
SUBSTITUTE HOUSE BILL 1206

State of Washington 54th Legislature 1995 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Carlson, Sommers, Cooke and Dellwo)

Read first time 03/06/95.

1 AN ACT Relating to creating new retirement systems; amending RCW
2 41.40.005, 41.40.045, 41.32.005, 41.32.032, 41.45.010, 41.45.020,
3 41.45.030, 41.45.050, 41.45.060, 41.45.070, 41.50.075, 41.50.110,
4 41.50.030, 41.50.050, 41.50.060, 41.54.030, 41.04.440, 41.04.445, and
5 41.04.450; reenacting and amending RCW 41.40.010, 41.40.088, and
6 41.32.010; adding new sections to chapter 41.40 RCW; adding new
7 sections to chapter 41.32 RCW; adding new sections to chapter 41.50
8 RCW; adding a new section to chapter 41.45 RCW; adding a new section to
9 chapter 41.54 RCW; adding a new section to chapter 43.33A RCW; adding
10 a new chapter to Title 41 RCW; creating new sections; repealing RCW
11 41.04.250, 41.04.255, 41.04.260, 41.32.775, 41.40.650, 41.45.040,
12 41.45.0601, 41.45.901, 41.50.032, and 41.50.250; and providing an
13 effective date.

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

15 NEW SECTION. **Sec. 1.** The legislature recognizes that public
16 employees need the ability to make transitions to other private or
17 public sector careers, and that the retirement system should not be a
18 barrier to exercise of employee choice. The legislature also
19 recognizes that public employees need a secure and viable retirement

1 benefit, not only for their own financial protection, but also that
2 public funds are spent prudently for their intended purpose.

3 It is the legislative intent to create a new public retirement
4 system that balances flexibility with stability, provides both
5 increased employee control of investments and responsible protection of
6 the public's investment in employee benefits, and encourages the
7 pursuit of public sector careers without preventing employees from
8 transitioning into other public or private sector employment.

9 Therefore, the purpose of chapter . . . , Laws of 1995 (this act) is
10 to continue to provide public employees with a guaranteed pension at
11 retirement age based on years of public service with an element of
12 inflation protection. It is further the purpose of chapter . . . , Laws
13 of 1995 (this act) to create a parallel retirement plan where employees
14 have options regarding the investment of their retirement contributions
15 and have the opportunity, along with the accompanying risk, to receive
16 a full rate of return on their investments and where employees who
17 leave public employment prior to retirement receive a fair and
18 reasonable value from the retirement system.

19 **PART I**

20 **DEFINED BENEFIT--PERS III**

21 **Sec. 101.** RCW 41.40.005 and 1992 c 72 s 8 are each amended to read
22 as follows:

23 RCW 41.40.010 through ((41.40.112)) 41.40.108 shall apply to
24 members of plan I ((and)), plan II, and plan III.

25 **Sec. 102.** RCW 41.40.010 and 1994 c 298 s 2, 1994 c 247 s 5, 1994
26 c 197 s 23, and 1994 c 177 s 8 are each reenacted and amended to read
27 as follows:

28 As used in this chapter, unless a different meaning is plainly
29 required by the context:

30 (1) "Retirement system" means the public employees' retirement
31 system provided for in this chapter.

32 (2) "Department" means the department of retirement systems created
33 in chapter 41.50 RCW.

34 (3) "State treasurer" means the treasurer of the state of
35 Washington.

1 (4)(a) "Employer" for plan I members, means every branch,
2 department, agency, commission, board, and office of the state, any
3 political subdivision or association of political subdivisions of the
4 state admitted into the retirement system, and legal entities
5 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the
6 term shall also include any labor guild, association, or organization
7 the membership of a local lodge or division of which is comprised of at
8 least forty percent employees of an employer (other than such labor
9 guild, association, or organization) within this chapter. The term may
10 also include any city of the first class that has its own retirement
11 system.

12 (b) "Employer" for plan II and plan III members, means every
13 branch, department, agency, commission, board, and office of the state,
14 and any political subdivision and municipal corporation of the state
15 admitted into the retirement system, including public agencies created
16 pursuant to RCW 35.63.070, 36.70.060, and 39.34.030.

17 (5) "Member" means any employee included in the membership of the
18 retirement system, as provided for in RCW 41.40.023. RCW 41.26.045
19 does not prohibit a person otherwise eligible for membership in the
20 retirement system from establishing such membership effective when he
21 or she first entered an eligible position.

22 (6) "Original member" of this retirement system means:

23 (a) Any person who became a member of the system prior to April 1,
24 1949;

25 (b) Any person who becomes a member through the admission of an
26 employer into the retirement system on and after April 1, 1949, and
27 prior to April 1, 1951;

28 (c) Any person who first becomes a member by securing employment
29 with an employer prior to April 1, 1951, provided the member has
30 rendered at least one or more years of service to any employer prior to
31 October 1, 1947;

32 (d) Any person who first becomes a member through the admission of
33 an employer into the retirement system on or after April 1, 1951,
34 provided, such person has been in the regular employ of the employer
35 for at least six months of the twelve-month period preceding the said
36 admission date;

37 (e) Any member who has restored all contributions that may have
38 been withdrawn as provided by RCW 41.40.150 and who on the effective
39 date of the individual's retirement becomes entitled to be credited

1 with ten years or more of membership service except that the provisions
2 relating to the minimum amount of retirement allowance for the member
3 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
4 apply to the member;

5 (f) Any member who has been a contributor under the system for two
6 or more years and who has restored all contributions that may have been
7 withdrawn as provided by RCW 41.40.150 and who on the effective date of
8 the individual's retirement has rendered five or more years of service
9 for the state or any political subdivision prior to the time of the
10 admission of the employer into the system; except that the provisions
11 relating to the minimum amount of retirement allowance for the member
12 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
13 apply to the member.

14 (7) "New member" means a person who becomes a member on or after
15 April 1, 1949, except as otherwise provided in this section.

16 (8)(a) "Compensation earnable" for plan I members, means salaries
17 or wages earned during a payroll period for personal services and where
18 the compensation is not all paid in money, maintenance compensation
19 shall be included upon the basis of the schedules established by the
20 member's employer. Compensation that a member receives for being in
21 standby status is also compensation earnable, subject to the conditions
22 of this subsection. A member is in standby status when not being paid
23 for time actually worked and only when both of the following conditions
24 exist: (i) The member is required to be present at, or in the
25 immediate vicinity of, a specified location; and (ii) the employer
26 requires the member to be prepared to report immediately for work, if
27 the need arises, although the need may not arise. Standby compensation
28 is regular salary for the purposes of RCW 41.50.150(2).

29 (A) "Compensation earnable" for plan I members also includes the
30 following actual or imputed payments, which are not paid for personal
31 services:

32 (I) Retroactive payments to an individual by an employer on
33 reinstatement of the employee in a position, or payments by an employer
34 to an individual in lieu of reinstatement in a position which are
35 awarded or granted as the equivalent of the salary or wage which the
36 individual would have earned during a payroll period shall be
37 considered compensation earnable and the individual shall receive the
38 equivalent service credit;

1 (II) If a leave of absence is taken by an individual for the
2 purpose of serving in the state legislature, the salary which would
3 have been received for the position from which the leave of absence was
4 taken, shall be considered as compensation earnable if the employee's
5 contribution is paid by the employee and the employer's contribution is
6 paid by the employer or employee.

7 (III) Assault pay only as authorized by RCW 27.04.100, 72.01.045,
8 and 72.09.240;

9 (IV) Compensation that a member would have received but for a
10 disability occurring in the line of duty only as authorized by RCW
11 41.40.038; and

12 (V) Compensation that a member receives due to participation in the
13 leave sharing program only as authorized by RCW 41.04.650 through
14 41.04.670.

15 (B) "Compensation earnable" does not include:

16 (I) Remuneration for unused sick leave authorized under RCW
17 41.04.340, 28A.400.210, or 28A.310.490;

18 (II) Remuneration for unused annual leave in excess of thirty days
19 as authorized by RCW 43.01.044 and 43.01.041.

20 (b) "Compensation earnable" for plan II and plan III members, means
21 salaries or wages earned by a member during a payroll period for
22 personal services, including overtime payments, and shall include wages
23 and salaries deferred under provisions established pursuant to sections
24 403(b), 414(h), and 457 of the United States Internal Revenue Code, but
25 shall exclude nonmoney maintenance compensation and lump sum or other
26 payments for deferred annual sick leave, unused accumulated vacation,
27 unused accumulated annual leave, or any form of severance pay.
28 Compensation that a member receives for being in standby status is also
29 compensation earnable, subject to the conditions of this subsection.
30 A member is in standby status when not being paid for time actually
31 worked and only when both of the following conditions exist: (i) The
32 member is required to be present at, or in the immediate vicinity of,
33 a specified location; and (ii) the employer requires the member to be
34 prepared to report immediately for work, if the need arises, although
35 the need may not arise. Standby compensation is regular salary for the
36 purposes of RCW 41.50.150(2).

37 "Compensation earnable" for plan II members also includes the
38 following actual or imputed payments, which are not paid for personal
39 services:

1 (A) Retroactive payments to an individual by an employer on
2 reinstatement of the employee in a position, or payments by an employer
3 to an individual in lieu of reinstatement in a position which are
4 awarded or granted as the equivalent of the salary or wage which the
5 individual would have earned during a payroll period shall be
6 considered compensation earnable to the extent provided above, and the
7 individual shall receive the equivalent service credit;

8 (B) In any year in which a member serves in the legislature, the
9 member shall have the option of having such member's compensation
10 earnable be the greater of:

11 (I) The compensation earnable the member would have received had
12 such member not served in the legislature; or

13 (II) Such member's actual compensation earnable received for
14 nonlegislative public employment and legislative service combined. Any
15 additional contributions to the retirement system required because
16 compensation earnable under (b)(ii)(B)(II) of this subsection is
17 greater than compensation earnable under (b)(ii)(B)(I) of this
18 subsection shall be paid by the member for both member and employer
19 contributions;

20 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and
21 72.09.240;

22 (D) Compensation that a member would have received but for a
23 disability occurring in the line of duty only as authorized by RCW
24 41.40.038; and

25 (E) Compensation that a member receives due to participation in the
26 leave sharing program only as authorized by RCW 41.04.650 through
27 41.04.670.

28 (9)(a) "Service" for plan I members, except as provided in RCW
29 41.40.088, means periods of employment in an eligible position or
30 positions for one or more employers rendered to any employer for which
31 compensation is paid, and includes time spent in office as an elected
32 or appointed official of an employer. Compensation earnable earned in
33 full time work for seventy hours or more in any given calendar month
34 shall constitute one service credit month except as provided in RCW
35 41.40.088. Compensation earnable earned for less than seventy hours in
36 any calendar month shall constitute one-quarter service credit month of
37 service except as provided in RCW 41.40.088. Only service credit
38 months and one-quarter service credit months shall be counted in the
39 computation of any retirement allowance or other benefit provided for

1 in this chapter. Any fraction of a year of service shall be taken into
2 account in the computation of such retirement allowance or benefits.
3 Time spent in standby status, whether compensated or not, is not
4 service.

5 (i) Service by a state employee officially assigned by the state on
6 a temporary basis to assist another public agency, shall be considered
7 as service as a state employee: PROVIDED, That service to any other
8 public agency shall not be considered service as a state employee if
9 such service has been used to establish benefits in any other public
10 retirement system.

11 (ii) An individual shall receive no more than a total of twelve
12 service credit months of service during any calendar year. If an
13 individual is employed in an eligible position by one or more employers
14 the individual shall receive no more than one service credit month
15 during any calendar month in which multiple service for seventy or more
16 hours is rendered.

17 (iii) A school district employee may count up to forty-five days of
18 sick leave as creditable service solely for the purpose of determining
19 eligibility to retire under RCW 41.40.180 as authorized by RCW
20 28A.400.300. For purposes of plan I "forty-five days" as used in RCW
21 28A.400.300 is equal to two service credit months. Use of less than
22 forty-five days of sick leave is creditable as allowed under this
23 subsection as follows:

24 (A) Less than twenty-two days equals one-quarter service credit
25 month;

26 (B) Twenty-two days equals one service credit month;

27 (C) More than twenty-two days but less than forty-five days equals
28 one and one-quarter service credit month.

29 (b) "Service" for plan II and plan III members, means periods of
30 employment by a member in an eligible position or positions for one or
31 more employers for which compensation earnable is paid. Compensation
32 earnable earned for ninety or more hours in any calendar month shall
33 constitute one service credit month except as provided in RCW
34 41.40.088. Compensation earnable earned for at least seventy hours but
35 less than ninety hours in any calendar month shall constitute one-half
36 service credit month of service. Compensation earnable earned for less
37 than seventy hours in any calendar month shall constitute one-quarter
38 service credit month of service. Time spent in standby status, whether
39 compensated or not, is not service.

1 Any fraction of a year of service shall be taken into account in
2 the computation of such retirement allowance or benefits.

3 (i) Service in any state elective position shall be deemed to be
4 full time service, except that persons serving in state elective
5 positions who are members of the teachers' retirement system or law
6 enforcement officers' and fire fighters' retirement system at the time
7 of election or appointment to such position may elect to continue
8 membership in the teachers' retirement system or law enforcement
9 officers' and fire fighters' retirement system.

10 (ii) A member shall receive a total of not more than twelve service
11 credit months of service for such calendar year. If an individual is
12 employed in an eligible position by one or more employers the
13 individual shall receive no more than one service credit month during
14 any calendar month in which multiple service for ninety or more hours
15 is rendered.

16 (iii) Up to forty-five days of sick leave may be creditable as
17 service solely for the purpose of determining eligibility to retire
18 under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of
19 plan II "forty-five days" as used in RCW 28A.400.300 is equal to two
20 service credit months. Use of less than forty-five days of sick leave
21 is creditable as allowed under this subsection as follows:

22 (A) Less than eleven days equals one-quarter service credit month;

23 (B) Eleven or more days but less than twenty-two days equals one-
24 half service credit month;

25 (C) Twenty-two days equals one service credit month;

26 (D) More than twenty-two days but less than thirty-three days
27 equals one and one-quarter service credit month;

28 (E) Thirty-three or more days but less than forty-five days equals
29 one and one-half service credit month.

30 (10) "Service credit year" means an accumulation of months of
31 service credit which is equal to one when divided by twelve.

32 (11) "Service credit month" means a month or an accumulation of
33 months of service credit which is equal to one.

34 (12) "Prior service" means all service of an original member
35 rendered to any employer prior to October 1, 1947.

36 (13) "Membership service" means:

37 (a) All service rendered, as a member, after October 1, 1947;

38 (b) All service after October 1, 1947, to any employer prior to the
39 time of its admission into the retirement system: PROVIDED, That an

1 amount equal to the employer and employee contributions which would
2 have been paid to the retirement system on account of such service
3 shall have been paid to the retirement system with interest (as
4 computed by the department) on the employee's portion prior to
5 retirement of such person, by the employee or his or her employer,
6 except as qualified by RCW 41.40.023: PROVIDED FURTHER, That employer
7 contributions plus employee contributions with interest submitted by
8 the employee under this subsection shall be placed in the employee's
9 individual account in the employees' savings fund and be treated as any
10 other contribution made by the employee, with the exception that the
11 contributions submitted by the employee in payment of the employer's
12 obligation, together with the interest the director may apply to the
13 employer's contribution, shall be excluded from the calculation of the
14 member's annuity in the event the member selects a benefit with an
15 annuity option;

16 (c) Service not to exceed six consecutive months of probationary
17 service rendered after April 1, 1949, and prior to becoming a member,
18 in the case of any member, upon payment in full by such member of the
19 total amount of the employer's contribution to the retirement fund
20 which would have been required under the law in effect when such
21 probationary service was rendered if the member had been a member
22 during such period, except that the amount of the employer's
23 contribution shall be calculated by the director based on the first
24 month's compensation earnable as a member;

25 (d) Service not to exceed six consecutive months of probationary
26 service, rendered after October 1, 1947, and before April 1, 1949, and
27 prior to becoming a member, in the case of any member, upon payment in
28 full by such member of five percent of such member's salary during said
29 period of probationary service, except that the amount of the
30 employer's contribution shall be calculated by the director based on
31 the first month's compensation earnable as a member.

32 (14)(a) "Beneficiary" for plan I members, means any person in
33 receipt of a retirement allowance, pension or other benefit provided by
34 this chapter.

35 (b) "Beneficiary" for plan II and plan III members, means any
36 person in receipt of a retirement allowance or other benefit provided
37 by this chapter resulting from service rendered to an employer by
38 another person.

1 (15) "Regular interest" means such rate as the director may
2 determine.

3 (16) "Accumulated contributions" means the sum of all contributions
4 standing to the credit of a member in the member's individual account,
5 including any amount paid under RCW 41.50.165(2), together with the
6 regular interest thereon.

7 (17)(a) "Average final compensation" for plan I members, means the
8 annual average of the greatest compensation earnable by a member during
9 any consecutive two year period of service credit months for which
10 service credit is allowed; or if the member has less than two years of
11 service credit months then the annual average compensation earnable
12 during the total years of service for which service credit is allowed.

13 (b) "Average final compensation" for plan II and plan III members,
14 means the member's average compensation earnable of the highest
15 consecutive sixty months of service credit months prior to such
16 member's retirement, termination, or death. Periods constituting
17 authorized leaves of absence may not be used in the calculation of
18 average final compensation except under RCW 41.40.710(2).

19 (18) "Final compensation" means the annual rate of compensation
20 earnable by a member at the time of termination of employment.

21 (19) "Annuity" means payments for life derived from accumulated
22 contributions of a member. All annuities shall be paid in monthly
23 installments.

24 (20) "Pension" means payments for life derived from contributions
25 made by the employer. All pensions shall be paid in monthly
26 installments.

27 (21)(a) "Retirement allowance" for plan I members means the sum of
28 the annuity and the pension.

29 (b) "Retirement allowance" for plan II and plan III members, means
30 monthly payments to a retiree or beneficiary as provided in this
31 chapter.

32 (22) "Employee" means any person who may become eligible for
33 membership under this chapter, as set forth in RCW 41.40.023.

34 (23) "Actuarial equivalent" means a benefit of equal value when
35 computed upon the basis of such mortality and other tables as may be
36 adopted by the director.

37 (24) "Retirement" means withdrawal from active service with a
38 retirement allowance as provided by this chapter.

39 (25) "Eligible position" means:

1 (a) Any position that, as defined by the employer, normally
2 requires five or more months of service a year for which regular
3 compensation for at least seventy hours is earned by the occupant
4 thereof. For purposes of this chapter an employer shall not define
5 "position" in such a manner that an employee's monthly work for that
6 employer is divided into more than one position;

7 (b) Any position occupied by an elected official or person
8 appointed directly by the governor for which compensation is paid.

9 (26) "Ineligible position" means any position which does not
10 conform with the requirements set forth in subsection (25) of this
11 section.

12 (27) "Leave of absence" means the period of time a member is
13 authorized by the employer to be absent from service without being
14 separated from membership.

15 (28) "Totally incapacitated for duty" means total inability to
16 perform the duties of a member's employment or office or any other work
17 for which the member is qualified by training or experience.

18 (29) "Retiree" means any person in receipt of a retirement
19 allowance or other benefit provided by this chapter resulting from
20 service rendered to an employer while a member. A person is in receipt
21 of a retirement allowance as defined in subsection (21) of this section
22 or other benefit as provided by this chapter when the department mails,
23 causes to be mailed, or otherwise transmits the retirement allowance
24 warrant.

25 (30) "Director" means the director of the department.

26 (31) "State elective position" means any position held by any
27 person elected or appointed to state-wide office or elected or
28 appointed as a member of the legislature.

29 (32) "State actuary" or "actuary" means the person appointed
30 pursuant to RCW 44.44.010(2).

31 (33) "Plan I" means the public employees' retirement system, plan
32 I providing the benefits and funding provisions covering persons who
33 first became members of the system prior to October 1, 1977.

34 (34) "Plan II" means the public employees' retirement system, plan
35 II providing the benefits and funding provisions covering persons who
36 first became members of the system on and after October 1, 1977, and
37 prior to the effective date of this act.

38 (35) "Plan III" means the public employees' retirement system, plan
39 III providing the benefits and funding provisions covering persons who

1 first became members of the system on and after the effective date of
2 this act or who transfer under section 404 of this act.

3 ~~(36)~~ (36) "Index" means, for any calendar year, that year's annual
4 average consumer price index, Seattle, Washington area, for urban wage
5 earners and clerical workers, all items, compiled by the bureau of
6 labor statistics, United States department of labor.

7 ~~((+36+))~~ (37) "Index A" means the index for the year prior to the
8 determination of a postretirement adjustment.

9 ~~((+37+))~~ (38) "Index B" means the index for the year prior to index
10 A.

11 ~~((+38+))~~ (39) "Index year" means the earliest calendar year in
12 which the index is more than sixty percent of index A.

13 ~~((+39+))~~ (40) "Adjustment ratio" means the value of index A divided
14 by index B.

15 **Sec. 103.** RCW 41.40.045 and 1989 c 273 s 22 are each amended to
16 read as follows:

17 Any employer admitted to the retirement system after April 1, 1949,
18 shall make an additional contribution until such time as the sum of
19 such additional contributions equals:

20 (1) For plans I and II: The amount of contributions which such
21 employer and employee would have been required to contribute between
22 April 1, 1949, and the date of such employer's admission to the
23 retirement system: PROVIDED, That either the employee or employer may
24 make the contributions the employee would have made during the same
25 period of time: PROVIDED FURTHER, That all additional contributions
26 hereunder and under the provisions of RCW 41.40.160(2) must be
27 completed within fifteen years from the date of the employer's
28 admission. Employee contributions for these periods must be made
29 before the member will receive credit for those periods of service,
30 pursuant to such regulations as the department may adopt.

31 (2) For plan III: The amount of contributions that the employer
32 would have been required to contribute prior to the date of such
33 employer's admission to the retirement system. All contributions must
34 be completed within fifteen years from the date of the employer's
35 admission.

36 **Sec. 104.** RCW 41.40.088 and 1991 c 343 s 9 and 1991 c 35 s 96 are
37 each reenacted and amended to read as follows:

1 (1) A plan I member who is employed by a school district or
2 districts, an educational service district, the state school for the
3 deaf, the state school for the blind, institutions of higher education,
4 or community colleges:

5 (a) Shall receive a service credit month for each month of the
6 period from September through August of the following year if he or she
7 is employed in an eligible position, earns compensation earnable for
8 six hundred thirty hours or more during that period, and is employed
9 during nine months of that period, except that a member may not receive
10 credit for any period prior to the member's employment in an eligible
11 position;

12 (b) If a member in an eligible position does not meet the
13 requirements of (a) of this subsection, the member is entitled to a
14 service credit month for each month of the period he or she earns
15 earnable compensation for seventy or more hours; and the member is
16 entitled to a one-quarter service credit month for those calendar
17 months during which he or she earned compensation for less than seventy
18 hours.

19 (2) Except for any period prior to the member's employment in an
20 eligible position, a plan II or a plan III member who is employed by a
21 school district or districts, an educational service district, the
22 state school for the blind, the state school for the deaf, institutions
23 of higher education, or community colleges:

24 (a) Shall receive a service credit month for each month of the
25 period from September through August of the following year if he or she
26 is employed in an eligible position, earns compensation earnable for
27 eight hundred ten hours or more during that period, and is employed
28 during nine months of that period;

29 (b) If a member in an eligible position for each month of the
30 period from September through August of the following year does not
31 meet the hours requirements of (a) of this subsection, the member is
32 entitled to one-half service credit month for each month of the period
33 if he or she earns earnable compensation for at least six hundred
34 thirty hours but less than eight hundred ten hours during that period,
35 and is employed nine months of that period.

36 (c) In all other instances, a member in an eligible position is
37 entitled to service credit months as follows:

38 (i) One service credit month for each month in which compensation
39 is earned for ninety or more hours;

1 (ii) One-half service credit month for each month in which
2 compensation is earned for at least seventy hours but less than ninety
3 hours; and

4 (iii) One-quarter service credit month for each month in which
5 compensation is earned for less than seventy hours.

6 (3) The department shall adopt rules implementing this section.

7 **PLAN III**

8 NEW SECTION. **Sec. 105.** (1) This section and sections 106 through
9 115 of this act shall apply only to plan III members.

10 (2) Plan III consists of two separate elements: (a) A defined
11 benefit portion covered under this subchapter; and (b) a defined
12 contribution portion covered under chapter 41.-- RCW (sections 301
13 through 308 of this act). All contributions on behalf of the employer
14 paid by an employee shall be made to the defined benefit portion of
15 plan III and shall be nonrefundable when paid to the fund described in
16 RCW 41.50.075(3).

17 (3) Unless otherwise specified, all references to "plan III" in
18 this chapter refer to the defined benefit portion of plan III.

19 NEW SECTION. **Sec. 106.** A member of the retirement system shall
20 receive a retirement allowance equal to one percent of such member's
21 average final compensation for each service credit year.

22 NEW SECTION. **Sec. 107.** Retirement allowances shall have a
23 postretirement cost-of-living allowance calculated and paid as provided
24 in RCW 41.40.640.

25 NEW SECTION. **Sec. 108.** (1) Upon retirement for service as
26 prescribed in section 113 of this act or retirement for disability
27 under section 114 of this act, a member shall elect to have the
28 retirement allowance paid pursuant to one of the following options,
29 calculated so as to be actuarially equivalent to each other:

30 (a) Standard allowance. A member electing this option shall
31 receive a retirement allowance payable throughout such member's life.
32 Upon the death of the retired member, all benefits shall cease.

33 (b) The department shall adopt rules that allow a member to select
34 a retirement option that pays the member a reduced retirement allowance

1 and upon death, such portion of the member's reduced retirement
2 allowance as the department by rule designates shall be continued
3 throughout the life of and paid to the member's estate or such person
4 or persons, trust, or organization as the retiree shall have nominated
5 by written designation duly executed and filed with the department at
6 the time of retirement. The options adopted by the department shall
7 include, but are not limited to, a joint and one hundred percent
8 survivor option and a joint and fifty percent survivor option.

9 (2) A member, if married, must provide the written consent of his
10 or her spouse to the option selected under this section. If a member
11 is married and both the member and the member's spouse do not give
12 written consent to an option under this section, the department shall
13 pay a joint and fifty percent survivor benefit calculated to be
14 actuarially equivalent to the benefit options available under
15 subsection (1) of this section.

16 NEW SECTION. **Sec. 109.** (1) Any member or beneficiary eligible to
17 receive a retirement allowance under the provisions of section 113,
18 114, or 117 of this act shall be eligible to commence receiving a
19 retirement allowance after having filed written application with the
20 department.

21 (2) Retirement allowances paid to members shall accrue from the
22 first day of the calendar month immediately following such member's
23 separation from employment.

24 (3) Retirement allowances paid to vested members no longer in
25 service, but qualifying for such an allowance under section 113 of this
26 act shall accrue from the first day of the calendar month immediately
27 following such qualification.

28 (4) Disability allowances paid to disabled members shall accrue
29 from the first day of the calendar month immediately following such
30 member's separation from employment for disability.

31 (5) Retirement allowances paid as death benefits shall accrue from
32 the first day of the calendar month immediately following the member's
33 death.

34 NEW SECTION. **Sec. 110.** (1) No retiree shall be eligible to
35 receive such retiree's monthly retirement allowance if he or she is
36 employed in an eligible position as defined in RCW 41.40.010 or

1 41.32.010, or as a law enforcement officer or fire fighter as defined
2 in RCW 41.26.030, except that:

3 (a) A retiree who ends his or her membership in the retirement
4 system pursuant to RCW 41.40.023(3)(b) is not subject to this section
5 if the retiree's only employment is as an elective official of a city
6 or town; and

7 (b) A plan III retiree may work in eligible positions on a
8 temporary basis for up to five months per calendar year.

9 (2) If a retiree's benefits have been suspended under this section,
10 his or her benefits shall be reinstated when the retiree terminates the
11 employment that caused the suspension of benefits. Upon reinstatement,
12 the retiree's benefits shall be actuarially recomputed pursuant to the
13 rules adopted by the department.

14 NEW SECTION. **Sec. 111.** (1) A member who is on a paid leave of
15 absence authorized by a member's employer shall continue to receive
16 service credit.

17 (2) A member who receives compensation from an employer while on an
18 authorized leave of absence to serve as an elected official of a labor
19 organization, and whose employer is reimbursed by the labor
20 organization for the compensation paid to the member during the period
21 of absence, may also be considered to be on a paid leave of absence.
22 This subsection shall only apply if the member's leave of absence is
23 authorized by a collective bargaining agreement that provides that the
24 member retains seniority rights with the employer during the period of
25 leave. The compensation earnable reported for a member who establishes
26 service credit under this subsection may not be greater than the salary
27 paid to the highest paid job class covered by the collective bargaining
28 agreement.

29 (3) Except as specified in subsection (4) of this section, a member
30 shall be eligible to receive a maximum of two years service credit
31 during a member's entire working career for those periods when a member
32 is on an unpaid leave of absence authorized by an employer. Such
33 credit may be obtained only if:

34 (a) The member makes the contribution on behalf of the employer,
35 plus interest, as determined by the department; and

36 (b) The member makes the employee contribution, plus interest as
37 determined by the department, to the defined contribution portion. The
38 contributions required shall be based on the average of the member's

1 compensation earnable at both the time the authorized leave of absence
2 was granted and the time the member resumed employment.

3 (4) A member who leaves the employ of an employer to enter the
4 armed forces of the United States shall be entitled to retirement
5 system service credit for up to four years of military service if
6 within ninety days of the member's honorable discharge from the United
7 States armed forces, the member applies for reemployment with the
8 employer who employed the member immediately prior to the member
9 entering the United States armed forces.

10 The department shall bill the employer for its contribution
11 required under this act for the period of military service, plus
12 interest as determined by the department. Service credit under this
13 subsection may be obtained only if the member makes the employee
14 contribution plus interest, to the defined contribution portion as
15 determined by the department.

16 The contributions required shall be based on the average of the
17 member's compensation earnable at both the time the member left the
18 employ of the employer to enter the armed forces and the time the
19 member resumed employment.

20 NEW SECTION. **Sec. 112.** (1) The director may pay a member eligible
21 to receive a retirement allowance or the member's beneficiary, subject
22 to the provisions of subsection (3) of this section, a lump sum payment
23 in lieu of a monthly benefit if the initial monthly benefit computed in
24 accordance with section 106 of this act would be less than one hundred
25 dollars. The one hundred dollar limit shall be increased by three
26 percent compounded annually on January 1. The lump sum payment shall
27 be the actuarial equivalent of the monthly benefit.

28 (2) Persons covered under the provisions of subsection (1) of this
29 section may upon returning to member status reinstate all previous
30 service by depositing the lump sum payment received, with interest as
31 computed by the director, within two years of returning to service or
32 prior to retiring again, whichever comes first. In computing the
33 amount due, the director shall exclude the accumulated value of the
34 normal payments the member would have received while in beneficiary
35 status if the lump sum payment had not occurred.

36 (3) Any member who receives a settlement under this section shall
37 be deemed to be retired from this system.

1 NEW SECTION. **Sec. 113.** (1) NORMAL RETIREMENT. Any vested member
2 who has attained at least age sixty-five shall be eligible to retire
3 and to receive a retirement allowance computed according to the
4 provisions of section 106 of this act.

5 (2) EARLY RETIREMENT. Any member who has attained at least age
6 sixty-two and has completed at least ten years of service shall be
7 eligible to retire and to receive a retirement allowance computed
8 according to the provisions of section 106 of this act, except that a
9 member retiring under this subsection shall have the retirement
10 allowance actuarially reduced to reflect the difference in the number
11 of years between age at retirement and the attainment of age sixty-
12 five.

13 NEW SECTION. **Sec. 114.** (1) A member of the retirement system who
14 becomes totally incapacitated for continued employment by an employer
15 as determined by the department shall be eligible to receive a monthly
16 disability allowance computed under section 106 of this act and shall
17 have this allowance actuarially reduced to reflect the difference in
18 the number of years between age at disability and the attainment of age
19 sixty-five.

20 Any member who receives an allowance under the provisions of this
21 section shall be subject to comprehensive medical examinations as
22 required by the department. If these medical examinations reveal that
23 a member has recovered from the incapacitating disability and the
24 member is offered reemployment by an employer at comparable
25 compensation, the member shall cease to be eligible for the allowance.

26 (2) The retirement for disability of a judge, who is a member of
27 the retirement system, by the supreme court under Article IV, section
28 31 of the Constitution of the state of Washington (Amendment 71), with
29 the concurrence of the department, shall be considered a retirement
30 under subsection (1) of this section.

31 (3) If the recipient of a monthly retirement allowance under this
32 section dies, any further benefit payments shall be conditioned by the
33 payment option selected by the retiree as provided in section 108 of
34 this act.

35 NEW SECTION. **Sec. 115.** (1) An active member shall become vested
36 in the right to a benefit upon completing ten years of service or upon
37 completing five years of service and attaining age fifty-five.

1 (2) A vested member who separates or has separated may remain a
2 member during the period of such member's absence from service for the
3 exclusive purpose only of receiving a retirement allowance under the
4 provisions of section 113 of this act.

5 (3) The retirement allowance payable under section 113 of this act
6 to a member who separates after having completed at least twenty years
7 of service shall be increased by twenty-five one-hundredths of one
8 percent, compounded for each month from the date of separation to the
9 date that the retirement allowance commences.

10 NEW SECTION. **Sec. 116.** A nonvested member who leaves service and
11 then reenters membership must earn an additional twelve service credit
12 months to restore past service credit in the defined benefit portion of
13 plan III.

14 NEW SECTION. **Sec. 117.** If a member who is vested dies prior to
15 retirement, the surviving spouse or eligible child or children shall
16 receive a retirement allowance computed as provided in section 106 of
17 this act actuarially reduced to reflect a joint and one hundred percent
18 survivor option and if the member was not eligible for normal
19 retirement at the date of death a further reduction as described in
20 section 113(2) of this act.

21 If the surviving spouse who is receiving the retirement allowance
22 dies leaving a child or children under the age of majority, then such
23 child or children shall continue to receive an allowance in an amount
24 equal to that which was being received by the surviving spouse, share
25 and share alike, until such child or children reach the age of
26 majority.

27 If there is no surviving spouse eligible to receive an allowance at
28 the time of the member's death, such member's child or children under
29 the age of majority shall receive an allowance, share and share alike.
30 The allowance shall be calculated with the assumption that the ages of
31 the spouse and member were equal at the time of the member's death.

32 NEW SECTION. **Sec. 118.** Sections 105 through 117 of this act are
33 designated as a subchapter within chapter 41.40 RCW with the subchapter
34 heading "Provisions Applicable to Plan III."

1 **PART II**

2 **DEFINED BENEFIT--TRS III**

3 **Sec. 201.** RCW 41.32.005 and 1992 c 72 s 4 are each amended to read
4 as follows:

5 RCW 41.32.010 through 41.32.067 shall apply to members of plan I
6 (~~and~~), plan II, and plan III.

7 **Sec. 202.** RCW 41.32.010 and 1994 c 298 s 3, 1994 c 247 s 2, and
8 1994 c 197 s 12 are each reenacted and amended to read as follows:

9 As used in this chapter, unless a different meaning is plainly
10 required by the context:

11 (1)(a) "Accumulated contributions" for plan I members, means the
12 sum of all regular annuity contributions and, except for the purpose of
13 withdrawal at the time of retirement, any amount paid under RCW
14 41.50.165(2) with regular interest thereon.

15 (b) "Accumulated contributions" for plan II members, means the sum
16 of all contributions standing to the credit of a member in the member's
17 individual account, including any amount paid under RCW 41.50.165(2),
18 together with the regular interest thereon.

19 (2) "Actuarial equivalent" means a benefit of equal value when
20 computed upon the basis of such mortality tables and regulations as
21 shall be adopted by the director and regular interest.

22 (3) "Annuity" means the moneys payable per year during life by
23 reason of accumulated contributions of a member.

24 (4) "Member reserve" means the fund in which all of the accumulated
25 contributions of members are held.

26 (5)(a) "Beneficiary" for plan I members, means any person in
27 receipt of a retirement allowance or other benefit provided by this
28 chapter.

29 (b) "Beneficiary" for plan II and plan III members, means any
30 person in receipt of a retirement allowance or other benefit provided
31 by this chapter resulting from service rendered to an employer by
32 another person.

33 (6) "Contract" means any agreement for service and compensation
34 between a member and an employer.

35 (7) "Creditable service" means membership service plus prior
36 service for which credit is allowable. This subsection shall apply
37 only to plan I members.

1 (8) "Dependent" means receiving one-half or more of support from a
2 member.

3 (9) "Disability allowance" means monthly payments during
4 disability. This subsection shall apply only to plan I members.

5 (10)(a) "Earnable compensation" for plan I members, means:

6 (i) All salaries and wages paid by an employer to an employee
7 member of the retirement system for personal services rendered during
8 a fiscal year. In all cases where compensation includes maintenance
9 the employer shall fix the value of that part of the compensation not
10 paid in money.

11 (ii) "Earnable compensation" for plan I members also includes the
12 following actual or imputed payments, which are not paid for personal
13 services:

14 (A) Retroactive payments to an individual by an employer on
15 reinstatement of the employee in a position, or payments by an employer
16 to an individual in lieu of reinstatement in a position which are
17 awarded or granted as the equivalent of the salary or wages which the
18 individual would have earned during a payroll period shall be
19 considered earnable compensation and the individual shall receive the
20 equivalent service credit.

21 (B) If a leave of absence, without pay, is taken by a member for
22 the purpose of serving as a member of the state legislature, and such
23 member has served in the legislature five or more years, the salary
24 which would have been received for the position from which the leave of
25 absence was taken shall be considered as compensation earnable if the
26 employee's contribution thereon is paid by the employee. In addition,
27 where a member has been a member of the state legislature for five or
28 more years, earnable compensation for the member's two highest
29 compensated consecutive years of service shall include a sum not to
30 exceed thirty-six hundred dollars for each of such two consecutive
31 years, regardless of whether or not legislative service was rendered
32 during those two years.

33 (iii) For members employed less than full time under written
34 contract with a school district, or community college district, in an
35 instructional position, for which the member receives service credit of
36 less than one year in all of the years used to determine the earnable
37 compensation used for computing benefits due under RCW 41.32.497,
38 41.32.498, and 41.32.520, the member may elect to have earnable
39 compensation defined as provided in RCW 41.32.345. For the purposes of

1 this subsection, the term "instructional position" means a position in
2 which more than seventy-five percent of the member's time is spent as
3 a classroom instructor (including office hours), a librarian, or a
4 counselor. Earnable compensation shall be so defined only for the
5 purpose of the calculation of retirement benefits and only as necessary
6 to insure that members who receive fractional service credit under RCW
7 41.32.270 receive benefits proportional to those received by members
8 who have received full-time service credit.

9 (iv) "Earnable compensation" does not include:

10 (A) Remuneration for unused sick leave authorized under RCW
11 41.04.340, 28A.400.210, or 28A.310.490;

12 (B) Remuneration for unused annual leave in excess of thirty days
13 as authorized by RCW 43.01.044 and 43.01.041.

14 (b) "Earnable compensation" for plan II and plan III members, means
15 salaries or wages earned by a member during a payroll period for
16 personal services, including overtime payments, and shall include wages
17 and salaries deferred under provisions established pursuant to sections
18 403(b), 414(h), and 457 of the United States Internal Revenue Code, but
19 shall exclude lump sum payments for deferred annual sick leave, unused
20 accumulated vacation, unused accumulated annual leave, or any form of
21 severance pay.

22 "Earnable compensation" for plan II and plan III members also
23 includes the following actual or imputed payments which, except in the
24 case of (b)(ii)(B) of this subsection, are not paid for personal
25 services:

26 (i) Retroactive payments to an individual by an employer on
27 reinstatement of the employee in a position or payments by an employer
28 to an individual in lieu of reinstatement in a position which are
29 awarded or granted as the equivalent of the salary or wages which the
30 individual would have earned during a payroll period shall be
31 considered earnable compensation, to the extent provided above, and the
32 individual shall receive the equivalent service credit.

33 (ii) In any year in which a member serves in the legislature the
34 member shall have the option of having such member's earnable
35 compensation be the greater of:

36 (A) The earnable compensation the member would have received had
37 such member not served in the legislature; or

38 (B) Such member's actual earnable compensation received for
39 teaching and legislative service combined. Any additional

1 contributions to the retirement system required because compensation
2 earnable under (b)(ii)(A) of this subsection is greater than
3 compensation earnable under (b)(ii)(B) of this subsection shall be paid
4 by the member for both member and employer contributions.

5 (11) "Employer" means the state of Washington, the school district,
6 or any agency of the state of Washington by which the member is paid.

7 (12) "Fiscal year" means a year which begins July 1st and ends June
8 30th of the following year.

9 (13) "Former state fund" means the state retirement fund in
10 operation for teachers under chapter 187, Laws of 1923, as amended.

11 (14) "Local fund" means any of the local retirement funds for
12 teachers operated in any school district in accordance with the
13 provisions of chapter 163, Laws of 1917 as amended.

14 (15) "Member" means any teacher included in the membership of the
15 retirement system. Also, any other employee of the public schools who,
16 on July 1, 1947, had not elected to be exempt from membership and who,
17 prior to that date, had by an authorized payroll deduction, contributed
18 to the member reserve.

19 (16) "Membership service" means service rendered subsequent to the
20 first day of eligibility of a person to membership in the retirement
21 system: PROVIDED, That where a member is employed by two or more
22 employers the individual shall receive no more than one service credit
23 month during any calendar month in which multiple service is rendered.
24 The provisions of this subsection shall apply only to plan I members.

25 (17) "Pension" means the moneys payable per year during life from
26 the pension reserve.

27 (18) "Pension reserve" is a fund in which shall be accumulated an
28 actuarial reserve adequate to meet present and future pension
29 liabilities of the system and from which all pension obligations are to
30 be paid.

31 (19) "Prior service" means service rendered prior to the first date
32 of eligibility to membership in the retirement system for which credit
33 is allowable. The provisions of this subsection shall apply only to
34 plan I members.

35 (20) "Prior service contributions" means contributions made by a
36 member to secure credit for prior service. The provisions of this
37 subsection shall apply only to plan I members.

38 (21) "Public school" means any institution or activity operated by
39 the state of Washington or any instrumentality or political subdivision

1 thereof employing teachers, except the University of Washington and
2 Washington State University.

3 (22) "Regular contributions" means the amounts required to be
4 deducted from the compensation of a member and credited to the member's
5 individual account in the member reserve. This subsection shall apply
6 only to plan I members.

7 (23) "Regular interest" means such rate as the director may
8 determine.

9 (24)(a) "Retirement allowance" for plan I members, means monthly
10 payments based on the sum of annuity and pension, or any optional
11 benefits payable in lieu thereof.

12 (b) "Retirement allowance" for plan II and plan III members, means
13 monthly payments to a retiree or beneficiary as provided in this
14 chapter.

15 (25) "Retirement system" means the Washington state teachers'
16 retirement system.

17 (26)(a) "Service" for plan I members means the time during which a
18 member has been employed by an employer for compensation.

19 (i) If a member is employed by two or more employers the individual
20 shall receive no more than one service credit month during any calendar
21 month in which multiple service is rendered.

22 (ii) As authorized by RCW 28A.400.300, up to forty-five days of
23 sick leave may be creditable as service solely for the purpose of
24 determining eligibility to retire under RCW 41.32.470.

25 (iii) As authorized in RCW 41.32.065, service earned in an out-of-
26 state retirement system that covers teachers in public schools may be
27 applied solely for the purpose of determining eligibility to retire
28 under RCW 41.32.470.

29 (b) "Service" for plan II and plan III members, means periods of
30 employment by a member for one or more employers for which earnable
31 compensation is earned subject to the following conditions:

32 (i) A member employed in an eligible position or as a substitute
33 shall receive one service credit month for each month of September
34 through August of the following year if he or she earns earnable
35 compensation for eight hundred ten or more hours during that period and
36 is employed during nine of those months, except that a member may not
37 receive credit for any period prior to the member's employment in an
38 eligible position except as provided in RCW 41.32.812 and 41.50.132;

1 (ii) If a member is employed either in an eligible position or as
2 a substitute teacher for nine months of the twelve month period between
3 September through August of the following year but earns earnable
4 compensation for less than eight hundred ten hours but for at least six
5 hundred thirty hours, he or she will receive one-half of a service
6 credit month for each month of the twelve month period;

7 (iii) All other members in an eligible position or as a substitute
8 teacher shall receive service credit as follows:

9 (A) A service credit month is earned in those calendar months where
10 earnable compensation is earned for ninety or more hours;

11 (B) A half-service credit month is earned in those calendar months
12 where earnable compensation is earned for at least seventy hours but
13 less than ninety hours; and

14 (C) A quarter-service credit month is earned in those calendar
15 months where earnable compensation is earned for less than seventy
16 hours.

17 (iv) Any person who is a member of the teachers' retirement system
18 and who is elected or appointed to a state elective position may
19 continue to be a member of the retirement system and continue to
20 receive a service credit month for each of the months in a state
21 elective position by making the required member contributions.

22 (v) When an individual is employed by two or more employers the
23 individual shall only receive one month's service credit during any
24 calendar month in which multiple service for ninety or more hours is
25 rendered.

26 (vi) As authorized by RCW 28A.400.300, up to forty-five days of
27 sick leave may be creditable as service solely for the purpose of
28 determining eligibility to retire under RCW 41.32.470. For purposes of
29 plan II "forty-five days" as used in RCW 28A.400.300 is equal to two
30 service credit months. Use of less than forty-five days of sick leave
31 is creditable as allowed under this subsection as follows:

32 (A) Less than eleven days equals one-quarter service credit month;

33 (B) Eleven or more days but less than twenty-two days equals one-
34 half service credit month;

35 (C) Twenty-two days equals one service credit month;

36 (D) More than twenty-two days but less than thirty-three days
37 equals one and one-quarter service credit month;

38 (E) Thirty-three or more days but less than forty-five days equals
39 one and one-half service credit month.

1 (vii) As authorized in RCW 41.32.065, service earned in an out-of-
2 state retirement system that covers teachers in public schools may be
3 applied solely for the purpose of determining eligibility to retire
4 under RCW 41.32.470.

5 (viii) The department shall adopt rules implementing this
6 subsection.

7 (27) "Service credit year" means an accumulation of months of
8 service credit which is equal to one when divided by twelve.

9 (28) "Service credit month" means a full service credit month or an
10 accumulation of partial service credit months that are equal to one.

11 (29) "Teacher" means any person qualified to teach who is engaged
12 by a public school in an instructional, administrative, or supervisory
13 capacity. The term includes state, educational service district, and
14 school district superintendents and their assistants and all employees
15 certificated by the superintendent of public instruction; and in
16 addition thereto any full time school doctor who is employed by a
17 public school and renders service of an instructional or educational
18 nature.

19 (30) "Average final compensation" for plan II and plan III members,
20 means the member's average earnable compensation of the highest
21 consecutive sixty service credit months prior to such member's
22 retirement, termination, or death. Periods constituting authorized
23 leaves of absence may not be used in the calculation of average final
24 compensation except under RCW 41.32.810(2).

25 (31) "Retiree" means any person in receipt of a retirement
26 allowance or other benefit provided by this chapter resulting from
27 service rendered to an employer while a member. A person is in receipt
28 of a retirement allowance as defined in subsection (24) of this section
29 or other benefit as provided by this chapter when the department mails,
30 causes to be mailed, or otherwise transmits the retirement allowance
31 warrant.

32 (32) "Department" means the department of retirement systems
33 created in chapter 41.50 RCW.

34 (33) "Director" means the director of the department.

35 (34) "State elective position" means any position held by any
36 person elected or appointed to state-wide office or elected or
37 appointed as a member of the legislature.

38 (35) "State actuary" or "actuary" means the person appointed
39 pursuant to RCW 44.44.010(2).

1 (36) "Substitute teacher" means:

2 (a) A teacher who is hired by an employer to work as a temporary
3 teacher, except for teachers who are annual contract employees of an
4 employer and are guaranteed a minimum number of hours; or

5 (b) Teachers who either (i) work in ineligible positions for more
6 than one employer or (ii) work in an ineligible position or positions
7 together with an eligible position.

8 (37)(a) "Eligible position" for plan II members from June 7, 1990,
9 through September 1, 1991, means a position which normally requires two
10 or more uninterrupted months of creditable service during September
11 through August of the following year.

12 (b) "Eligible position" for plan II on and after September 1, 1991,
13 means a position that, as defined by the employer, normally requires
14 five or more months of at least seventy hours of earnable compensation
15 during September through August of the following year.

16 (c) For purposes of this chapter an employer shall not define
17 "position" in such a manner that an employee's monthly work for that
18 employer is divided into more than one position.

19 (d) The elected position of the superintendent of public
20 instruction is an eligible position.

21 (38) "Plan I" means the teachers' retirement system, plan I
22 providing the benefits and funding provisions covering persons who
23 first became members of the system prior to October 1, 1977.

24 (39) "Plan II" means the teachers' retirement system, plan II
25 providing the benefits and funding provisions covering persons who
26 first became members of the system on and after October 1, 1977, and
27 prior to the effective date of this act.

28 (40) "Plan III" means the teachers' retirement system, plan III
29 providing the benefits and funding provisions covering persons who
30 first become members of the system on and after the effective date of
31 this act or who transfer under section 404 of this act.

32 (41) "Education association" means an association organized to
33 carry out collective bargaining activities, the majority of whose
34 members are employees covered by chapter 41.59 RCW or academic
35 employees covered by chapter 28B.52 RCW.

36 (42) "Index" means, for any calendar year, that year's annual
37 average consumer price index, Seattle, Washington area, for urban wage
38 earners and clerical workers, all items compiled by the bureau of labor
39 statistics, United States department of labor.

1 (~~(41)~~) (43) "Index A" means the index for the year prior to the
2 determination of a postretirement adjustment.

3 (~~(42)~~) (44) "Index B" means the index for the year prior to index
4 A.

5 (~~(43)~~) (45) "Index year" means the earliest calendar year in
6 which the index is more than sixty percent of index A.

7 (~~(44)~~) (46) "Adjustment ratio" means the value of index A divided
8 by index B.

9 **Sec. 203.** RCW 41.32.032 and 1992 c 212 s 17 are each amended to
10 read as follows:

11 (1) Any teacher, as defined under RCW 41.32.010, who is first
12 employed by a public school on or after June 7, 1984, shall become a
13 member of the retirement system (~~as directed under RCW 41.32.780~~) if
14 otherwise eligible.

15 (2) Any person who before June 7, 1984, has established service
16 credit under chapter 41.40 RCW while employed in an educational staff
17 associate position and who is employed in such a position on or after
18 June 7, 1984 has the following options:

19 (a) To remain a member of the public employees' retirement system
20 notwithstanding the provisions of RCW 41.32.240 or 41.32.780; or

21 (b) To irrevocably elect to join the retirement system under this
22 chapter and to receive service credit for previous periods of
23 employment in any position included under RCW 41.32.010. This service
24 credit and corresponding employee contribution shall be computed as
25 though the person had then been a member of the retirement system under
26 this chapter. All employee contributions credited to a member under
27 chapter 41.40 RCW for service now to be credited to the retirement
28 system under this chapter shall be transferred to the system and the
29 member shall not receive any credit nor enjoy any rights under chapter
30 41.40 RCW for those periods of service. The member shall pay any
31 difference between the employee contributions made under chapter 41.40
32 RCW and transferred under this subsection and what would have been
33 required under this chapter, including interest as set by the director.
34 The member shall be given until July 1, 1989, to make the irrevocable
35 election permitted under this section. The election shall be made by
36 submitting written notification as required by the department
37 requesting credit under this section and by remitting any necessary
38 proof of service or payments within the time set by the department.

1 Any person, not employed as an educational staff associate on June
2 7, 1984, may, before June 30 of the fifth school year after that
3 person's return to employment as a teacher, request and establish
4 membership and credit under this subsection.

5 **PLAN III**

6 NEW SECTION. **Sec. 204.** (1) Sections 204 through 217 of this act
7 shall apply only to plan III members.

8 (2) Plan III shall consist of two separate elements: (a) A defined
9 benefit portion covered under this subchapter; and (b) a defined
10 contribution portion covered under chapter 41.-- RCW (sections 301
11 through 308 of this act). All contributions on behalf of the employer
12 paid by an employee shall be made to the defined benefit portion of
13 plan III and shall be nonrefundable when paid to the fund described in
14 RCW 41.50.075(3).

15 (3) Unless otherwise specified, all references to "plan III" in
16 this subchapter refer to the defined benefit portion of plan III.

17 NEW SECTION. **Sec. 205.** All teachers who become employed by an
18 employer in an eligible position on or after the effective date of this
19 act shall be members of plan III.

20 NEW SECTION. **Sec. 206.** A member of the retirement system shall
21 receive a retirement allowance equal to one percent of such member's
22 average final compensation for each service credit year.

23 NEW SECTION. **Sec. 207.** Retirement allowances paid under the
24 defined benefit portion of plan III shall have a postretirement cost-
25 of-living allowance calculated and paid as provided in RCW 41.32.770.

26 NEW SECTION. **Sec. 208.** (1) Upon retirement for service as
27 prescribed in section 213 of this act or retirement for disability
28 under section 214 of this act, a member shall elect to have the
29 retirement allowance paid pursuant to one of the following options,
30 calculated so as to be actuarially equivalent to each other.

31 (a) Standard allowance. A member electing this option shall
32 receive a retirement allowance payable throughout such member's life.
33 Upon the death of the retired member, all benefits shall cease.

1 (b) The department shall adopt rules that allow a member to select
2 a retirement option that pays the member a reduced retirement allowance
3 and upon death, such portion of the member's reduced retirement
4 allowance as the department by rule designates shall be continued
5 throughout the life of and paid to the member's estate or such person
6 or persons, trust, or organization as the retiree shall have nominated
7 by written designation duly executed and filed with the department at
8 the time of retirement. The options adopted by the department shall
9 include, but are not limited to, a joint and one hundred percent
10 survivor option and joint and fifty percent survivor option.

11 (2) A member, if married, must provide the written consent of his
12 or her spouse to the option selected under this section. If a member
13 is married and both the member and the member's spouse do not give
14 written consent to an option under this section, the department shall
15 pay a joint and fifty percent survivor benefit calculated to be
16 actuarially equivalent to the benefit options available under
17 subsection (1) of this section.

18 NEW SECTION. **Sec. 209.** Any member or beneficiary eligible to
19 receive a retirement allowance under the provisions of section 213,
20 214, or 217 of this act shall be eligible to commence receiving a
21 retirement allowance after having filed written application with the
22 department.

23 (1) Retirement allowances paid to members shall accrue from the
24 first day of the calendar month immediately following such member's
25 separation from employment.

26 (2) Retirement allowances paid to vested members no longer in
27 service, but qualifying for such an allowance pursuant to section 212
28 of this act shall accrue from the first day of the calendar month
29 immediately following such qualification.

30 (3) Disability allowances paid to disabled members shall accrue
31 from the first day of the calendar month immediately following such
32 member's separation from employment for disability.

33 (4) Retirement allowances paid as death benefits shall accrue from
34 the first day of the calendar month immediately following the member's
35 death.

36 NEW SECTION. **Sec. 210.** (1) No retiree shall be eligible to
37 receive such retiree's monthly retirement allowance if he or she is

1 employed in an eligible position as defined in RCW 41.40.010 or
2 41.32.010, or as a law enforcement officer or fire fighter as defined
3 in RCW 41.26.030, except that a plan III retiree may work in eligible
4 positions on a temporary basis for up to five months per calendar year.

5 (2) If a retiree's benefits have been suspended under this section,
6 his or her benefits shall be reinstated when the retiree terminates the
7 employment that caused the suspension of benefits. Upon reinstatement,
8 the retiree's benefits shall be actuarially recomputed pursuant to the
9 rules adopted by the department.

10 NEW SECTION. **Sec. 211.** (1) A member who is on a paid leave of
11 absence authorized by a member's employer shall continue to receive
12 service credit.

13 (2) A member who receives compensation from an employer while on an
14 authorized leave of absence to serve as an elected official of a labor
15 organization, and whose employer is reimbursed by the labor
16 organization for the compensation paid to the member during the period
17 of absence, may also be considered to be on a paid leave of absence.
18 This subsection shall only apply if the member's leave of absence is
19 authorized by a collective bargaining agreement that provides that the
20 member retains seniority rights with the employer during the period of
21 leave. The earnable compensation reported for a member who establishes
22 service credit under this subsection may not be greater than the salary
23 paid to the highest paid job class covered by the collective bargaining
24 agreement.

25 (3) Except as specified in subsection (4) of this section, a member
26 shall be eligible to receive a maximum of two years service credit
27 during a member's entire working career for those periods when a member
28 is on an unpaid leave of absence authorized by an employer. Such
29 credit may be obtained only if:

30 (a) The member makes the contribution on behalf of the employer,
31 plus interest, as determined by the department; and

32 (b) The member makes the employee contribution, plus interest, as
33 determined by the department, to the defined contribution portion.
34 The contributions required shall be based on the average of the
35 member's earnable compensation at both the time the authorized leave of
36 absence was granted and the time the member resumed employment.

37 (4) A member who leaves the employ of an employer to enter the
38 armed forces of the United States shall be entitled to retirement

1 system service credit for up to four years of military service if
2 within ninety days of the member's honorable discharge from the United
3 States armed forces, the member applies for reemployment with the
4 employer who employed the member immediately prior to the member
5 entering the United States armed forces.

6 The department shall bill the employer for its contribution
7 required under this act for the period of military service, plus
8 interest as determined by the department. Service credit under this
9 subsection may be obtained only if the member makes the employee
10 contribution plus interest to the defined contribution portion as
11 determined by the department.

12 The contributions required shall be based on the average of the
13 member's earnable compensation at both the time the member left the
14 employ of the employer to enter the armed forces and the time the
15 member resumed employment.

16 NEW SECTION. Sec. 212. (1) The director may pay a member eligible
17 to receive a retirement allowance or the member's beneficiary a lump
18 sum payment in lieu of a monthly benefit if the initial monthly benefit
19 would be less than one hundred dollars. The one hundred dollar limit
20 shall be increased by three percent compounded annually on January 1.
21 The lump sum payment shall be the actuarial equivalent of the monthly
22 benefit.

23 (2) Persons covered under the provisions of subsection (1) of this
24 section may upon returning to member status reinstate all previous
25 service by depositing the lump sum payment received, with interest as
26 computed by the director, within two years of returning to service or
27 prior to retiring again, whichever comes first. In computing the
28 amount due, the director shall exclude the accumulated value of the
29 normal payments the member would have received while in beneficiary
30 status if the lump sum payment had not occurred.

31 (3) Any member who receives a settlement under this section shall
32 be deemed to be retired from this system.

33 NEW SECTION. Sec. 213. (1) NORMAL RETIREMENT. Any member who has
34 vested and attained at least age sixty-five shall be eligible to retire
35 and to receive a retirement allowance computed according to the
36 provisions of section 206 of this act.

1 (2) EARLY RETIREMENT. Any member who has attained at least age
2 sixty-two and has completed at least ten years of service shall be
3 eligible to retire and to receive a retirement allowance computed
4 according to the provisions of section 206 of this act, except that a
5 member retiring pursuant to this subsection shall have the retirement
6 allowance actuarially reduced to reflect the difference in the number
7 of years between age at retirement and the attainment of age sixty-
8 five.

9 NEW SECTION. **Sec. 214.** (1) A member of the retirement system who
10 becomes totally incapacitated for continued employment by an employer
11 as determined by the department shall be eligible to receive an
12 allowance under the provisions of plan III. The member shall receive
13 a monthly disability allowance computed as provided for in section 206
14 of this act and shall have this allowance actuarially reduced to
15 reflect the difference in the number of years between age at disability
16 and the attainment of age sixty-five.

17 Any member who receives an allowance under the provisions of this
18 section shall be subject to comprehensive medical examinations as
19 required by the department. If these medical examinations reveal that
20 a member has recovered from the incapacitating disability and the
21 member is offered reemployment by an employer at a comparable
22 compensation, the member shall cease to be eligible for the allowance.

23 (2) If the recipient of a monthly retirement allowance under this
24 section dies, any further benefit payments shall be conditioned by the
25 payment option selected by the retiree as provided in section 208 of
26 this act.

27 NEW SECTION. **Sec. 215.** (1) An active member shall become vested
28 in the right to a benefit upon completing ten years of service or upon
29 completing five years of service and attaining age fifty-five.

30 (2) A vested member who separates or has separated may remain a
31 member during the period of such member's absence from service for the
32 exclusive purpose only of receiving a retirement allowance under the
33 provisions of section 213 of this act.

34 (3) The retirement allowance payable under section 213 of this act
35 to a member who separates after having completed at least twenty years
36 of service shall be increased by twenty-five one-hundredths of one

1 percent, compounded for each month from the date of separation to the
2 date that the retirement allowance commences.

3 NEW SECTION. **Sec. 216.** A nonvested member who leaves service and
4 then reenters membership must earn an additional twelve service credit
5 months to restore past service credit in the defined benefit portion of
6 plan III.

7 NEW SECTION. **Sec. 217.** If a member who is vested dies prior to
8 retirement, the surviving spouse or eligible child or children shall
9 receive a retirement allowance computed as provided in section 208 of
10 this act actuarially reduced to reflect a joint and one hundred percent
11 survivor option and if the member was not eligible for normal
12 retirement at the date of death a further reduction as described in
13 section 213(2) of this act.

14 If the surviving spouse who is receiving the retirement allowance
15 dies leaving a child or children under the age of majority, then such
16 child or children shall continue to receive an allowance in an amount
17 equal to that which was being received by the surviving spouse, share
18 and share alike, until such child or children reach the age of
19 majority.

20 If there is no surviving spouse eligible to receive an allowance at
21 the time of the member's death, such member's child or children under
22 the age of majority shall receive an allowance, share and share alike.
23 The allowance shall be calculated with the assumption that the age of
24 the spouse and member were equal at the time of the member's death.

25 NEW SECTION. **Sec. 218.** Sections 204 through 217 of this act are
26 designated as a subchapter within chapter 41.32 RCW with the subchapter
27 heading "Provisions Applicable to Plan III."

28 **PART III**

29 **DEFINED CONTRIBUTION PORTION OF PLAN III**

30 NEW SECTION. **Sec. 301.** The purpose of chapter . . . , Laws of 1995
31 (this act) is to:

32 (1) Provide a fair and reasonable value from the retirement system
33 for those who leave public employment before retirement;

- 1 (2) Increase flexibility for such employees to make transitions
2 into other public or private sector employment;
- 3 (3) Increase employee options for addressing retirement needs,
4 personal financial planning, and career transitions; and
- 5 (4) Continue the legislature's established policy of having
6 employees contribute toward their retirement benefits.

7 NEW SECTION. **Sec. 302.** As used in this chapter, the following
8 terms have the meanings indicated:

- 9 (1) "Actuary" means the state actuary or the office of the state
10 actuary.
- 11 (2) "Board" means the employee retirement benefits board authorized
12 in chapter 41.50 RCW.
- 13 (3) "Department" means the department of retirement systems.
- 14 (4) "Compensation" for purposes of this chapter is the same as:
15 (a) "Earnable compensation" for plan III in chapter 41.32 RCW;
16 (b) "Compensation earnable" for plan III in chapter 41.40 RCW.
- 17 (5) "Member" means any employee included in the membership of a
18 retirement system as provided for plan III in chapters 41.32 and 41.40
19 RCW unless otherwise specified.
- 20 (6) "Member account" means the sum of the contributions and
21 earnings on behalf of the member.
- 22 (7) "Retiree" means any member in receipt of an allowance or other
23 benefit provided by this chapter resulting from service rendered to an
24 employer by such member.

25 NEW SECTION. **Sec. 303.** (1) This chapter applies only to members
26 of plan III retirement systems created under chapters 41.32 and 41.40
27 RCW.

28 (2) Plan III consists of two separate elements: (a) A defined
29 benefit portion covered under sections 101 through 218, chapter . . . ,
30 Laws of 1995 (sections 101 through 218 of this act); and (b) a defined
31 contribution portion covered under this chapter. Unless specified
32 otherwise, all references to "plan III" in this chapter refer to the
33 defined contribution portion of plan III.

34 NEW SECTION. **Sec. 304.** (1) A member shall contribute from his or
35 her compensation according to one of the following rate structures:

	<u>Option A</u>	<u>Contribution Rate</u>
1	All Ages	5.0% fixed
2		
3	<u>Option B</u>	
4	Up to Age 35	5.0%
5	Age 35 to 44	6.0%
6	Age 45 and above	7.5%
7	<u>Option C</u>	
8	Up to Age 35	6.0%
9	Age 35 to 44	7.5%
10	Age 45 and above	8.5%

11 (2) The board shall have the right to offer contribution rate
12 options in addition to those listed in subsection (1) of this section,
13 provided that no significant additional administrative costs are
14 created. All options offered by the board shall conform to the
15 requirements stated in subsections (3) and (4) of this section.

16 (3) Within ninety days of the date that an employee becomes a
17 member of plan III, he or she has an irrevocable option to choose one
18 of the above contribution rate structures. If the member does not
19 select an option within this ninety-day period, he or she shall be
20 assigned option A. Such assignment shall be irrevocable.

21 (4) Contributions shall begin the first day of the month
22 immediately following the earlier of the selection of an option or the
23 end of the ninety-day period.

24 NEW SECTION. Sec. 305. The member's account shall be invested by
25 the state investment board unless the member elects to self direct
26 investments as authorized by the board. Members who make this election
27 shall pay the expenses for self-directed investment.

28 NEW SECTION. Sec. 306. (1) If the member retires, becomes
29 disabled, or otherwise terminates employment, the balance in the
30 member's account may be distributed in accordance with an option
31 selected by the member either as a lump sum or pursuant to other
32 options authorized by the board.

33 (2) If the member dies while in service, the balance of the
34 member's account may be distributed in accordance with an option
35 selected by the member either as a lump sum or pursuant to other
36 options authorized by the board. The distribution shall be made to
37 such person or persons as the member shall have nominated by written

1 designation duly executed and filed with the department. If there be
2 no such designated person or persons still living at the time of the
3 member's death, the balance of the member's account in the retirement
4 system, less any amount identified as owing to an obligee upon
5 withdrawal of such account balance pursuant to a court order filed
6 under RCW 41.50.670, shall be paid to the member's surviving spouse as
7 if in fact such spouse had been nominated by written designation, or if
8 there is no surviving spouse, then to such person or persons, trust, or
9 organization as the member shall have nominated by written designation
10 duly executed and filed with the department.

11 (3) The distribution under subsections (1) or (2) of this section
12 shall be less any amount identified as owing to an obligee upon
13 withdrawal pursuant to a court order filed under RCW 41.50.670.

14 NEW SECTION. **Sec. 307.** (1) Subject to subsections (2) and (3) of
15 this section, the right of a person to a pension, an annuity, a
16 retirement allowance, any optional benefit, any other right accrued or
17 accruing to any person under the provisions of this chapter, and the
18 various funds created by chapter . . . , Laws of 1995 (this act) and all
19 moneys and investments and income thereof, is hereby exempt from any
20 state, county, municipal, or other local tax, and shall not be subject
21 to execution, garnishment, attachment, the operation of bankruptcy or
22 insolvency laws, or other process of law whatsoever, and shall be
23 unassignable.

24 (2) This section shall not be deemed to prohibit a beneficiary of
25 a retirement allowance from authorizing deductions therefrom for
26 payment of premiums due on any group insurance policy or plan issued
27 for the benefit of a group comprised of public employees of the state
28 of Washington or its political subdivisions and that has been approved
29 for deduction in accordance with rules that may be adopted by the state
30 health care authority and/or the department. This section shall not be
31 deemed to prohibit a beneficiary of a retirement allowance from
32 authorizing deductions therefrom for payment of dues and other
33 membership fees to any retirement association or organization the
34 membership of which is composed of retired public employees, if a total
35 of three hundred or more of such retired employees have authorized such
36 deduction for payment to the same retirement association or
37 organization.

1 (3) Subsection (1) of this section shall not prohibit the
2 department from complying with (a) a wage assignment order for child
3 support issued pursuant to chapter 26.18 RCW, (b) an order to withhold
4 and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of
5 payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory
6 benefits assignment order issued by the department, (e) a court order
7 directing the department to pay benefits directly to an obligee under
8 a dissolution order as defined in RCW 41.50.500(3) which fully complies
9 with RCW 41.50.670 and 41.50.700, or (f) any administrative or court
10 order expressly authorized by federal law.

11 NEW SECTION. **Sec. 308.** (1) The retirement plan created by this
12 chapter shall be administered so as to comply with the federal Internal
13 Revenue Code, Title 26 U.S.C., and specifically with plan qualification
14 requirements imposed on governmental plans by section 401(a) of the
15 Internal Revenue Code.

16 (2) Any section or provision of this chapter which may be
17 susceptible to more than one construction shall be interpreted in favor
18 of the construction most likely to satisfy requirements imposed by
19 section 401(a) of the Internal Revenue Code.

20 (3) If any section or provision of this chapter is found to be in
21 conflict with the plan qualification requirements for governmental
22 plans in section 401(a) of the Internal Revenue Code, the conflicting
23 part of this chapter is hereby inoperative solely to the extent of the
24 conflict, and such finding shall not affect the operation of the
25 remainder of this chapter.

26 NEW SECTION. **Sec. 309.** Sections 301 through 308 of this act shall
27 constitute a new chapter in Title 41 RCW.

28 **PART IV**
29 **MISCELLANEOUS**

30 NEW SECTION. **Sec. 401.** A new section is added to chapter 41.50
31 RCW to read as follows:

32 (1) The employee retirement benefits board is created within the
33 department of retirement systems.

34 (2) The board shall be composed of six members appointed by the
35 governor and one ex officio member as follows:

1 (a) Two members representing the public employees' retirement
2 system: One active, one retired. The members shall be appointed from
3 a list of nominations submitted by organizations representing each
4 category. The initial term of appointment shall be one year for one of
5 the two members and two years for the remaining member.

6 (b) Two members representing the teachers' retirement system: One
7 active, one retired. The members shall be appointed from a list of
8 nominations submitted by organizations representing each category. The
9 initial term of appointment shall be two years for one of the two
10 members and three years for the remaining member.

11 (c) Two members with experience in defined contribution plan
12 administration. The initial term for these members shall be two years
13 for one and four for the other.

14 (d) The director of the department shall serve ex officio and shall
15 be the chair of the board.

16 (3) After the initial appointments, members shall be appointed to
17 three-year terms.

18 (4) The board shall meet at least quarterly during the calendar
19 year, at the call of the chair.

20 (5) Members of the board shall serve without compensation but shall
21 receive travel expenses as provided for in RCW 43.03.050 and 43.03.060.
22 Such travel expenses shall be reimbursed by the department from the
23 retirement system expense fund.

24 (6) The board shall adopt rules governing its procedures and
25 conduct of business.

26 (7) The actuary shall perform all actuarial services for the board
27 and provide advice and support.

28 (8) The state investment board shall provide advice and support to
29 the board.

30 NEW SECTION. **Sec. 402.** A new section is added to chapter 41.50
31 RCW to read as follows:

32 The board shall adopt rules as necessary and exercise all the
33 powers and perform all duties prescribed by law with respect to:

34 (1) The preselection of options for members to choose from for
35 self-directed investment deemed by the board to be in the best interest
36 of the member. At the board's request, the state investment board may
37 provide investment options for purposes of this subsection;

1 (2) The selection of optional benefit payment schedules available
2 to members and survivors of members upon the death, disability,
3 retirement, or termination of the member. The optional benefit
4 payments may include but not be limited to: Fixed and participating
5 annuities, joint and survivor annuities, and payments that bridge to
6 social security or defined benefit plan payments;

7 (3) Approval of actuarially equivalent annuities that may be
8 purchased from the combined plan II and plan III funds under RCW
9 41.50.075 (2) or (3);

10 (4) Determination of the basis for administrative charges to the
11 self-directed investment fund to offset self-directed account expenses;
12 and

13 (5) Selection of investment options for the deferred compensation
14 program.

15 NEW SECTION. **Sec. 403.** A new section is added to chapter 41.32
16 RCW under the subchapter heading "Plan II" to read as follows:

17 (1) Every plan II member employed by an employer in an eligible
18 position may make an irrevocable option to transfer to plan III. For
19 those who elect to transfer:

20 (a) All service credit in plan II shall be transferred to the
21 defined benefit portion of plan III.

22 (b) The accumulated contributions in plan II shall be transferred
23 to the member's account in the defined contribution portion established
24 in sections 302 through 308 of this act, pursuant to procedures
25 developed by the department and subject to section 308 of this act.

26 (c) A member vested on the effective date of this act under plan II
27 shall be automatically vested in plan III upon transfer.

28 (d) Members employed by an employer in an eligible position on
29 January 1, 1998, who request to transfer to plan III by January 1,
30 1998, shall have their account in the defined contribution portion of
31 plan III, other than those accumulated contributions attributable to
32 restorations made under RCW 41.50.165(2), increased by twenty percent
33 of their plan II accumulated contributions as of January 1, 1996. If
34 the member who requests to transfer dies before January 1, 1998, the
35 additional payment provided by this subsection shall be paid to the
36 member's estate, or such person or persons, trust, or organization as
37 the member shall have nominated by written designation duly executed
38 and filed with the department.

1 (e) The legislature reserves the right to discontinue the right to
2 transfer under this section.

3 (2) This subsection shall also apply to dual members as provided in
4 section 420 of this act.

5 (3) Any member who elects to transfer to plan III and has eligible
6 unrestored withdrawn contributions in plan II, may subsequently restore
7 such contributions under the provisions of RCW 41.32.825. The restored
8 plan II service credit will be automatically transferred to plan III.
9 Contributions restored will be transferred to the member's account in
10 plan III.

11 (4) Anyone previously retired from plan II is prohibited from
12 transferring to plan III.

13 NEW SECTION. **Sec. 404.** A new section is added to chapter 41.40
14 RCW under this subchapter heading "Plan II" to read as follows:

15 (1) Every plan II member employed by an employer in an eligible
16 position may make an irrevocable option to transfer to plan III. For
17 those who elect to transfer:

18 (a) All service credit in plan II shall be transferred to the
19 defined benefit portion of plan III.

20 (b) The accumulated contributions in plan II shall be transferred
21 to the member's account in the defined contribution portion established
22 in sections 302 through 308 of this act, pursuant to procedures
23 developed by the department and subject to section 308 of this act.

24 (c) A member vested on the effective date of this act under plan II
25 shall be automatically vested in plan III upon transfer.

26 (d) Members employed by an employer in an eligible position on
27 January 1, 1998, who request to transfer to plan III by January 1,
28 1998, shall have their account in the defined contribution portion of
29 plan III, other than those accumulated contributions attributable to
30 restorations made under RCW 41.50.165(2), increased by twenty percent
31 of their plan II accumulated contributions as of January 1, 1996. If
32 the member who requests to transfer dies before January 1, 1998, the
33 additional payment provided by this subsection shall be paid to the
34 member's estate, or such person or persons, trust, or organization as
35 the member shall have nominated by written designation duly executed
36 and filed with the department.

37 (e) The legislature reserves the right to discontinue the right to
38 transfer under this section.

1 (2) This subsection shall also apply to dual members as provided in
2 section 420 of this act.

3 (3) Any member who elects to transfer to plan III and has eligible
4 unrestored withdrawn contributions in plan II, may subsequently restore
5 such contributions under the provisions of RCW 41.40.740. Restored plan
6 II service credit will be automatically transferred to plan III.
7 Contributions restored will be transferred to the member's account in
8 plan III.

9 (4) Anyone previously retired from plan II is prohibited from
10 transferring to plan III.

11 **Sec. 405.** RCW 41.45.010 and 1989 c 273 s 1 are each amended to
12 read as follows:

13 It is the intent of the legislature to provide a dependable and
14 systematic process for funding the benefits provided to members and
15 retirees of the public employees' retirement system, chapter 41.40 RCW;
16 the teachers' retirement system, chapter 41.32 RCW; the law enforcement
17 officers' and fire fighters' retirement system, chapter 41.26 RCW; and
18 the Washington state patrol retirement system, chapter 43.43 RCW.

19 The funding process established by this chapter is intended to
20 achieve the following goals:

21 (1) To continue to fully fund the public employees' retirement
22 system plans II and III, the teachers' retirement system plans II and
23 III, and the law enforcement officers' and fire fighters' retirement
24 system plan II as provided by law;

25 (2) To fully amortize the total costs of the public employees'
26 retirement system plan I, the teachers' retirement system plan I, and
27 the law enforcement officers' and fire fighters' retirement system plan
28 I not later than June 30, 2024;

29 (3) To establish predictable long-term employer contribution rates
30 which will remain a relatively constant proportion of the future state
31 budgets; and

32 (4) To fund, to the extent feasible, benefit increases for plan I
33 members and all benefits for plan II and III members over the working
34 lives of those members so that the cost of those benefits are paid by
35 the taxpayers who receive the benefit of those members' service.

36 **Sec. 406.** RCW 41.45.020 and 1989 c 273 s 2 are each amended to
37 read as follows:

1 As used in this chapter, the following terms have the meanings
2 indicated unless the context clearly requires otherwise.

3 (1) "Council" means the economic and revenue forecast council
4 created in RCW (~~(82.01.130)~~) 82.33.010.

5 (2) "Department" means the department of retirement systems.

6 (3) "Law enforcement officers' and fire fighters' retirement system
7 plan I," and "law enforcement officers' and fire fighters' retirement
8 system plan II" mean(~~(s)~~) the benefits and funding provisions
9 (~~(covering persons who first became members of the law enforcement~~
10 ~~officers' and fire fighters' retirement system prior to October 1,~~
11 ~~1977.~~

12 (~~4~~) "~~Law enforcement officers' and fire fighters' retirement system~~
13 ~~plan II~~" means the benefits and funding provisions covering persons who
14 first became members of the law enforcement officers' and fire
15 fighters' retirement system on or after October 1, 1977)) under chapter
16 41.26 RCW.

17 (~~(5)~~) (~~4~~) "Public employees' retirement system plan I," "public
18 employees' retirement system plan II," and "public employees'
19 retirement system plan III," mean(~~(s)~~) the benefits and funding
20 provisions (~~(covering persons who first became members of the public~~
21 ~~employees' retirement system prior to October 1, 1977.~~

22 (~~6~~) "~~Public employees' retirement system plan II~~" means the
23 benefits and funding provisions covering persons who first became
24 members of the public employees' retirement system on or after October
25 1, 1977)) under chapter 41.40 RCW.

26 (~~(7)~~) (~~5~~) "Teachers' retirement system plan I," "teachers'
27 retirement system plan II," and "teachers' retirement system plan III"
28 mean(~~(s)~~) the benefits and funding provisions (~~(covering persons who~~
29 ~~first became members of the teachers' retirement system prior to~~
30 ~~October 1, 1977.~~

31 (~~8~~) "~~Teachers' retirement system plan II~~" means the benefits and
32 funding provisions covering persons who first became members of the
33 teachers' retirement system on or after October 1, 1977)) under chapter
34 41.32 RCW.

35 (~~(9)~~) (~~6~~) "Washington state patrol retirement system" means the
36 retirement benefits provided under chapter 43.43 RCW.

37 (~~7~~) "Unfunded liability" means the unfunded actuarial accrued
38 liability of a retirement system.

1 (~~(10)~~) (8) "Actuary" or "state actuary" means the state actuary
2 employed under chapter 44.44 RCW.

3 (~~(11)~~) (9) "State retirement systems" means the retirement
4 systems listed in RCW 41.50.030.

5 **Sec. 407.** RCW 41.45.030 and 1993 c 519 s 17 are each amended to
6 read as follows:

7 (1) Beginning September 1, 1989, and every six years thereafter,
8 the state actuary shall submit to the council information regarding the
9 experience and financial condition of each state retirement system.
10 The council shall review this and such other information as it may
11 require.

12 (2) (~~The council shall review the information submitted by the~~
13 ~~state actuary and~~) By December 31, 1995, and every six years
14 thereafter, the council, by affirmative vote of five members, shall
15 adopt the following long-term economic assumptions:

- 16 (a) Growth in system membership;
17 (b) Growth in salaries, exclusive of merit or longevity increases;
18 (c) Growth in inflation; and
19 (d) Investment rate of return.

20 (3) The assumptions adopted by the council shall be used by the
21 state actuary in conducting valuation studies of the state retirement
22 systems.

23 (~~(3) The council may utilize information provided by the state~~
24 ~~actuary and such other information as it may request.))~~

25 **Sec. 408.** RCW 41.45.050 and 1989 c 273 s 5 are each amended to
26 read as follows:

27 (1) (~~Beginning September 1, 1990,~~) Employers of members of the
28 public employees' retirement system, the teachers' retirement system,
29 and the Washington state patrol retirement system shall make
30 contributions to those systems based on the rates established in RCW
31 41.45.060 and 41.45.070.

32 (2) (~~Beginning September 1, 1990,~~) The state shall make
33 contributions to the law enforcement officers' and fire fighters'
34 retirement system based on the rates established in RCW (~~41.45.060~~)
35 41.45.030 and 41.45.070. The state treasurer shall transfer the
36 required contributions each month on the basis of salary data provided
37 by the department.

1 (3) (~~Beginning September 1, 1990,~~) The department shall bill
2 employers, and the state shall make contributions to the law
3 enforcement officers' and fire fighters' retirement system, using the
4 combined rates established in RCW (~~41.45.060~~) 41.45.030 and 41.45.070
5 regardless of the level of pension funding provided in the biennial
6 budget. Any member of an affected retirement system may, by mandamus
7 or other appropriate proceeding, require the transfer and payment of
8 funds as directed in this section.

9 (4) The contributions received for the public employees' retirement
10 system shall be allocated between the public employees' retirement
11 system plan I fund and the combined public employees' retirement system
12 plan II and plan III fund as follows: The contributions necessary to
13 fully fund the combined public employees' retirement system plan II and
14 plan III employer contribution (~~required by RCW 41.40.650~~) shall
15 first be deposited in the combined public employees' retirement system
16 plan II and plan III fund. All remaining public employees' retirement
17 system employer contributions shall be deposited in the public
18 employees' retirement system plan I fund.

19 (5) The plans II and III employer contributions for the teachers'
20 retirement system (~~, and the state contributions for the law~~
21 ~~enforcement officers' and fire fighters' retirement system~~) shall be
22 combined and allocated in the same manner as (~~the public employees'~~
23 ~~retirement system and in accordance with the law enforcement officers'~~
24 ~~and fire fighters' retirement system plan II and the teachers'~~
25 ~~retirement system plan II contribution rates required by RCW 41.26.450~~
26 ~~and 41.32.775 respectively~~) subsection (4) of this section.

27 (6) The contributions received under RCW 41.26.450 for the law
28 enforcement officers' and fire fighters' retirement system shall be
29 allocated between the law enforcement officers' and fire fighters'
30 retirement system plan I and the law enforcement officers' and fire
31 fighters' retirement system plan II fund as follows: The contributions
32 necessary to fully fund the law enforcement officers' and fire
33 fighters' retirement system plan II employer contributions shall be
34 first deposited in the law enforcement officers' and fire fighters'
35 retirement system plan II fund. All remaining law enforcement
36 officers' and fire fighters' retirement system employer contributions
37 shall be deposited in the law enforcement officers' and fire fighters'
38 retirement system plan I fund.

1 **Sec. 409.** RCW 41.45.060 and 1993 c 519 s 19 are each amended to
2 read as follows:

3 (1) ~~((For the period of September 1, 1993, through August 31, 1995,~~
4 ~~the basic state contribution rate for the law enforcement officers' and~~
5 ~~fire fighters' retirement system, and the basic employer contribution~~
6 ~~rates for the public employees' retirement system, the teachers'~~
7 ~~retirement system, and the Washington state patrol retirement system~~
8 ~~shall be as determined in the 1991 valuations prepared by the office of~~
9 ~~the state actuary.))~~ The state actuary shall provide actuarial
10 valuation results based on the assumptions adopted under RCW 41.45.030.

11 (2) Not later than September 30, 1994, and every two years
12 thereafter(~~(+~~

13 ~~(a))~~, consistent with the assumptions adopted under RCW 41.45.030,
14 the council shall adopt ((the contributions to be used in the ensuing
15 biennial period for the systems specified in subsection (1) of this
16 section.

17 ~~(b))~~ both: (a) A basic state contribution rate for the law
18 enforcement officers' and fire fighters' retirement system; and (b)
19 basic employer contribution rates for the public employees' retirement
20 system and the teachers' retirement system to be used in the ensuing
21 biennial period.

22 (3) The employer and state contribution rates adopted by the
23 council shall be the level percentages of pay that are needed:

24 (a) To fully amortize the total costs of the public employees'
25 retirement system plan I, the teachers' retirement system plan I, the
26 law enforcement officers' and fire fighters' retirement system plan I,
27 and the unfunded liability of the Washington state patrol retirement
28 system not later than June 30, 2024; and

29 (b) To also continue to fully fund the public employees' retirement
30 system plans II and III, the teachers' retirement system plans II and
31 III, and the law enforcement officers' and fire fighters' retirement
32 system plan II in accordance with this section.

33 (4) The aggregate actuarial cost method shall be used to calculate
34 a combined plan II and III employer contribution rate.

35 (5) The council shall immediately notify the directors of the
36 office of financial management and department of retirement systems of
37 the state and employer contribution rates adopted (~~(under (a) of this~~
38 ~~subsection)).~~

1 (~~(e)~~) (6) The director of the department of retirement systems
2 shall collect those rates adopted by the council (~~(under this~~
3 ~~chapter)~~).

4 **Sec. 410.** RCW 41.45.070 and 1990 c 18 s 2 are each amended to read
5 as follows:

6 (1) (~~(Beginning September 1, 1991,)~~) In addition to the basic
7 employer contribution rate established in RCW (~~(41.45.060)~~) 41.45.030,
8 the department shall also charge employers of public employees'
9 retirement system, teachers' retirement system, or Washington state
10 patrol retirement system members an additional supplemental rate to pay
11 for the cost of additional benefits, if any, granted to members of
12 those systems (~~(after January 1, 1990)~~). The supplemental contribution
13 rates required by this section shall be calculated by the state actuary
14 and shall be charged regardless of language to the contrary contained
15 in the statute which authorizes additional benefits.

16 (2) (~~(Beginning September 1, 1991,)~~) In addition to the basic state
17 contribution rate established in RCW (~~(41.45.060)~~) 41.45.030 for the
18 law enforcement officers' and fire fighters' retirement system the
19 department shall also establish a supplemental rate to pay for the cost
20 of additional benefits, if any, granted to members of the law
21 enforcement officers' and fire fighters' retirement system (~~(after~~
22 ~~January 1, 1990)~~). This supplemental rate shall be calculated by the
23 state actuary and the state treasurer shall transfer the additional
24 required contributions regardless of language to the contrary contained
25 in the statute which authorizes the additional benefits.

26 (3) The supplemental rate charged under this section to fund
27 benefit increases provided to active members of the public employees'
28 retirement system plan I, the teachers' retirement system plan I, the
29 law enforcement officers' and fire fighters' retirement system plan I,
30 and Washington state patrol retirement system, shall be calculated as
31 the level percentage of all members' pay needed to fund the cost of the
32 benefit not later than June 30, 2024.

33 (4) The supplemental rate charged under this section to fund
34 benefit increases provided to active and retired members of the public
35 employees' retirement system plan II and plan III, the teachers'
36 retirement system plan II and plan III, or the law enforcement
37 officers' and fire fighters' retirement system plan II, shall be
38 calculated as the level percentage of all members' pay needed to fund

1 the cost of the benefit, as calculated under RCW 41.40.650, 41.32.775,
2 or 41.26.450, respectively.

3 (5) The supplemental rate charged under this section to fund
4 postretirement adjustments which are provided on a nonautomatic basis
5 to current retirees shall be calculated as the percentage of pay needed
6 to fund the adjustments as they are paid to the retirees. The
7 supplemental rate charged under this section to fund automatic
8 postretirement adjustments for active or retired members of the public
9 employees' retirement system plan I and the teachers' retirement system
10 plan I shall be calculated as the level percentage of pay needed to
11 fund the cost of the automatic adjustments not later than June 30,
12 2024.

13 NEW SECTION. **Sec. 411.** A new section is added to chapter 41.45
14 RCW to read as follows:

15 (1) The required contribution rates for members of the plan II
16 public employees' retirement system and teachers' retirement system
17 shall be fixed at the rates in effect on the effective date of this
18 act, subject to the following:

19 (a) Beginning September 1, 1998, except as provided in (b) of this
20 subsection, the employee contribution rate shall not exceed the
21 employer plan II and III rates adopted under RCW 41.45.030 and
22 41.45.070 for the public employees' retirement system and teachers'
23 retirement system and shall not exceed the sum of the employer and
24 state rate in plan II of the law enforcement officers' and fire
25 fighters' retirement system;

26 (b) In addition, the employee contribution rate for plan II shall
27 be increased by fifty percent of the contribution rate increase caused
28 by any plan II benefit increase passed after the effective date of this
29 act.

30 (2) The required plan II and III contribution rates for employers
31 shall be adopted in the manner described in RCW 41.45.030.

32 (3) The state shall pay twenty percent of the employer plan II cost
33 of the law enforcement officers' and fire fighters' retirement system,
34 except for port districts established under Title 53 RCW, institutions
35 of higher education as defined in RCW 28B.10.016 and the Washington
36 state patrol.

37 (4) The employer and employee contributions collected under this
38 section for the law enforcement officers' and fire fighters' retirement

1 system plan II shall be deposited in the law enforcement officers' and
2 fire fighters' retirement system plan II fund.

3 (5) The employer and employee contributions collected under this
4 section for the public employees' retirement system plan II and III and
5 teachers' retirement system plans II and III shall be deposited in
6 their respective combined plan II and III funds.

7 **Sec. 412.** RCW 41.50.075 and 1991 c 35 s 108 are each amended to
8 read as follows:

9 (1) Two funds are hereby created and established in the state
10 treasury to be known as the Washington law enforcement officers' and
11 fire fighters' system plan I retirement fund, and the Washington law
12 enforcement officers' and fire fighters' system plan II retirement fund
13 which shall consist of all moneys paid into them in accordance with the
14 provisions of this chapter and chapter 41.26 RCW, whether such moneys
15 take the form of cash, securities, or other assets. The plan I fund
16 shall consist of all moneys paid to finance the benefits provided to
17 members of the law enforcement officers' and fire fighters' retirement
18 system plan I, and the plan II fund shall consist of all moneys paid to
19 finance the benefits provided to members of the law enforcement
20 officers' and fire fighters' retirement system plan II.

21 (2) All of the assets of the Washington state teachers' retirement
22 system shall be credited according to the purposes for which they are
23 held, to two funds to be maintained in the state treasury, namely, the
24 teachers' retirement system plan I fund and the teachers' retirement
25 system combined plan II and III fund. The plan I fund shall consist of
26 all moneys paid to finance the benefits provided to members of the
27 Washington state teachers' retirement system plan I, and the combined
28 plan II and III fund shall consist of all moneys paid to finance the
29 benefits provided to members of the Washington state teachers'
30 retirement system plan II and III.

31 (3) There is hereby established in the state treasury two separate
32 funds, namely the public employees' retirement system plan I fund and
33 the public employees' (~~{retirement system}~~) retirement system
34 combined plan II and III fund. The plan I fund shall consist of all
35 moneys paid to finance the benefits provided to members of the public
36 employees' retirement system plan I, and the combined plan II and III
37 fund shall consist of all moneys paid to finance the benefits provided
38 to members of the public employees' retirement system plans II and III.

1 (4) There is hereby established in the state treasury the plan III
2 defined contribution fund which shall consist of all contributions and
3 earnings paid on behalf of members, except as otherwise provided.

4 **Sec. 413.** RCW 41.50.110 and 1990 c 8 s 3 are each amended to read
5 as follows:

6 (1) Notwithstanding any provision of law to the contrary, the
7 retirement system expense fund is hereby redesignated as the department
8 of retirement systems expense fund from which shall be paid the
9 expenses of the administration of the department and the expenses of
10 administration of the retirement systems created in chapters 2.10,
11 2.12, 41.26, 41.32, 41.40, 41.-- (sections 301 through 308 of this
12 act), and 43.43 RCW.

13 (2) In order to reimburse the department of retirement systems
14 expense fund on an equitable basis the department shall ascertain and
15 report to each employer, as defined in RCW 41.26.030, 41.32.010, or
16 41.40.010, the sum necessary to defray its proportional share of the
17 entire expense of the administration of the retirement system that the
18 employer participates in during the ensuing biennium or fiscal year
19 whichever may be required. Such sum is to be computed in an amount
20 directly proportional to the estimated entire expense of the
21 administration as the ratio of monthly salaries of the employer's
22 members bears to the total salaries of all members in the entire
23 system. It shall then be the duty of all such employers to include in
24 their budgets or otherwise provide the amounts so required.

25 (3) The department shall compute and bill each employer, as defined
26 in RCW 41.26.030, 41.32.010, or 41.40.010, at the end of each month for
27 the amount due for that month to the department of retirement systems
28 expense fund and the same shall be paid as are its other obligations.
29 Such computation as to each employer shall be made on a percentage rate
30 of salary established by the department. However, the department may
31 at its discretion establish a system of billing based upon calendar
32 year quarters in which event the said billing shall be at the end of
33 each such quarter.

34 (4) The director may adjust the expense fund contribution rate for
35 each system at any time when necessary to reflect unanticipated costs
36 or savings in administering the department.

37 ~~((3) All employers shall pay a standard fee to the department to~~
38 ~~cover the cost of administering the system.)) (5) An employer who fails~~

1 to submit timely and accurate reports to the department may be assessed
2 an additional fee related to the increased costs incurred by the
3 department in processing the deficient reports. Fees paid under this
4 subsection shall be deposited in the retirement system expense fund.

5 (a) Every six months the department shall determine the amount of
6 an employer's fee by reviewing the timeliness and accuracy of the
7 reports submitted by the employer in the preceding six months. If
8 those reports were not both timely and accurate the department may
9 prospectively assess an additional fee under this subsection.

10 (b) An additional fee assessed by the department under this
11 subsection shall not exceed fifty percent of the standard fee.

12 (c) The department shall adopt rules implementing this section.

13 (6) Expenses incurred pursuant to section 305 of this act shall be
14 deducted from the defined contribution fund in accordance with rules
15 established by the board under section 402 of this act.

16 NEW SECTION. Sec. 414. A new section is added to chapter 41.50
17 RCW to read as follows:

18 (1) "Employee" as used in this section and section 415 of this act
19 includes all full-time, part-time, and career seasonal employees of the
20 state, a county, a municipality, or other political subdivision of the
21 state, whether or not covered by civil service; elected and appointed
22 officials of the executive branch of the government, including full-
23 time members of boards, commissions, or committees; justices of the
24 supreme court and judges of the court of appeals and of the superior
25 and district courts; and members of the state legislature or of the
26 legislative authority of any county, city, or town.

27 (2) The state, through the department, and any county,
28 municipality, or other political subdivision of the state acting
29 through its principal supervising official or governing body is
30 authorized to contract with an employee to defer a portion of that
31 employee's income, which deferred portion shall in no event exceed the
32 amount allowable under 26 U.S.C. Sec. 457, and deposit or invest such
33 deferred portion in a credit union, savings and loan association, bank,
34 or mutual savings bank or purchase life insurance, shares of an
35 investment company, or fixed and/or variable annuity contracts from any
36 insurance company or any investment company licensed to contract
37 business in this state.

1 (3) The department can provide such plans as the employee
2 retirement benefits board, established under section 401 of this act,
3 deems are in the interests of state employees. In addition to the
4 types of investments described in this section, the department may
5 invest the deferred portion of an employee's income, without limitation
6 as to amount, in any of the class of investments described in RCW
7 43.84.150 as in effect on January 1, 1981. Any income deferred under
8 such a plan shall continue to be included as regular compensation, for
9 the purpose of computing the state or local retirement and pension
10 benefits earned by any employee.

11 (4) Coverage of an employee under a deferred compensation plan
12 under this section shall not render such employee ineligible for
13 simultaneous membership and participation in any pension system for
14 public employees.

15 NEW SECTION. **Sec. 415.** A new section is added to chapter 41.50
16 RCW to read as follows:

17 (1) The deferred compensation principal account is hereby created
18 in the state treasury. Any deficiency in the deferred compensation
19 administrative account caused by an excess of administrative expenses
20 disbursed from that account over earnings of investments of balances
21 credited to that account shall be eliminated by transferring moneys to
22 that account from the deferred compensation principal account.

23 (2) The amount of compensation deferred by employees under
24 agreements entered into under the authority contained in section 414 of
25 this act shall be paid into the deferred compensation principal account
26 and shall be sufficient to cover costs of administration and staffing
27 in addition to such other amounts as determined by the department. The
28 deferred compensation principal account shall be used to carry out the
29 purposes of section 414 of this act. All eligible state employees
30 shall be given the opportunity to participate in agreements entered
31 into by the department under section 414 of this act. State agencies
32 shall cooperate with the department in providing employees with the
33 opportunity to participate.

34 (3) Any county, municipality, or other subdivision of the state may
35 elect to participate in any agreements entered into by the department
36 under section 414 of this act, including the making of payments
37 therefrom to the employees participating in a deferred compensation
38 plan upon their separation from state or other qualifying service.

1 Accordingly, the deferred compensation principal account shall be
2 considered to be a public pension or retirement fund within the meaning
3 of Article XXIX, section 1 of the state Constitution, for the purpose
4 of determining eligible investments and deposits of the moneys therein.

5 (4) All moneys in the deferred compensation principal account, all
6 property and rights purchased therewith, and all income attributable
7 thereto, shall remain (until made available to the participating
8 employee or other beneficiary) solely the money, property, and rights
9 of the state and participating counties, municipalities, and
10 subdivisions (without being restricted to the provision of benefits
11 under the plan) subject only to the claims of the state's and
12 participating jurisdictions' general creditors. Participating
13 jurisdictions shall each retain property rights separately.

14 (5) The state investment board, at the request of the employee
15 retirement benefits board as established under section 401 of this act,
16 is authorized to invest moneys in the deferred compensation principal
17 account in accordance with RCW 43.84.150. Except as provided in RCW
18 43.33A.160, one hundred percent of all earnings from these investments
19 shall accrue directly to the deferred compensation principal account.

20 (6) The deferred compensation administrative account is hereby
21 created in the state treasury. All expenses of the department
22 pertaining to the deferred compensation plan including staffing and
23 administrative expenses shall be paid out of the deferred compensation
24 administrative account. Any excess of earnings of investments of
25 balances credited to this account over administrative expenses
26 disbursed from this account shall be transferred to the deferred
27 compensation principal account. Any deficiency in the deferred
28 compensation administrative account caused by an excess of
29 administrative expenses disbursed from this account over earnings of
30 investments of balances credited to this account shall be transferred
31 to this account from the deferred compensation principal account.

32 (7) In addition to the duties specified in this section and section
33 414 of this act, the department shall administer the salary reduction
34 plan established in RCW 41.04.600 through 41.04.645.

35 (8) The department shall keep or cause to be kept full and adequate
36 accounts and records of the assets, obligations, transactions, and
37 affairs of any deferred compensation plans created under section 414 of
38 this act and this section.

1 (9) The department shall file an annual report of the financial
2 condition, transactions, and affairs of the deferred compensation plans
3 under its jurisdiction. A copy of the annual report shall be filed
4 with the speaker of the house of representatives, the president of the
5 senate, the governor, and the state auditor.

6 (10) Members of the employee retirement benefits board established
7 under section 401 of this act shall be deemed to stand in a fiduciary
8 relationship to the employees participating in the deferred
9 compensation plans created under section 414 of this act and this
10 section and shall discharge the duties of their respective positions in
11 good faith and with that diligence, care, and skill which ordinary
12 prudent persons would exercise under similar circumstances in like
13 positions.

14 (11) The department may adopt rules necessary to carry out the
15 purposes of section 414 of this act and this section.

16 **Sec. 416.** RCW 41.50.030 and 1975-'76 2nd ex.s. c 105 s 5 are each
17 amended to read as follows:

18 (1) As soon as possible but not more than one hundred and eighty
19 days after March 19, 1976, there is transferred to the department of
20 retirement systems, except as otherwise provided in this chapter, all
21 powers, duties, and functions of:

22 ~~((+1))~~ (a) The Washington public employees' retirement system
23 ~~((and the retirement board thereof));~~

24 ~~((+2))~~ (b) The Washington state teachers' retirement system ~~((and~~
25 ~~the board of trustees thereof));~~

26 ~~((+3))~~ (c) The Washington law enforcement officers' and fire
27 fighters' retirement system ~~((and the retirement board thereof));~~

28 ~~((+4))~~ (d) The Washington state patrol retirement system ~~((and the~~
29 ~~retirement board thereof));~~

30 ~~((+5))~~ (e) The Washington judicial retirement system ~~((and the~~
31 ~~retirement board thereof)); and~~

32 ~~((+6))~~ (f) The state treasurer with respect to the administration
33 of the judges' retirement fund imposed pursuant to chapter 2.12 RCW.

34 (2) On the effective date of this act there is transferred to the
35 department all powers, duties, and functions of the deferred
36 compensation committee.

37 (3) The department shall administer sections 301 through 308 of
38 this act.

1 **Sec. 417.** RCW 41.50.050 and 1993 c 61 s 1 are each amended to read
2 as follows:

3 The director shall:

4 (1) Have the authority to organize the department into not more
5 than ~~((three))~~ four divisions, each headed by an assistant director;

6 (2) Have free access to all files and records of various funds
7 assigned to the department and inspect and audit the files and records
8 as deemed necessary;

9 (3) Employ personnel to carry out the general administration of the
10 department;

11 (4) Submit an annual written report of the activities of the
12 department to the governor and the chairs of the appropriate
13 legislative committees with one copy to the staff of each of the
14 committees, including recommendations for statutory changes the
15 director believes to be desirable;

16 (5) Adopt such rules and regulations as are necessary to carry out
17 the powers, duties, and functions of the department pursuant to the
18 provisions of chapter 34.05 RCW.

19 **Sec. 418.** RCW 41.50.060 and 1975-'76 2nd ex.s. c 105 s 8 are each
20 amended to read as follows:

21 The director may delegate the performance of such powers, duties,
22 and functions, other than those relating to rule making, to employees
23 of the department, but the director shall remain and be responsible for
24 the official acts of the employees of the department.

25 The director shall be responsible for the public employees'
26 retirement system, the teachers' retirement system, the judicial
27 retirement system, the law enforcement officers' and fire fighters'
28 retirement system, and the Washington state patrol retirement system.
29 The director shall also be responsible for the deferred compensation
30 program.

31 **Sec. 419.** RCW 41.54.030 and 1990 c 192 s 2 are each amended to
32 read as follows:

33 (1) A dual member ~~(('s))~~ may combine service in all systems ~~((may be~~
34 ~~combined))~~ for the ~~((sole))~~ purpose of:

35 (a) Determining the member's eligibility to receive a service
36 retirement allowance; and

1 (b) Qualifying for a benefit under section 115(3) or 215(3) of this
2 act.

3 (2) A dual member who is eligible to retire under any system may
4 elect to retire from all the member's systems and to receive service
5 retirement allowances calculated as provided in this section. Each
6 system shall calculate the allowance using its own criteria except that
7 the member shall be allowed to substitute the member's base salary from
8 any system as the compensation used in calculating the allowance.

9 (3) The service retirement allowances from a system which, but for
10 this section, would not be allowed to be paid at this date based on the
11 dual member's age shall be either actuarially adjusted from the
12 earliest age upon which the combined service would have made such dual
13 member eligible in that system, or the dual member may choose to defer
14 the benefit until fully eligible.

15 NEW SECTION. Sec. 420. A new section is added to chapter 41.54
16 RCW to read as follows:

17 Any dual member who elects to transfer under section 403 or 404 of
18 this act may:

19 (1) Similarly transfer any other prior plan II service credit to
20 plan III of the same retirement system; or

21 (2) Combine service credit in all systems for purposes of vesting
22 pursuant to sections 403(1)(c) and 404(1)(c) of this act.

23 NEW SECTION. Sec. 421. A new section is added to chapter 43.33A
24 RCW to read as follows:

25 Pursuant to section 402 of this act, the state investment board, at
26 the request of the employee retirement benefits board, is authorized to
27 offer investment options for self-directed investment under plan III.

28 **Sec. 422.** RCW 41.04.440 and 1984 c 227 s 1 are each amended to
29 read as follows:

30 (1) The sole purpose of RCW 41.04.445 and 41.04.450 is to allow the
31 members of the retirement systems created in chapters 2.10, 2.12,
32 41.26, 41.32, 41.40, 41.-- (sections 301 through 308 of this act), and
33 43.43 RCW to enjoy the tax deferral benefits allowed under 26 USC
34 414(h). This act does not alter in any manner the provisions of RCW
35 41.26.450(~~(, 41.32.775 and 41.40.650)~~) which requires that the member
36 contribution rates shall be set so as to provide fifty percent of the

1 cost(~~s~~) of the (~~respective retirement plans~~) law enforcement
2 officers' and fire fighters' retirement system.

3 (2) Should the legislature revoke any benefit allowed under (~~this~~
4 ~~act~~) 26 U.S.C. 414(h), no affected employee shall be entitled
5 thereafter to receive such benefit as a matter of contractual right.

6 **Sec. 423.** RCW 41.04.445 and 1992 c 212 s 15 are each amended to
7 read as follows:

8 (1) This section applies to all members who are:

9 (a) Judges under the retirement system established under chapter
10 2.10, 2.12, or 2.14 RCW;

11 (b) Employees of the state under the retirement system established
12 by chapter 41.32, 41.40, or 43.43 RCW;

13 (c) Employees of school districts under the retirement system
14 established by chapter 41.32 or 41.40 RCW, except for substitute
15 teachers as defined by RCW 41.32.010;

16 (d) Employees of educational service districts under the retirement
17 system established by chapter 41.32 or 41.40 RCW; or

18 (e) Employees of community college districts under the retirement
19 system established by chapter 41.32 or 41.40 RCW.

20 (2) Only for compensation earned after the effective date of the
21 implementation of this section and as provided by section 414(h) of the
22 federal internal revenue code, the employer of all the members
23 specified in subsection (1) of this section shall pick up only those
24 member contributions as required under:

25 (a) RCW 2.10.090(1);

26 (b) RCW 2.12.060;

27 (c) RCW 2.14.090;

28 (d) RCW 41.32.263;

29 (e) RCW 41.32.350;

30 (f) (~~RCW 41.32.775;~~

31 ~~g~~) RCW 41.40.330 (1) and (3);

32 (~~h~~) ~~RCW 41.40.650;~~ and

33 ~~i~~) (g) Section 306 of this act;

34 (h) RCW 43.43.300; and

35 (i) Section 304 of this act.

36 (3) Only for the purposes of federal income taxation, the gross
37 income of the member shall be reduced by the amount of the contribution
38 to the respective retirement system picked up by the employer.

1 (4) All member contributions to the respective retirement system
2 picked up by the employer as provided by this section, plus the accrued
3 interest earned thereon, shall be paid to the member upon the
4 withdrawal of funds or lump-sum payment of accumulated contributions as
5 provided under the provisions of the retirement systems.

6 (5) At least forty-five days prior to implementing this section,
7 the employer shall provide:

8 (a) A complete explanation of the effects of this section to all
9 members; and

10 (b) Notification of such implementation to the director of the
11 department of retirement systems.

12 **Sec. 424.** RCW 41.04.450 and 1985 c 13 s 3 are each amended to read
13 as follows:

14 (1) Employers of those members under chapters 41.26 (~~and~~), 41.40,
15 and 41.-- (sections 301 through 308 of this act) RCW who are not
16 specified in RCW 41.04.445 may choose to implement the employer pick up
17 of all member contributions without exception under RCW 41.26.080(1),
18 41.26.450, 41.40.330(1), (~~and 41.40.650~~) and chapter 41.-- RCW
19 (sections 301 through 308 of this act). If the employer does so
20 choose, the employer and members shall be subject to the conditions and
21 limitations of RCW 41.04.445 (3), (4), and (5) and RCW 41.04.455.

22 (2) An employer exercising the option under this section may later
23 choose to withdraw from and/or reestablish the employer pick up of
24 member contributions only once in a calendar year following forty-five
25 days prior notice to the director of the department of retirement
26 systems.

27 NEW SECTION. **Sec. 425.** The following acts or parts of acts are
28 each repealed:

29 (1) RCW 41.04.250 and 1981 c 256 s 2, 1975 1st ex.s. c 274 s 2,
30 1973 1st ex.s. c 99 s 1, 1972 ex.s. c 19 s 1, & 1971 ex.s. c 264 s 1;

31 (2) RCW 41.04.255 and 1991 c 249 s 2 & 1982 c 107 s 2;

32 (3) RCW 41.04.260 and 1993 c 34 s 2 & 1991 sp.s. c 13 s 101;

33 (4) RCW 41.32.775 and 1990 c 274 s 9, 1989 c 273 s 19, 1986 c 268
34 s 2, 1984 c 184 s 11, & 1977 ex.s. c 293 s 6;

35 (5) RCW 41.40.650 and 1989 c 273 s 24, 1986 c 268 s 6, 1984 c 184
36 s 12, & 1977 ex.s. c 295 s 6;

37 (6) RCW 41.45.040 and 1993 c 519 s 18 & 1989 c 273 s 4;

1 (7) RCW 41.45.0601 and 1993 c 519 s 20 & 1992 c 239 s 1;
2 (8) RCW 41.45.901 and 1989 c 273 s 33;
3 (9) RCW 41.50.032 and 1984 c 184 s 15 & 1982 c 163 s 9; and
4 (10) RCW 41.50.250 and 1991 c 35 s 72, 1989 c 273 s 21, 1981 c 3 s
5 32, 1969 c 128 s 4, 1963 c 174 s 6, 1955 c 220 s 2, 1953 c 200 s 3,
6 1949 c 240 s 5, & 1947 c 274 s 9.

7 NEW SECTION. **Sec. 426.** This act shall take effect July 1, 1996.

8 NEW SECTION. **Sec. 427.** Part headings and subchapter headings as
9 used in this act constitute no part of the law.

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