a collective bargaining agreement between an employer and an  
34 exclusive bargaining representative is concluded after the termination  
35 date of the previous collective bargaining agreement between the  
36 employer and the exclusive bargaining representative representing  
37 different bargaining units, the effective date of the collective  
38 bargaining agreement may be the day after the termination date of

1 whichever previous collective bargaining agreement covering one or more  
2 of the units terminated first, and all benefits included in the new  
3 collective bargaining agreement, including wage or salary increases,  
4 may accrue beginning with that effective date.

5 NEW SECTION. **Sec. 305.** MANAGEMENT RIGHTS. The employer shall not  
6 bargain over rights of management which, in addition to all powers,  
7 duties, and rights established by constitutional provision or statute,  
8 shall include but not be limited to the following:

9 (1) The functions and programs of the employer, the use of  
10 technology, and the structure of the organization;

11 (2) The employer's budget and the size of the agency work force,  
12 including determining the financial basis for layoffs;

13 (3) The right to direct and supervise employees; and

14 (4) The right to take whatever actions are deemed necessary to  
15 carry out the mission of the state and its agencies during emergencies.

16 NEW SECTION. **Sec. 306.** RIGHTS OF EMPLOYEES. Except as may be  
17 specifically limited by this chapter, employees shall have the right to  
18 self-organization, to form, join, or assist employee organizations, and  
19 to bargain collectively through representatives of their own choosing  
20 for the purpose of collective bargaining free from interference,  
21 restraint, or coercion. Employees shall also have the right to refrain  
22 from any or all such activities except to the extent that they may be  
23 required to pay a fee to an exclusive bargaining representative under  
24 a union security provision authorized by this chapter.

25 NEW SECTION. **Sec. 307.** RIGHT TO STRIKE NOT GRANTED. Nothing  
26 contained in chapter . . . , Laws of 2001 (this act) permits or grants  
27 to any employee the right to strike or refuse to perform his or her  
28 official duties.

29 NEW SECTION. **Sec. 308.** BARGAINING UNITS. (1) A bargaining unit  
30 of employees covered by this chapter existing on the effective date of  
31 this section shall be considered an appropriate unit, unless the unit  
32 does not meet the requirements of (a) and (b) of this subsection. The  
33 commission, after hearing upon reasonable notice to all interested  
34 parties, shall decide, in each application for certification as an  
35 exclusive bargaining representative, the unit appropriate for

1 certification. In determining the new units or modifications of  
2 existing units, the commission shall consider: The duties, skills, and  
3 working conditions of the employees; the history of collective  
4 bargaining; the extent of organization among the employees; the desires  
5 of the employees; and the avoidance of excessive fragmentation.  
6 However, a unit is not appropriate if it includes:

7 (a) Both supervisors and nonsupervisory employees. A unit that  
8 includes only supervisors may be considered appropriate if a majority  
9 of the supervisory employees indicates by vote that they desire to be  
10 included in such a unit; or

11 (b) More than one institution of higher education. For the  
12 purposes of this section, any branch or regional campus of an  
13 institution of higher education is part of that institution of higher  
14 education.

15 (2) The exclusive bargaining representatives certified to represent  
16 the bargaining units existing on the effective date of this section  
17 shall continue as the exclusive bargaining representative without the  
18 necessity of an election.

19 (3) If a single employee organization is the exclusive bargaining  
20 representative for two or more units, upon petition by the employee  
21 organization, the units may be consolidated into a single larger unit  
22 if the commission considers the larger unit to be appropriate. If  
23 consolidation is appropriate, the commission shall certify the employee  
24 organization as the exclusive bargaining representative of the new  
25 unit.

26 NEW SECTION. **Sec. 309.** REPRESENTATION. (1) The commission shall  
27 determine all questions pertaining to representation and shall  
28 administer all elections and be responsible for the processing and  
29 adjudication of all disputes that arise as a consequence of elections.  
30 The commission shall adopt rules that provide for at least the  
31 following:

32 (a) Secret balloting;

33 (b) Consulting with employee organizations;

34 (c) Access to lists of employees, job classification, work  
35 locations, and home mailing addresses;

36 (d) Absentee voting;

37 (e) Procedures for the greatest possible participation in voting;

1 (f) Campaigning on the employer's property during working hours;  
2 and

3 (g) Election observers.

4 (2)(a) If an employee organization has been certified as the  
5 exclusive bargaining representative of the employees of a bargaining  
6 unit, the employee organization may act for and negotiate master  
7 collective bargaining agreements that will include within the coverage  
8 of the agreement all employees in the bargaining unit as provided in  
9 section 302(2)(a) of this act. However, if a master collective  
10 bargaining agreement is in effect for the exclusive bargaining  
11 representative, it shall apply to the bargaining unit for which the  
12 certification has been issued. Nothing in this section requires the  
13 parties to engage in new negotiations during the term of that  
14 agreement.

15 (b) This subsection (2) does not apply to exclusive bargaining  
16 representatives who represent employees of institutions of higher  
17 education.

18 (3) The certified exclusive bargaining representative shall be  
19 responsible for representing the interests of all the employees in the  
20 bargaining unit. This section shall not be construed to limit an  
21 exclusive representative's right to exercise its discretion to refuse  
22 to process grievances of employees that are unmeritorious.

23 (4) No question concerning representation may be raised if:

24 (a) Fewer than twelve months have elapsed since the last  
25 certification or election; or

26 (b) A valid collective bargaining agreement exists covering the  
27 unit, except for that period of no more than one hundred twenty  
28 calendar days nor less than ninety calendar days before the expiration  
29 of the contract.

30 NEW SECTION. **Sec. 310.** IMPASSE. Should the parties fail to reach  
31 agreement in negotiating a collective bargaining agreement, either  
32 party may request of the commission the assistance of an impartial  
33 third party to mediate the negotiations.

34 If a collective bargaining agreement previously negotiated under  
35 this chapter should expire while negotiations are underway, the terms  
36 and conditions specified in the collective bargaining agreement shall  
37 remain in effect for a period not to exceed one year from the



1 expiration date stated in the agreement. Thereafter, the employer may  
2 unilaterally implement according to law.

3 If resolution is not reached through mediation by one hundred days  
4 beyond the expiration date of a contract previously negotiated under  
5 this chapter, or one hundred days from the initiation of mediated  
6 negotiations if no such contract exists, an independent fact-finder  
7 shall be appointed by the commission.

8 The fact-finder shall meet with the parties or their  
9 representatives, or both, and make inquiries and investigations, hold  
10 hearings, and take such other steps as may be appropriate. If the  
11 dispute is not settled, the fact-finder shall make findings of fact and  
12 recommend terms of settlement within thirty days.

13 Such recommendations, together with the findings of fact, shall be  
14 submitted in writing to the parties and the commission privately before  
15 they are made public. The commission, the fact-finder, the employer,  
16 or the exclusive bargaining representative may make such findings and  
17 recommendations public if the dispute is not settled within ten working  
18 days after their receipt from the fact-finder.

19 Nothing in this section shall be construed to prohibit an employer  
20 and an exclusive bargaining representative from agreeing to substitute,  
21 at their own expense, their own procedure for resolving impasses in  
22 collective bargaining for that provided in this section or from  
23 agreeing to utilize for the purposes of this section any other  
24 governmental or other agency or person in lieu of the commission.

25 Costs for mediator services shall be borne by the commission, and  
26 costs for fact-finding shall be borne equally by the negotiating  
27 parties.

28 NEW SECTION. **Sec. 311.** UNION SECURITY. (1) A collective  
29 bargaining agreement may contain a union security provision requiring  
30 as a condition of employment the payment, no later than the thirtieth  
31 day following the beginning of employment or the effective date of this  
32 section, whichever is later, of an agency shop fee to the employee  
33 organization that is the exclusive bargaining representative for the  
34 bargaining unit in which the employee is employed. The amount of the  
35 fee shall be equal to the amount required to become a member in good  
36 standing of the employee organization. Each employee organization  
37 shall establish a procedure by which any employee so requesting may pay  
38 a representation fee no greater than the part of the membership fee

1 that represents a pro rata share of expenditures for purposes germane  
2 to the collective bargaining process, to contract administration, or to  
3 pursuing matters affecting wages, hours, and other conditions of  
4 employment.

5 (2) An employee who is covered by a union security provision and  
6 who asserts a right of nonassociation based on bona fide religious  
7 tenets, or teachings of a church or religious body of which the  
8 employee is a member, shall, as a condition of employment, make  
9 payments to the employee organization, for purposes within the program  
10 of the employee organization as designated by the employee that would  
11 be in harmony with his or her individual conscience. The amount of the  
12 payments shall be equal to the periodic dues and fees uniformly  
13 required as a condition of acquiring or retaining membership in the  
14 employee organization minus any included monthly premiums for insurance  
15 programs sponsored by the employee organization. The employee shall  
16 not be a member of the employee organization but is entitled to all the  
17 representation rights of a member of the employee organization.

18 (3) Upon filing with the employer the written authorization of a  
19 bargaining unit employee under this chapter, the employee organization  
20 that is the exclusive bargaining representative of the bargaining unit  
21 shall have the exclusive right to have deducted from the salary of the  
22 employee an amount equal to the fees and dues uniformly required as a  
23 condition of acquiring or retaining membership in the employee  
24 organization. The fees and dues shall be deducted each pay period from  
25 the pay of all employees who have given authorization for the deduction  
26 and shall be transmitted by the employer as provided for by agreement  
27 between the employer and the employee organization.

28 (4) Employee organizations that before the effective date of this  
29 section were entitled to the benefits of this section shall continue to  
30 be entitled to these benefits.

31 NEW SECTION. **Sec. 312.** UNFAIR LABOR PRACTICES ENUMERATED. (1) It  
32 is an unfair labor practice for an employer:

33 (a) To interfere with, restrain, or coerce employees in the  
34 exercise of the rights guaranteed by this chapter;

35 (b) To dominate or interfere with the formation or administration  
36 of any employee organization or contribute financial or other support  
37 to it: PROVIDED, That subject to rules adopted by the commission, an  
38 employer shall not be prohibited from permitting employees to confer

1 with it or its representatives or agents during working hours without  
2 loss of time or pay;

3 (c) To encourage or discourage membership in any employee  
4 organization by discrimination in regard to hire, tenure of employment,  
5 or any term or condition of employment;

6 (d) To discharge or discriminate otherwise against an employee  
7 because that employee has filed charges or given testimony under this  
8 chapter;

9 (e) To refuse to bargain collectively with the representatives of  
10 its employees.

11 (2) It is an unfair labor practice for an employee organization:

12 (a) To restrain or coerce an employee in the exercise of the rights  
13 guaranteed by this chapter: PROVIDED, That this subsection shall not  
14 impair the right of an employee organization to prescribe its own rules  
15 with respect to the acquisition or retention of membership in the  
16 employee organization or to an employer in the selection of its  
17 representatives for the purpose of bargaining or the adjustment of  
18 grievances;

19 (b) To cause or attempt to cause an employer to discriminate  
20 against an employee in violation of subsection (1)(c) of this section;

21 (c) To discriminate against an employee because that employee has  
22 filed charges or given testimony under this chapter;

23 (d) To refuse to bargain collectively with an employer.

24 (3) The expressing of any views, arguments, or opinion, or the  
25 dissemination thereof to the public, whether in written, printed,  
26 graphic, or visual form, shall not constitute or be evidence of an  
27 unfair labor practice under this chapter, if such expression contains  
28 no threat of reprisal or force or promise of benefit.

29 NEW SECTION. **Sec. 313.** UNFAIR LABOR PRACTICE PROCEDURES. (1)  
30 The commission is empowered and directed to prevent any unfair labor  
31 practice and to issue appropriate remedial orders: PROVIDED, That a  
32 complaint shall not be processed for any unfair labor practice  
33 occurring more than six months before the filing of the complaint with  
34 the commission. This power shall not be affected or impaired by any  
35 means of adjustment, mediation, or conciliation in labor disputes that  
36 have been or may hereafter be established by law.

37 (2) If the commission determines that any person has engaged in or  
38 is engaging in an unfair labor practice, the commission shall issue and

1 cause to be served upon the person an order requiring the person to  
2 cease and desist from such unfair labor practice, and to take such  
3 affirmative action as will effectuate the purposes and policy of this  
4 chapter, such as the payment of damages and the reinstatement of  
5 employees.

6 (3) The commission may petition the superior court for the county  
7 in which the main office of the employer is located or in which the  
8 person who has engaged or is engaging in such unfair labor practice  
9 resides or transacts business, for the enforcement of its order and for  
10 appropriate temporary relief.

11 NEW SECTION. **Sec. 314.** ENFORCEMENT OF COLLECTIVE BARGAINING  
12 AGREEMENTS. (1) For the purposes of implementing final and binding  
13 arbitration under grievance procedures required by section 304 of this  
14 act, the parties to a collective bargaining agreement may agree on one  
15 or more permanent umpires to serve as arbitrator, or may agree on any  
16 impartial person to serve as arbitrator, or may agree to select  
17 arbitrators from any source available to them, including federal and  
18 private agencies, in addition to the staff and list of arbitrators  
19 maintained by the commission. If the parties cannot agree to the  
20 selection of an arbitrator, the commission shall supply a list of names  
21 in accordance with the procedures established by the commission.

22 (2) An arbitrator may require any person to attend as a witness and  
23 to bring with him or her any book, record, document, or other evidence.  
24 The fees for such attendance shall be paid by the party requesting  
25 issuance of the subpoena and shall be the same as the fees of witnesses  
26 in the superior court. Arbitrators may administer oaths. Subpoenas  
27 shall issue and be signed by the arbitrator and shall be served in the  
28 same manner as subpoenas to testify before a court of record in this  
29 state. If any person so summoned to testify refuses or neglects to  
30 obey such subpoena, upon petition authorized by the arbitrator, the  
31 superior court may compel the attendance of the person before the  
32 arbitrator or punish the person for contempt in the same manner  
33 provided for the attendance of witnesses or the punishment of them in  
34 the courts of this state.

35 (3) The arbitrator shall appoint a time and place for the hearing  
36 and notify the parties thereof, and may adjourn the hearing from time  
37 to time as may be necessary, and, on application of either party and  
38 for good cause, may postpone the hearing to a time not extending beyond

1 the date fixed by the collective bargaining agreement for making the  
2 award. The arbitration award shall be in writing and signed by the  
3 arbitrator. The arbitrator shall, promptly upon its rendition, serve  
4 a true copy of the award on each of the parties or their attorneys of  
5 record.

6 (4) If a party to a collective bargaining agreement negotiated  
7 under this chapter refuses to submit a grievance for arbitration, the  
8 other party to the collective bargaining agreement may invoke the  
9 jurisdiction of the superior court of Thurston county or of any county  
10 in which the labor dispute exists and such court shall have  
11 jurisdiction to issue an order compelling arbitration. Disputes  
12 concerning compliance with grievance procedures shall be reserved for  
13 determination by the arbitrator. Arbitration shall be ordered if the  
14 grievance states a claim that on its face is covered by the collective  
15 bargaining agreement. Doubts as to the coverage of the arbitration  
16 clause shall be resolved in favor of arbitration.

17 (5) If a party to a collective bargaining agreement negotiated  
18 under this chapter refuses to comply with the award of an arbitrator  
19 determining a grievance arising under the collective bargaining  
20 agreement, the other party to the collective bargaining agreement may  
21 invoke the jurisdiction of the superior court of Thurston county or of  
22 any county in which the labor dispute exists and such court shall have  
23 jurisdiction to issue an order enforcing the arbitration award.

24 NEW SECTION. **Sec. 315.** All powers, duties, and functions of the  
25 department of personnel pertaining to collective bargaining are  
26 transferred to the public employment relations commission except  
27 mediation of grievances and contracts, arbitration of grievances and  
28 contracts, and unfair labor practices, filed under a collective  
29 bargaining agreement existing before the effective date of this  
30 section. Any mediation, arbitration, or unfair labor practice issue  
31 filed between July 1, 2002, and July 1, 2003, under a collective  
32 bargaining agreement existing before the effective date of this  
33 section, shall be resolved by the Washington personnel resources board  
34 in accordance with the authorities, rules, and procedures that were  
35 established under RCW 41.06.150(11) as it existed before the effective  
36 date of this section.

1        NEW SECTION.    **Sec. 316.**    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 315 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 315 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 315 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 315 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. 317.**    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        NEW SECTION.    **Sec. 318.** All business pending before the department  
2 of personnel pertaining to the powers, functions, and duties  
3 transferred in section 315 of this act shall be continued and acted  
4 upon by the public employment relations commission. All existing  
5 contracts and obligations of the department of personnel, pertaining to  
6 collective bargaining, shall remain in full force and shall be  
7 performed by the public employment relations commission.

8        NEW SECTION.    **Sec. 319.** The transfer of the powers, duties,  
9 functions, and personnel of the department of personnel shall not  
10 affect the validity of any act performed before the effective date of  
11 this section.

12        NEW SECTION.    **Sec. 320.** If apportionments of budgeted funds are  
13 required because of the transfers directed by sections 316 through 319  
14 of this act, the director of financial management shall certify the  
15 apportionments to the agencies affected, the state auditor, and the  
16 state treasurer. Each of these shall make the appropriate transfer and  
17 adjustments in funds and appropriation accounts and equipment records  
18 in accordance with the certification.

19        NEW SECTION.    **Sec. 321.** DEFINITIONS. Unless the context clearly  
20 requires otherwise, the definitions in this section apply throughout  
21 this chapter.

22        (1) "Agency" means any agency as defined in RCW 41.06.020 and  
23 covered by chapter 41.06 RCW.

24        (2) "Collective bargaining" means the performance of the mutual  
25 obligation of the representatives of the employer and the exclusive  
26 bargaining representative to meet at reasonable times and to bargain in  
27 good faith in an effort to reach agreement with respect to the subjects  
28 of bargaining specified under section 303 of this act. The obligation  
29 to bargain does not compel either party to agree to a proposal or to  
30 make a concession, except as otherwise provided in this chapter.

31        (3) "Commission" means the public employment relations commission.

32        (4) "Confidential employee" means an employee who, in the regular  
33 course of his or her duties, assists in a confidential capacity persons  
34 who formulate, determine, and effectuate management policies with  
35 regard to labor relations or who, in the regular course of his or her  
36 duties, has authorized access to information relating to the

1 effectuation or review of the employer's collective bargaining  
2 policies, or who assists or aids a manager. "Confidential employee"  
3 also includes employees who assist assistant attorneys general who  
4 advise and represent managers or confidential employees in personnel or  
5 labor relations matters, or who advise or represent the state in tort  
6 actions.

7 (5) "Director" means the director of the public employment  
8 relations commission.

9 (6) "Employee" means any employee, including employees whose work  
10 has ceased in connection with the pursuit of lawful activities  
11 protected by this chapter, covered by chapter 41.06 RCW, except:

12 (a) Employees covered for collective bargaining by chapter 41.56  
13 RCW;

14 (b) Confidential employees;

15 (c) Members of the Washington management service;

16 (d) Internal auditors in any agency; or

17 (e) Any employee of the commission, the office of financial  
18 management, or the department of personnel.

19 (7) "Employee organization" means any organization, union, or  
20 association in which employees participate and that exists for the  
21 purpose, in whole or in part, of collective bargaining with employers.

22 (8) "Employer" means the state of Washington.

23 (9) "Exclusive bargaining representative" means any employee  
24 organization that has been certified under this chapter as the  
25 representative of the employees in an appropriate bargaining unit.

26 (10) "Institutions of higher education" means the University of  
27 Washington, Washington State University, Central Washington University,  
28 Eastern Washington University, Western Washington University, The  
29 Evergreen State College, and the various state community colleges.

30 (11) "Labor dispute" means any controversy concerning terms,  
31 tenure, or conditions of employment, or concerning the association or  
32 representation of persons in negotiating, fixing, maintaining,  
33 changing, or seeking to arrange terms or conditions of employment with  
34 respect to the subjects of bargaining provided in this chapter,  
35 regardless of whether the disputants stand in the proximate relation of  
36 employer and employee.

37 (12) "Manager" means "manager" as defined in RCW 41.06.022.

38 (13) "Supervisor" means an employee who has authority, in the  
39 interest of the employer, to hire, transfer, suspend, lay off, recall,



1 promote, discharge, direct, reward, or discipline employees, or to  
2 adjust employee grievances, or effectively to recommend such action, if  
3 the exercise of the authority is not of a merely routine nature but  
4 requires the consistent exercise of individual judgment. However, no  
5 employee who is a member of the Washington management service may be  
6 included in a collective bargaining unit established under this  
7 section.

8 (14) "Unfair labor practice" means any unfair labor practice listed  
9 in section 312 of this act.

10 NEW SECTION. **Sec. 322.** OFFICE OF FINANCIAL MANAGEMENT'S LABOR  
11 RELATIONS SERVICE ACCOUNT. (1) The office of financial management's  
12 labor relations service account is created in the custody of the state  
13 treasurer to be used as a revolving fund for the payment of labor  
14 relations services required for the negotiation of the collective  
15 bargaining agreements entered into under this chapter. An amount not  
16 to exceed one percent of the approved allotments of salaries and wages  
17 for all bargaining unit positions in the classified service in each of  
18 the agencies subject to this chapter, except the institutions of higher  
19 education, shall be charged to the operations appropriations of each  
20 agency and credited to the office of financial management's labor  
21 relations service account as the allotments are approved pursuant to  
22 chapter 43.88 RCW. Subject to the above limitations, the amount shall  
23 be charged against the allotments pro rata, at a rate to be fixed by  
24 the director of financial management from time to time. Payment for  
25 services rendered under this chapter shall be made on a quarterly basis  
26 to the state treasurer and deposited into the office of financial  
27 management's labor relations service account.

28 (2) Moneys from the office of financial management's labor  
29 relations service account shall be disbursed by the state treasurer by  
30 warrants on vouchers authorized by the director of financial management  
31 or the director's designee. An appropriation is not required.

32 **PART IV**  
33 **MISCELLANEOUS**

34 NEW SECTION. **Sec. 401.** The following acts or parts of acts are  
35 each repealed:

1 (1) RCW 41.06.163 (Comprehensive salary and fringe benefit survey  
2 plan required--Contents) and 1993 c 281 s 30, 1987 c 185 s 9, 1986 c  
3 158 s 6, 1979 c 151 s 59, & 1977 ex.s. c 152 s 3; and

4 (2) RCW 41.06.165 (Salary surveys--Criteria) and 1977 ex.s. c 152  
5 s 4.

6 NEW SECTION. **Sec. 402.** The following acts or parts of acts, as  
7 now existing or hereafter amended, are each repealed:

8 (1) RCW 41.06.140 (Employee participation in policy and rule  
9 making, administration, etc.--Publication of board rules) and 1961 c 1  
10 s 14;

11 (2) RCW 41.50.804 (Existing collective bargaining agreements not  
12 affected) and 2001 c . . . s 228 (section 228 of this act), 1993 c 281  
13 s 40, & 1975-'76 2nd ex.s. c 105 s 17; and

14 (3) RCW 41.06.520 (Administration, management of institutions of  
15 higher education--Rules--Audit and review by board) and 1993 c 281 s  
16 11.

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

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

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

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

25 (4) RCW 41.56.201 (Employees of institutions of higher education--  
26 Option to have relationship and obligations governed by chapter) and  
27 2000 c 19 s 2 & 1993 c 379 s 304; and

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

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

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

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

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

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

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

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

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

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

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

15 (10) RCW 41.64.100 (Employee appeals--Hearing--Decision to be  
16 rendered within ninety days, exceptions) and 1997 c 386 s 43 & 1981 c  
17 311 s 11;

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

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

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

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

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

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

30 NEW SECTION. **Sec. 406.** Sections 301 through 322 of this act  
31 constitute a new chapter in Title 41 RCW.

32 NEW SECTION. **Sec. 407.** The governor shall take such action as is  
33 necessary to ensure that sections 301 through 314 of this act are  
34 implemented on their effective dates.

1        NEW SECTION.    **Sec. 408.**    Until July 1, 2004, the public employment  
2 relations commission is authorized to contract with the department of  
3 personnel for labor relations staffing necessary to carry out its  
4 functions.

5        NEW SECTION.    **Sec. 409.**    (1) Notwithstanding the provisions of  
6 section 301 of this act, the parties to collective bargaining to be  
7 conducted under sections 301 through 314 of this act shall meet by  
8 September 1, 2001, to identify those payroll-related bargaining issues  
9 that affect the capacity of the central state payroll system, as  
10 determined by the department of personnel. The parties shall agree on  
11 which bargaining issues will be bargained in a coalition of employee  
12 representatives and will be agreed to uniformly in each collective  
13 bargaining agreement. This agreement is effective only for collective  
14 bargaining agreements entered into for implementation during the 2003-  
15 2005 biennium. The purpose of the agreement is to minimize the risk to  
16 the payroll system resulting from year 2001 conversion and agreements  
17 reached in the first round of collective bargaining under this act.  
18        (2) This section expires June 30, 2005.

19        NEW SECTION.    **Sec. 410.**    If any provision of this act or its  
20 application to any person or circumstance is held invalid, the  
21 remainder of the act or the application of the provision to other  
22 persons or circumstances is not affected.

23        NEW SECTION.    **Sec. 411.**    (1) Sections 203, 204, 213 through 223,  
24 227, 229 through 232, 242, 244, 247, 249, 301 through 307, 309 through  
25 316, 318, 319, and 402 of this act take effect July 1, 2002.

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

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

29        (4) Sections 225, 226, 234, and 404 of this act take effect July 1,  
30 2004.

31        NEW SECTION.    **Sec. 412.**    Section 231 of this act expires June 30,  
32 2015.

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