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HOUSE BILL 2251

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State of Washington

56th Legislature

1999 Regular Session

By Representatives Alexander, Grant, Carlson, Kastama, Lambert, Linville, Carrell, Lantz, Cairnes, Rockefeller, Ogden, Van Luven, Bush, Parlette and Buck

Read first time 02/26/1999. Referred to Committee on Appropriations.

1 AN ACT Relating to creation of the public employees' retirement  
2 system, plan 3; amending RCW 41.40.005, 41.40.010, 41.40.054,  
3 41.40.088, 41.45.010, 41.45.010, 41.45.020, 41.45.050, 41.45.050,  
4 41.50.075, 41.50.075, 41.54.030, 41.05.011, 41.05.011, and 43.33A.190;  
5 reenacting and amending RCW 41.40.010, 41.40.088, 41.45.020, 41.45.060,  
6 41.45.070, and 41.54.030; adding new sections to chapter 41.40 RCW;  
7 adding a new section to chapter 41.45 RCW; adding new chapters to Title  
8 41 RCW; creating a new section; providing an effective date; and  
9 providing an expiration date.

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

11 NEW SECTION. **Sec. 1.** The legislature recognizes that public  
12 employees need the ability to make transitions to other public or  
13 private sector careers, and that the retirement system should not be a  
14 barrier to the exercise of employee choice. The legislature also  
15 recognizes that public employees need a secure and viable retirement  
16 benefit, not only for their own financial protection, but also that  
17 public funds are spent prudently for their intended purpose.

18 It is the legislative intent to create a new public retirement  
19 system that balances flexibility with stability, provides both

1 increased employee control of investments and responsible protection of  
2 the public's investment in employee benefits, and encourages the  
3 pursuit of public sector careers without preventing employees from  
4 moving into other public or private sector employment.

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

15 **Sec. 2.** RCW 41.40.005 and 1992 c 72 s 8 are each amended to read  
16 as follows:

17 RCW 41.40.010 through 41.40.112 shall apply to members of plan 1  
18 (~~and~~), plan 2, and plan 3.

19 **Sec. 3.** RCW 41.40.010 and 1997 c 254 s 10 and 1997 c 88 s 6 are  
20 each reenacted and amended to read as follows:

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

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

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

27 (3) "State treasurer" means the treasurer of the state of  
28 Washington.

29 (4)(a) "Employer" for plan 1 members, means every branch,  
30 department, agency, commission, board, and office of the state, any  
31 political subdivision or association of political subdivisions of the  
32 state admitted into the retirement system, and legal entities  
33 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the  
34 term shall also include any labor guild, association, or organization  
35 the membership of a local lodge or division of which is comprised of at  
36 least forty percent employees of an employer (other than such labor  
37 guild, association, or organization) within this chapter. The term may

1 also include any city of the first class that has its own retirement  
2 system.

3 (b) "Employer" for plan 2 and plan 3 members, means every branch,  
4 department, agency, commission, board, and office of the state, and any  
5 political subdivision and municipal corporation of the state admitted  
6 into the retirement system, including public agencies created pursuant  
7 to RCW 35.63.070, 36.70.060, and 39.34.030.

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

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

14 (a) Any person who became a member of the system prior to April 1,  
15 1949;

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

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

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

28 (e) Any member who has restored all contributions that may have  
29 been withdrawn as provided by RCW 41.40.150 and who on the effective  
30 date of the individual's retirement becomes entitled to be credited  
31 with ten years or more of membership service except that the provisions  
32 relating to the minimum amount of retirement allowance for the member  
33 upon retirement at age seventy as found in RCW 41.40.190(4) shall not  
34 apply to the member;

35 (f) Any member who has been a contributor under the system for two  
36 or more years and who has restored all contributions that may have been  
37 withdrawn as provided by RCW 41.40.150 and who on the effective date of  
38 the individual's retirement has rendered five or more years of service  
39 for the state or any political subdivision prior to the time of the

1 admission of the employer into the system; 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 (7) "New member" means a person who becomes a member on or after  
6 April 1, 1949, except as otherwise provided in this section.

7 (8)(a) "Compensation earnable" for plan 1 members, means salaries  
8 or wages earned during a payroll period for personal services and where  
9 the compensation is not all paid in money, maintenance compensation  
10 shall be included upon the basis of the schedules established by the  
11 member's employer.

12 (i) "Compensation earnable" for plan 1 members also includes the  
13 following actual or imputed payments, which are not paid for personal  
14 services:

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

22 (B) If a leave of absence is taken by an individual for the purpose  
23 of serving in the state legislature, the salary which would have been  
24 received for the position from which the leave of absence was taken,  
25 shall be considered as compensation earnable if the employee's  
26 contribution is paid by the employee and the employer's contribution is  
27 paid by the employer or employee;

28 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and  
29 72.09.240;

30 (D) Compensation that a member would have received but for a  
31 disability occurring in the line of duty only as authorized by RCW  
32 41.40.038;

33 (E) Compensation that a member receives due to participation in the  
34 leave sharing program only as authorized by RCW 41.04.650 through  
35 41.04.670; and

36 (F) Compensation that a member receives for being in standby  
37 status. For the purposes of this section, a member is in standby  
38 status when not being paid for time actually worked and the employer  
39 requires the member to be prepared to report immediately for work, if

1 the need arises, although the need may not arise. ((Standby  
2 compensation is regular salary for the purposes of RCW 41.50.150(2).))

3 (ii) "Compensation earnable" does not include:

4 (A) Remuneration for unused sick leave authorized under RCW  
5 41.04.340, 28A.400.210, or 28A.310.490;

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

8 (b) "Compensation earnable" for plan 2 and plan 3 members, means  
9 salaries or wages earned by a member during a payroll period for  
10 personal services, including overtime payments, and shall include wages  
11 and salaries deferred under provisions established pursuant to sections  
12 403(b), 414(h), and 457 of the United States Internal Revenue Code, but  
13 shall exclude nonmoney maintenance compensation and lump sum or other  
14 payments for deferred annual sick leave, unused accumulated vacation,  
15 unused accumulated annual leave, or any form of severance pay.

16 "Compensation earnable" for plan 2 and plan 3 members also includes  
17 the following actual or imputed payments, which are not paid for  
18 personal services:

19 (i) Retroactive payments to an individual by an employer on  
20 reinstatement of the employee in a position, or payments by an employer  
21 to an individual in lieu of reinstatement in a position which are  
22 awarded or granted as the equivalent of the salary or wage which the  
23 individual would have earned during a payroll period shall be  
24 considered compensation earnable to the extent provided above, and the  
25 individual shall receive the equivalent service credit;

26 (ii) In any year in which a member serves in the legislature, the  
27 member shall have the option of having such member's compensation  
28 earnable be the greater of:

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

31 (B) Such member's actual compensation earnable received for  
32 nonlegislative public employment and legislative service combined. Any  
33 additional contributions to the retirement system required because  
34 compensation earnable under (b)(ii)(A) of this subsection is greater  
35 than compensation earnable under (b)(ii)(B) of this subsection shall be  
36 paid by the member for both member and employer contributions;

37 (iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045,  
38 and 72.09.240;

1 (iv) Compensation that a member would have received but for a  
2 disability occurring in the line of duty only as authorized by RCW  
3 41.40.038;

4 (v) Compensation that a member receives due to participation in the  
5 leave sharing program only as authorized by RCW 41.04.650 through  
6 41.04.670; and

7 (vi) Compensation that a member receives for being in standby  
8 status. For the purposes of this section, a member is in standby  
9 status when not being paid for time actually worked and the employer  
10 requires the member to be prepared to report immediately for work, if  
11 the need arises, although the need may not arise. ((Standby  
12 compensation is regular salary for the purposes of RCW 41.50.150(2).))

13 (9)(a) "Service" for plan 1 members, except as provided in RCW  
14 41.40.088, means periods of employment in an eligible position or  
15 positions for one or more employers rendered to any employer for which  
16 compensation is paid, and includes time spent in office as an elected  
17 or appointed official of an employer. Compensation earnable earned in  
18 full time work for seventy hours or more in any given calendar month  
19 shall constitute one service credit month except as provided in RCW  
20 41.40.088. Compensation earnable earned for less than seventy hours in  
21 any calendar month shall constitute one-quarter service credit month of  
22 service except as provided in RCW 41.40.088. Only service credit  
23 months and one-quarter service credit months shall be counted in the  
24 computation of any retirement allowance or other benefit provided for  
25 in this chapter. Any fraction of a year of service shall be taken into  
26 account in the computation of such retirement allowance or benefits.  
27 Time spent in standby status, whether compensated or not, is not  
28 service.

29 (i) Service by a state employee officially assigned by the state on  
30 a temporary basis to assist another public agency, shall be considered  
31 as service as a state employee: PROVIDED, That service to any other  
32 public agency shall not be considered service as a state employee if  
33 such service has been used to establish benefits in any other public  
34 retirement system.

35 (ii) An individual shall receive no more than a total of twelve  
36 service credit months of service during any calendar year. If an  
37 individual is employed in an eligible position by one or more employers  
38 the individual shall receive no more than one service credit month

1 during any calendar month in which multiple service for seventy or more  
2 hours is rendered.

3 (iii) A school district employee may count up to forty-five days of  
4 sick leave as creditable service solely for the purpose of determining  
5 eligibility to retire under RCW 41.40.180 as authorized by RCW  
6 28A.400.300. For purposes of plan 1 "forty-five days" as used in RCW  
7 28A.400.300 is equal to two service credit months. Use of less than  
8 forty-five days of sick leave is creditable as allowed under this  
9 subsection as follows:

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

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

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

15 (b) "Service" for plan 2 and plan 3 members, means periods of  
16 employment by a member in an eligible position or positions for one or  
17 more employers for which compensation earnable is paid. Compensation  
18 earnable earned for ninety or more hours in any calendar month shall  
19 constitute one service credit month except as provided in RCW  
20 41.40.088. Compensation earnable earned for at least seventy hours but  
21 less than ninety hours in any calendar month shall constitute one-half  
22 service credit month of service. Compensation earnable earned for less  
23 than seventy hours in any calendar month shall constitute one-quarter  
24 service credit month of service. Time spent in standby status, whether  
25 compensated or not, is not service.

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

28 (i) Service in any state elective position shall be deemed to be  
29 full time service, except that persons serving in state elective  
30 positions who are members of the teachers' retirement system or law  
31 enforcement officers' and fire fighters' retirement system at the time  
32 of election or appointment to such position may elect to continue  
33 membership in the teachers' retirement system or law enforcement  
34 officers' and fire fighters' retirement system.

35 (ii) A member shall receive a total of not more than twelve service  
36 credit months of service for such calendar year. If an individual is  
37 employed in an eligible position by one or more employers the  
38 individual shall receive no more than one service credit month during

1 any calendar month in which multiple service for ninety or more hours  
2 is rendered.

3 (iii) Up to forty-five days of sick leave may be creditable as  
4 service solely for the purpose of determining eligibility to retire  
5 under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of  
6 plan 2 "forty-five days" as used in RCW 28A.400.300 is equal to two  
7 service credit months. Use of less than forty-five days of sick leave  
8 is creditable as allowed under this subsection as follows:

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

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

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

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

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

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

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

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

23 (13) "Membership service" means:

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

25 (b) All service after October 1, 1947, to any employer prior to the  
26 time of its admission into the retirement system for which member and  
27 employer contributions, plus interest as required by RCW 41.50.125,  
28 have been paid under RCW 41.40.056 or 41.40.057;

29 (c) Service not to exceed six consecutive months of probationary  
30 service rendered after April 1, 1949, and prior to becoming a member,  
31 in the case of any member, upon payment in full by such member of the  
32 total amount of the employer's contribution to the retirement fund  
33 which would have been required under the law in effect when such  
34 probationary service was rendered if the member had been a member  
35 during such period, except that the amount of the employer's  
36 contribution shall be calculated by the director based on the first  
37 month's compensation earnable as a member;

38 (d) Service not to exceed six consecutive months of probationary  
39 service, rendered after October 1, 1947, and before April 1, 1949, and

1 prior to becoming a member, in the case of any member, upon payment in  
2 full by such member of five percent of such member's salary during said  
3 period of probationary service, except that the amount of the  
4 employer's contribution shall be calculated by the director based on  
5 the first month's compensation earnable as a member.

6 (14)(a) "Beneficiary" for plan 1 members, means any person in  
7 receipt of a retirement allowance, pension or other benefit provided by  
8 this chapter.

9 (b) "Beneficiary" for plan 2 and plan 3 members, means any person  
10 in receipt of a retirement allowance or other benefit provided by this  
11 chapter resulting from service rendered to an employer by another  
12 person.

13 (15) "Regular interest" means such rate as the director may  
14 determine.

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

19 (17)(a) "Average final compensation" for plan 1 members, means the  
20 annual average of the greatest compensation earnable by a member during  
21 any consecutive two year period of service credit months for which  
22 service credit is allowed; or if the member has less than two years of  
23 service credit months then the annual average compensation earnable  
24 during the total years of service for which service credit is allowed.

25 (b) "Average final compensation" for plan 2 and plan 3 members,  
26 means the member's average compensation earnable of the highest  
27 consecutive sixty months of service credit months prior to such  
28 member's retirement, termination, or death. Periods constituting  
29 authorized leaves of absence may not be used in the calculation of  
30 average final compensation except under RCW 41.40.710(2).

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

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

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

1       (21)(a) "Retirement allowance" for plan 1 members means the sum of  
2 the annuity and the pension.

3       (b) "Retirement allowance" for plan 2 and plan 3 members means  
4 monthly payments to a retiree or beneficiary as provided in this  
5 chapter.

6       (22) "Employee" or "employed" means a person who is providing  
7 services for compensation to an employer, unless the person is free  
8 from the employer's direction and control over the performance of work.  
9 The department shall adopt rules and interpret this subsection  
10 consistent with common law.

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

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

16       (25) "Eligible position" means:

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

23       (b) Any position occupied by an elected official or person  
24 appointed directly by the governor, or appointed by the chief justice  
25 of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which  
26 compensation is paid.

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

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

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

36       (29) "Retiree" means any person who has begun accruing a retirement  
37 allowance or other benefit provided by this chapter resulting from  
38 service rendered to an employer while a member.

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

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

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

6 (33) "Plan 1" means the public employees' retirement system, plan  
7 1 providing the benefits and funding provisions covering persons who  
8 first became members of the system prior to October 1, 1977, and prior  
9 to the effective date of this section.

10 (34) "Plan 2" means the public employees' retirement system, plan  
11 2 providing the benefits and funding provisions covering persons who  
12 first became members of the system on and after October 1, 1977.

13 (35) "Plan 3" means the public employees' retirement system, plan  
14 3 providing the benefits and funding provisions covering persons who  
15 first became members of the system on and after January 1, 2000, or who  
16 transfer under section 8 of this act.

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

21 ~~((36))~~ (37) "Index A" means the index for the year prior to the  
22 determination of a postretirement adjustment.

23 ~~((37))~~ (38) "Index B" means the index for the year prior to index  
24 A.

25 ~~((38))~~ (39) "Index year" means the earliest calendar year in  
26 which the index is more than sixty percent of index A.

27 ~~((39))~~ (40) "Adjustment ratio" means the value of index A divided  
28 by index B.

29 ~~((40))~~ (41) "Annual increase" means, initially, fifty-nine cents  
30 per month per year of service which amount shall be increased each July  
31 1st by three percent, rounded to the nearest cent.

32 ~~((41))~~ (42) "Separation from service" occurs when a person has  
33 terminated all employment with an employer.

34 (43) "Member account" or "member's account" for purposes of plan 3  
35 means the sum of the contributions and earnings on behalf of the member  
36 in the defined contribution portion of plan 3.

37 **Sec. 4.** RCW 41.40.010 and 1998 c 341 s 601 are each amended to  
38 read as follows:

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

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

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

7 (3) "State treasurer" means the treasurer of the state of  
8 Washington.

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

20 (b) "Employer" for plan 2 and plan 3 members, means every branch,  
21 department, agency, commission, board, and office of the state, and any  
22 political subdivision and municipal corporation of the state admitted  
23 into the retirement system, including public agencies created pursuant  
24 to RCW 35.63.070, 36.70.060, and 39.34.030; except that after August  
25 31, 2000, school districts and educational service districts will no  
26 longer be employers for the public employees' retirement system plan 2.

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

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

33 (a) Any person who became a member of the system prior to April 1,  
34 1949;

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

38 (c) Any person who first becomes a member by securing employment  
39 with an employer prior to April 1, 1951, provided the member has

1 rendered at least one or more years of service to any employer prior to  
2 October 1, 1947;

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

8 (e) Any member who has restored all contributions that may have  
9 been withdrawn as provided by RCW 41.40.150 and who on the effective  
10 date of the individual's retirement becomes entitled to be credited  
11 with ten years or more of membership service except that the provisions  
12 relating to the minimum amount of retirement allowance for the member  
13 upon retirement at age seventy as found in RCW 41.40.190(4) shall not  
14 apply to the member;

15 (f) Any member who has been a contributor under the system for two  
16 or more years and who has restored all contributions that may have been  
17 withdrawn as provided by RCW 41.40.150 and who on the effective date of  
18 the individual's retirement has rendered five or more years of service  
19 for the state or any political subdivision prior to the time of the  
20 admission of the employer into the system; except that the provisions  
21 relating to the minimum amount of retirement allowance for the member  
22 upon retirement at age seventy as found in RCW 41.40.190(4) shall not  
23 apply to the member.

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

26 (8)(a) "Compensation earnable" for plan 1 members, means salaries  
27 or wages earned during a payroll period for personal services and where  
28 the compensation is not all paid in money, maintenance compensation  
29 shall be included upon the basis of the schedules established by the  
30 member's employer.

31 (i) "Compensation earnable" for plan 1 members also includes the  
32 following actual or imputed payments, which are not paid for personal  
33 services:

34 (A) Retroactive payments to an individual by an employer on  
35 reinstatement of the employee in a position, or payments by an employer  
36 to an individual in lieu of reinstatement in a position which are  
37 awarded or granted as the equivalent of the salary or wage which the  
38 individual would have earned during a payroll period shall be

1 considered compensation earnable and the individual shall receive the  
2 equivalent service credit;

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

9 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and  
10 72.09.240;

11 (D) Compensation that a member would have received but for a  
12 disability occurring in the line of duty only as authorized by RCW  
13 41.40.038;

14 (E) Compensation that a member receives due to participation in the  
15 leave sharing program only as authorized by RCW 41.04.650 through  
16 41.04.670; and

17 (F) Compensation that a member receives for being in standby  
18 status. For the purposes of this section, a member is in standby  
19 status when not being paid for time actually worked and the employer  
20 requires the member to be prepared to report immediately for work, if  
21 the need arises, although the need may not arise.

22 (ii) "Compensation earnable" does not include:

23 (A) Remuneration for unused sick leave authorized under RCW  
24 41.04.340, 28A.400.210, or 28A.310.490;

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

27 (b) "Compensation earnable" for plan 2 and plan 3 members, means  
28 salaries or wages earned by a member during a payroll period for  
29 personal services, including overtime payments, and shall include wages  
30 and salaries deferred under provisions established pursuant to sections  
31 403(b), 414(h), and 457 of the United States Internal Revenue Code, but  
32 shall exclude nonmoney maintenance compensation and lump sum or other  
33 payments for deferred annual sick leave, unused accumulated vacation,  
34 unused accumulated annual leave, or any form of severance pay.

35 "Compensation earnable" for plan 2 and plan 3 members also includes  
36 the following actual or imputed payments, which are not paid for  
37 personal services:

38 (i) Retroactive payments to an individual by an employer on  
39 reinstatement of the employee in a position, or payments by an employer

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

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

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

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

17 (iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045,  
18 and 72.09.240;

19 (iv) Compensation that a member would have received but for a  
20 disability occurring in the line of duty only as authorized by RCW  
21 41.40.038;

22 (v) Compensation that a member receives due to participation in the  
23 leave sharing program only as authorized by RCW 41.04.650 through  
24 41.04.670; and

25 (vi) Compensation that a member receives for being in standby  
26 status. For the purposes of this section, a member is in standby  
27 status when not being paid for time actually worked and the employer  
28 requires the member to be prepared to report immediately for work, if  
29 the need arises, although the need may not arise.

30 (9)(a) "Service" for plan 1 members, except as provided in RCW  
31 41.40.088, means periods of employment in an eligible position or  
32 positions for one or more employers rendered to any employer for which  
33 compensation is paid, and includes time spent in office as an elected  
34 or appointed official of an employer. Compensation earnable earned in  
35 full time work for seventy hours or more in any given calendar month  
36 shall constitute one service credit month except as provided in RCW  
37 41.40.088. Compensation earnable earned for less than seventy hours in  
38 any calendar month shall constitute one-quarter service credit month of  
39 service except as provided in RCW 41.40.088. Only service credit

1 months and one-quarter service credit months shall be counted in the  
2 computation of any retirement allowance or other benefit provided for  
3 in this chapter. Any fraction of a year of service shall be taken into  
4 account in the computation of such retirement allowance or benefits.  
5 Time spent in standby status, whether compensated or not, is not  
6 service.

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

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

19 (iii) A school district employee may count up to forty-five days of  
20 sick leave as creditable service solely for the purpose of determining  
21 eligibility to retire under RCW 41.40.180 as authorized by RCW  
22 28A.400.300. For purposes of plan 1 "forty-five days" as used in RCW  
23 28A.400.300 is equal to two service credit months. Use of less than  
24 forty-five days of sick leave is creditable as allowed under this  
25 subsection as follows:

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

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

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

31 (b) "Service" for plan 2 and plan 3 members, means periods of  
32 employment by a member in an eligible position or positions for one or  
33 more employers for which compensation earnable is paid. Compensation  
34 earnable earned for ninety or more hours in any calendar month shall  
35 constitute one service credit month except as provided in RCW  
36 41.40.088. Compensation earnable earned for at least seventy hours but  
37 less than ninety hours in any calendar month shall constitute one-half  
38 service credit month of service. Compensation earnable earned for less  
39 than seventy hours in any calendar month shall constitute one-quarter

1 service credit month of service. Time spent in standby status, whether  
2 compensated or not, is not service.

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

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

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

20 (iii) Up to forty-five days of sick leave may be creditable as  
21 service solely for the purpose of determining eligibility to retire  
22 under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of  
23 plan 2 "forty-five days" as used in RCW 28A.400.300 is equal to two  
24 service credit months. Use of less than forty-five days of sick leave  
25 is creditable as allowed under this subsection as follows:

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

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

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

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

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

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

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

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

1 (13) "Membership service" means:

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

3 (b) All service after October 1, 1947, to any employer prior to the  
4 time of its admission into the retirement system for which member and  
5 employer contributions, plus interest as required by RCW 41.50.125,  
6 have been paid under RCW 41.40.056 or 41.40.057;

7 (c) Service not to exceed six consecutive months of probationary  
8 service rendered after April 1, 1949, and prior to becoming a member,  
9 in the case of any member, upon payment in full by such member of the  
10 total amount of the employer's contribution to the retirement fund  
11 which would have been required under the law in effect when such  
12 probationary service was rendered if the member had been a member  
13 during such period, except that the amount of the employer's  
14 contribution shall be calculated by the director based on the first  
15 month's compensation earnable as a member;

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

23 (14)(a) "Beneficiary" for plan 1 members, means any person in  
24 receipt of a retirement allowance, pension or other benefit provided by  
25 this chapter.

26 (b) "Beneficiary" for plan 2 and plan 3 members, means any person  
27 in receipt of a retirement allowance or other benefit provided by this  
28 chapter resulting from service rendered to an employer by another  
29 person.

30 (15) "Regular interest" means such rate as the director may  
31 determine.

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

36 (17)(a) "Average final compensation" for plan 1 members, means the  
37 annual average of the greatest compensation earnable by a member during  
38 any consecutive two year period of service credit months for which  
39 service credit is allowed; or if the member has less than two years of

1 service credit months then the annual average compensation earnable  
2 during the total years of service for which service credit is allowed.

3 (b) "Average final compensation" for plan 2 and plan 3 members,  
4 means the member's average compensation earnable of the highest  
5 consecutive sixty months of service credit months prior to such  
6 member's retirement, termination, or death. Periods constituting  
7 authorized leaves of absence may not be used in the calculation of  
8 average final compensation except under RCW 41.40.710(2).

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

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

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

17 (21)(a) "Retirement allowance" means the sum of the annuity and the  
18 pension.

19 (b) "Retirement allowance" for plan 2 and plan 3 members means  
20 monthly payments to a retiree or beneficiary as provided in this  
21 chapter.

22 (22) "Employee" or "employed" means a person who is providing  
23 services for compensation to an employer, unless the person is free  
24 from the employer's direction and control over the performance of work.  
25 The department shall adopt rules and interpret this subsection  
26 consistent with common law.

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

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

32 (25) "Eligible position" means:

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

1 (b) Any position occupied by an elected official or person  
2 appointed directly by the governor, or appointed by the chief justice  
3 of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which  
4 compensation is paid.

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

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

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

14 (29) "Retiree" means any person who has begun accruing a retirement  
15 allowance or other benefit provided by this chapter resulting from  
16 service rendered to an employer while a member.

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

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

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

23 (33) "Plan 1" means the public employees' retirement system, plan  
24 1 providing the benefits and funding provisions covering persons who  
25 first became members of the system prior to October 1, 1977, and prior  
26 to the effective date of this section.

27 (34) "Plan 2" means the public employees' retirement system, plan  
28 2 providing the benefits and funding provisions covering persons who  
29 first became members of the system on and after October 1, 1977.

30 (35) "Plan 3" means the public employees' retirement system, plan  
31 3 providing the benefits and funding provisions covering persons who  
32 first became members of the system on and after January 1, 2000, or who  
33 transfer under section 8 of this act.

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

38 ((+36+)) (37) "Index A" means the index for the year prior to the  
39 determination of a postretirement adjustment.

1       (~~(37)~~) (38) "Index B" means the index for the year prior to index  
2 A.

3       (~~(38)~~) (39) "Index year" means the earliest calendar year in  
4 which the index is more than sixty percent of index A.

5       (~~(39)~~) (40) "Adjustment ratio" means the value of index A divided  
6 by index B.

7       (~~(40)~~) (41) "Annual increase" means, initially, fifty-nine cents  
8 per month per year of service which amount shall be increased each July  
9 1st by three percent, rounded to the nearest cent.

10       (~~(41)~~) (42) "Separation from service" occurs when a person has  
11 terminated all employment with an employer.

12       (43) "Member account" or "member's account" for purposes of plan 3  
13 means the sum of the contributions and earnings on behalf of the member  
14 in the defined contribution portion of plan 3.

15       **Sec. 5.** RCW 41.40.054 and 1997 c 103 s 3 are each amended to read  
16 as follows:

17       A member shall not receive a disability retirement benefit under  
18 RCW 41.40.200, 41.40.220, 41.40.230, 41.40.235, 41.40.250, (~~(or)~~)  
19 41.40.670, or section 20 of this act if the disability is the result of  
20 criminal conduct by the member committed after April 21, 1997.

21       **Sec. 6.** RCW 41.40.088 and 1991 c 343 s 9 and 1991 c 35 s 96 are  
22 each reenacted and amended to read as follows:

23       (1) A plan 1 member who is employed by a school district or  
24 districts, an educational service district, the state school for the  
25 deaf, the state school for the blind, institutions of higher education,  
26 or community colleges:

27       (a) Shall receive a service credit month for each month of the  
28 period from September through August of the following year if he or she  
29 is employed in an eligible position, earns compensation earnable for  
30 six hundred thirty hours or more during that period, and is employed  
31 during nine months of that period, except that a member may not receive  
32 credit for any period prior to the member's employment in an eligible  
33 position;

34       (b) If a member in an eligible position does not meet the  
35 requirements of (a) of this subsection, the member is entitled to a  
36 service credit month for each month of the period he or she earns  
37 earnable compensation for seventy or more hours; and the member is

1 entitled to a one-quarter service credit month for those calendar  
2 months during which he or she earned compensation for less than seventy  
3 hours.

4 (2) Except for any period prior to the member's employment in an  
5 eligible position, a plan 2 or plan 3 member who is employed by a  
6 school district or districts, an educational service district, the  
7 state school for the blind, the state school for the deaf, institutions  
8 of higher education, or community colleges:

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

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

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

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

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

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

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

31 **Sec. 7.** RCW 41.40.088 and 1998 c 341 s 603 are each amended to  
32 read as follows:

33 (1) A plan 1 member who is employed by a school district or  
34 districts, an educational service district, the state school for the  
35 deaf, the state school for the blind, institutions of higher education,  
36 or community colleges:

37 (a) Shall receive a service credit month for each month of the  
38 period from September through August of the following year if he or she

1 is employed in an eligible position, earns compensation earnable for  
2 six hundred thirty hours or more during that period, and is employed  
3 during nine months of that period, except that a member may not receive  
4 credit for any period prior to the member's employment in an eligible  
5 position;

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

13 (2) Except for any period prior to the member's employment in an  
14 eligible position, a plan 2 or plan 3 member who is employed by a  
15 school district or districts, an educational service district, the  
16 state school for the blind, the state school for the deaf, institutions  
17 of higher education, or community colleges:

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

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

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

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

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

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

1 (d) After August 31, 2000, school districts and educational service  
2 districts will no longer be employers for the public employees'  
3 retirement system plan 2.

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

5 NEW SECTION. **Sec. 8.** A new section is added to chapter 41.40 RCW  
6 to read as follows:

7 (1) Every plan 2 member employed by an employer in an eligible  
8 position may make an irrevocable option to transfer to plan 3.

9 (2) All service credit in plan 2 shall be transferred to the  
10 defined benefit portion of plan 3.

11 (3) Any plan 2 member who wishes to transfer to plan 3 after  
12 December 31, 2000, may transfer during the month of January in any  
13 following year, provided that the member earns service credit for that  
14 month.

15 (4) The accumulated contributions in plan 2, less fifty percent of  
16 any contributions made pursuant to RCW 41.50.165(2) shall be  
17 transferred to the member's account in the defined contribution portion  
18 established in chapter 41.34 RCW, pursuant to procedures developed by  
19 the department and subject to RCW 41.34.090. Contributions made  
20 pursuant to RCW 41.50.165(2) that are not transferred to the member's  
21 account shall be transferred to the fund created in RCW 41.50.075(2),  
22 except that interest earned on all such contributions shall be  
23 transferred to the member's account.

24 (5) The legislature reserves the right to discontinue the right to  
25 transfer under this section.

26 (6) Anyone previously retired from plan 2 is prohibited from  
27 transferring to plan 3.

28 NEW SECTION. **Sec. 9.** A new section is added to chapter 41.40 RCW  
29 to read as follows:

30 (1) Sections 9 through 23 of this act apply only to plan 3 members.

31 (2) Plan 3 consists of two separate elements: (a) A defined  
32 benefit portion covered under this subchapter; and (b) a defined  
33 contribution portion covered under chapter 41.-- RCW (sections 24  
34 through 38 of this act).

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

1        NEW SECTION. Sec. 10. A new section is added to chapter 41.40 RCW  
2 to read as follows:

3        All public employees who first become employed by an employer in an  
4 eligible position on or after January 1, 2000, shall be members of plan  
5 3.

6        NEW SECTION. Sec. 11. A new section is added to chapter 41.40 RCW  
7 to read as follows:

8        (1) A member of the retirement system shall receive a retirement  
9 allowance equal to one percent of such member's average final  
10 compensation for each service credit year.

11        (2) The retirement allowance payable under section 20 of this act  
12 to a member who separates after having completed at least twenty  
13 service credit years shall be increased by twenty-five one-hundredths  
14 of one percent, compounded for each month from the date of separation  
15 to the date that the retirement allowance commences.

16        NEW SECTION. Sec. 12. A new section is added to chapter 41.40 RCW  
17 to read as follows:

18        (1) Anyone who requests to transfer under section 8 of this act  
19 before December 31, 2000, and establishes service credit for January  
20 2001, shall have their member account increased by sixty-five percent  
21 of:

22        (a) Plan 2 accumulated contributions as of January 1, 2000, less  
23 fifty percent of any payments made pursuant to RCW 41.50.165(2); or

24        (b) All amounts withdrawn after January 1, 2000, which are  
25 completely restored before January 1, 2001.

26        (2) If a member who requests to transfer dies before January 1,  
27 2001, the additional payment provided by this section shall be paid to  
28 the member's estate, or the person or persons, trust, or organization  
29 the member nominated by written designation duly executed and filed  
30 with the department.

31        (3) The legislature reserves the right to modify or discontinue the  
32 right to an incentive payment under this section for any plan 2 members  
33 who have not previously transferred to plan 3.

34        NEW SECTION. Sec. 13. A new section is added to chapter 41.40 RCW  
35 to read as follows:

1 Retirement allowances paid under the defined benefit portion of  
2 plan 3 shall have a postretirement cost-of-living allowance calculated  
3 and paid as provided in RCW 41.40.640.

4 NEW SECTION. Sec. 14. A new section is added to chapter 41.40 RCW  
5 to read as follows:

6 (1) Upon retirement for service as prescribed in section 20 of this  
7 act or retirement for disability under section 21 of this act a member  
8 shall elect to have the retirement allowance paid pursuant to one of  
9 the following options, calculated so as to be actuarially equivalent to  
10 each other.

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

14 (b) The department shall adopt rules that allow a member to select  
15 a retirement option that pays the member a reduced retirement allowance  
16 and upon death, such portion of the member's reduced retirement  
17 allowance as the department by rule designates shall be continued  
18 throughout the life of and paid to such person or persons as the  
19 retiree shall have nominated by written designation duly executed and  
20 filed with the department at the time of retirement. The options  
21 adopted by the department shall include, but are not limited to, a  
22 joint and one hundred percent survivor option and joint and fifty  
23 percent survivor option.

24 (2) A member, if married, must provide the written consent of his  
25 or her spouse to the option selected under this section. If a member  
26 is married and both the member and the member's spouse do not give  
27 written consent to an option under this section, the department shall  
28 pay a joint and fifty percent survivor benefit calculated to be  
29 actuarially equivalent to the benefit options available under  
30 subsection (1) of this section.

31 NEW SECTION. Sec. 15. A new section is added to chapter 41.40 RCW  
32 to read as follows:

33 Any member or beneficiary eligible to receive a retirement  
34 allowance under the provisions of section 20, 21, or 23 of this act  
35 shall be eligible to commence receiving a retirement allowance after  
36 having filed written application with the department.

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

4 (2) Retirement allowances payable to eligible members no longer in  
5 service, but qualifying for such an allowance pursuant to section 20 of  
6 this act shall accrue from the first day of the calendar month  
7 immediately following such qualification.

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

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

14 NEW SECTION. Sec. 16. A new section is added to chapter 41.40 RCW  
15 to read as follows:

16 (1) No retiree shall be eligible to receive such retiree's monthly  
17 retirement allowance if he or she is employed in an eligible position  
18 as defined in RCW 41.40.010 or 41.32.010, or as a law enforcement  
19 officer or fire fighter as defined in RCW 41.26.030.

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

25 NEW SECTION. Sec. 17. A new section is added to chapter 41.40 RCW  
26 to read as follows:

27 (1) A member who is on a paid leave of absence authorized by a  
28 member's employer shall continue to receive service credit.

29 (2) A member who receives compensation from an employer while on an  
30 authorized leave of absence to serve as an elected official of a labor  
31 organization, and whose employer is reimbursed by the labor  
32 organization for the compensation paid to the member during the period  
33 of absence, may also be considered to be on a paid leave of absence.  
34 This subsection shall only apply if the member's leave of absence is  
35 authorized by a collective bargaining agreement that provides that the  
36 member retains seniority rights with the employer during the period of  
37 leave. The earnable compensation reported for a member who establishes

1 service credit under this subsection may not be greater than the salary  
2 paid to the highest paid job class covered by the collective bargaining  
3 agreement.

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

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

11 (b) The member makes the employee contribution, plus interest, as  
12 determined by the department, to the defined contribution portion.

13 The contributions required shall be based on the average of the  
14 member's earnable compensation at both the time the authorized leave of  
15 absence was granted and the time the member resumed employment.

16 (4) A member who leaves the employ of an employer to enter the  
17 armed forces of the United States shall be entitled to retirement  
18 system service credit for up to five years of military service if  
19 within ninety days of the member's honorable discharge from the United  
20 States armed forces, the member applies for reemployment with the  
21 employer who employed the member immediately prior to the member  
22 entering the United States armed forces. This subsection shall be  
23 administered in a manner consistent with the requirements of the  
24 federal uniformed services employment and reemployment rights act.

25 The department shall establish the member's service credit and  
26 shall bill the employer for its contribution required under chapter  
27 239, Laws of 1995 for the period of military service, plus interest as  
28 determined by the department. Service credit under this subsection may  
29 be obtained only if the member makes the employee contribution to the  
30 defined contribution portion as determined by the department.

31 The contributions required shall be based on the compensation the  
32 member would have earned if not on leave, or if that cannot be  
33 estimated with reasonable certainty, the compensation reported for the  
34 member in the year prior to when the member went on military leave.

35 NEW SECTION. **Sec. 18.** A new section is added to chapter 41.40 RCW  
36 to read as follows:

37 (1) Contributions on behalf of the employer paid by the employee to  
38 purchase plan 3 service credit shall be allocated to the defined

1 benefit portion of plan 3 and shall not be refundable when paid to the  
2 fund described in RCW 41.50.075(2). Contributions on behalf of the  
3 employee shall be allocated to the member account. If the member fails  
4 to meet the statutory time limitations to purchase plan 3 service  
5 credit, it may be purchased under the provisions of RCW 41.50.165(2).  
6 One-half of the purchase payments under RCW 41.50.165(2), plus  
7 interest, shall be allocated to the member's account.

8 (2) No purchased plan 3 membership service will be credited until  
9 all payments required of the member are made, with interest. Upon  
10 receipt of all payments owed by the member, the department shall bill  
11 the employer for any contributions, plus interest, required to purchase  
12 membership service.

13 NEW SECTION. **Sec. 19.** A new section is added to chapter 41.40 RCW  
14 to read as follows:

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

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

29 (3) Any member who receives a settlement under this section is  
30 deemed to be retired from this system.

31 NEW SECTION. **Sec. 20.** A new section is added to chapter 41.40 RCW  
32 to read as follows:

33 (1) NORMAL RETIREMENT. Any member who is at least age sixty-five  
34 and who has:

35 (a) Completed ten service credit years; or

36 (b) Completed five service credit years, including twelve service  
37 credit months after attaining age fifty-four; or

1 (c) Completed five service credit years by January 1, 2000, under  
2 plan 2 and who transferred to plan 3 under section 8 of this act;  
3 shall be eligible to retire and to receive a retirement allowance  
4 computed according to the provisions of section 11 of this act.

5 (2) EARLY RETIREMENT. Any member who has attained at least age  
6 fifty-five 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 11 of this act, except that a  
9 member retiring pursuant to 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. 21.** A new section is added to chapter 41.40 RCW  
14 to read as follows:

15 (1) A member of the retirement system who becomes totally  
16 incapacitated for continued employment by an employer as determined by  
17 the department shall be eligible to receive an allowance under the  
18 provisions of plan 3. The member shall receive a monthly disability  
19 allowance computed as provided for in section 11 of this act and shall  
20 have this allowance actuarially reduced to reflect the difference in  
21 the number of years between age at disability and the attainment of age  
22 sixty-five.

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

29 (2) If the recipient of a monthly retirement allowance under this  
30 section dies, any further benefit payments shall be conditioned by the  
31 payment option selected by the retiree as provided in section 14 of  
32 this act.

33 NEW SECTION. **Sec. 22.** A new section is added to chapter 41.40 RCW  
34 to read as follows:

35 (1) Any member who elects to transfer to plan 3 and has eligible  
36 unrestored withdrawn contributions in plan 2, may restore such  
37 contributions under the provisions of RCW 41.40.740(1) with interest as

1 determined by the department. The restored plan 2 service credit will  
2 be automatically transferred to plan 3. Restoration payments will be  
3 transferred to the member account in plan 3. If the member fails to  
4 meet the time limitations of RCW 41.40.740(1), they may restore such  
5 contributions under the provisions of RCW 41.50.165(2). The restored  
6 plan 2 service credit will be automatically transferred to plan 3.  
7 One-half of the restoration payments under RCW 41.50.165(2) plus  
8 interest shall be allocated to the member's account.

9 (2) Any member who elects to transfer to plan 3 may purchase plan  
10 2 service credit under RCW 41.40.710(3). Purchased plan 2 service  
11 credit will be automatically transferred to plan 3. Contributions on  
12 behalf of the employer paid by the employee shall be allocated to the  
13 defined benefit portion of plan 3 and shall not be refundable when paid  
14 to the fund described in RCW 41.50.075(2). Contributions on behalf of  
15 the employee shall be allocated to the member account. If the member  
16 fails to meet the time limitations of RCW 41.40.710(3), they may  
17 subsequently restore such contributions under the provisions of RCW  
18 41.50.165(2). Purchased plan 2 service credit will be automatically  
19 transferred to plan 3. One-half of the payments under RCW  
20 41.50.165(2), plus interest, shall be allocated to the member's  
21 account.

22 NEW SECTION. **Sec. 23.** A new section is added to chapter 41.40 RCW  
23 to read as follows:

24 If a member dies prior to retirement, the surviving spouse or  
25 eligible child or children shall receive a retirement allowance  
26 computed as provided in section 14 of this act actuarially reduced to  
27 reflect a joint and one hundred percent survivor option and if the  
28 member was not eligible for normal retirement at the date of death a  
29 further reduction as described in section 20 of this act.

30 If the surviving spouse who is receiving the retirement allowance  
31 dies leaving a child or children under the age of majority, then such  
32 child or children shall continue to receive an allowance in an amount  
33 equal to that which was being received by the surviving spouse, share  
34 and share alike, until such child or children reach the age of  
35 majority.

36 If there is no surviving spouse eligible to receive an allowance at  
37 the time of the member's death, such member's child or children under  
38 the age of majority shall receive an allowance, share and share alike.

1 The allowance shall be calculated with the assumption that the age of  
2 the spouse and member were equal at the time of the member's death.

3 NEW SECTION. **Sec. 24.** The purpose of this chapter is to:

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

6 (2) Increase flexibility for such employees to make transitions  
7 into other public or private sector employment;

8 (3) Increase employee options for addressing retirement needs,  
9 personal financial planning, and career transitions; and

10 (4) Continue the legislature's established policy of having  
11 employees contribute toward their retirement benefits.

12 NEW SECTION. **Sec. 25.** As used in this chapter, the following  
13 terms have the meanings indicated:

14 (1) "Actuary" means the state actuary or the office of the state  
15 actuary.

16 (2) "Board" means the employee retirement benefits board authorized  
17 in chapter 41.50 RCW.

18 (3) "Department" means the department of retirement systems.

19 (4) "Compensation" means the same as "compensation earnable" for  
20 plan 3 in chapter 41.40 RCW, except that the compensation may be  
21 reported when paid, rather than when earned.

22 (5) "Employer" means the same as "employer" for plan 3 in chapter  
23 41.40 RCW.

24 (6) "Member" means any employee included in the membership of a  
25 retirement system as provided for in chapter 41.40 RCW of plan 3.

26 (7) "Member account" or "member's account" means the sum of the  
27 contributions and earnings on behalf of the member.

28 (8) "Retiree" means any member in receipt of an allowance or other  
29 benefit provided by this chapter resulting from service rendered to an  
30 employer by such member.

31 NEW SECTION. **Sec. 26.** (1) This chapter applies only to members of  
32 plan 3 retirement systems created under chapter 41.40 RCW.

33 (2) Plan 3 consists of two separate elements:

34 (a) A defined benefit portion covered under sections 9 through 23  
35 of this act; and

1 (b) A defined contribution portion covered under this chapter.  
2 Unless specified otherwise, all references to "plan 3" in this chapter  
3 refer to the defined contribution portion of plan 3.

4 NEW SECTION. Sec. 27. (1) A member shall contribute from his or  
5 her compensation according to one of the following rate structures:

<u>Option A</u>	<u>Contribution Rate</u>
All Ages	5.0% fixed
<u>Option B</u>	
Up to Age 35	5.0%
Age 35 to 44	6.0%
Age 45 and above	7.5%
<u>Option C</u>	
Up to Age 35	6.0%
Age 35 to 44	7.5%
Age 45 and above	8.5%

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

21 (3) Within ninety days of the date that an employee becomes a  
22 member of plan 3 or changes employers, he or she has an irrevocable  
23 option to choose one of the above contribution rate structures. If the  
24 member does not select an option within this ninety-day period, he or  
25 she shall be assigned option A. Such assignment shall be irrevocable.

26 (4) Contributions shall begin the first day of the pay cycle in  
27 which the rate option is made, or the first day of the pay cycle in  
28 which the end of the ninety-day period occurs.

29 NEW SECTION. Sec. 28. The legislature may authorize contributions  
30 to the members' accounts for a biennium through budget appropriation.

31 NEW SECTION. Sec. 29. (1) Except as provided in subsection (2) of  
32 this section, the member's account shall be invested by the state  
33 investment board. In order to reduce transaction costs and address  
34 liquidity issues, based upon recommendations of the state investment  
35 board, the department may require members to provide up to ninety days'

1 notice prior to moving funds from the state investment board portfolio  
2 to self-directed investment options provided under subsection (2) of  
3 this section.

4 For members of the retirement system as provided for in chapter  
5 41.40 RCW of plan 3, investment shall be in the same portfolio as that  
6 of the public employees' retirement system combined plan 2 and 3 fund  
7 under RCW 41.50.075(3) for members of the retirement system under  
8 chapter 41.40 RCW plan 3.

9 (2) Members may elect to self-direct their investments as set forth  
10 in section 37 of this act.

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

16 (2) If the member dies while in service, the balance of the  
17 member's account may be distributed in accordance with an option  
18 selected by the member either as a lump sum or pursuant to other  
19 options authorized by the board. The distribution shall be made to  
20 such person or persons as the member shall have nominated by written  
21 designation duly executed and filed with the department. If there be  
22 no such designated person or persons still living at the time of the  
23 member's death, the balance of the member's account in the retirement  
24 system, less any amount identified as owing to an obligee upon  
25 withdrawal of such account balance pursuant to a court order filed  
26 under RCW 41.50.670, shall be paid to the member's surviving spouse as  
27 if in fact such spouse had been nominated by written designation, or if  
28 there is no surviving spouse, then to such person or persons, trust, or  
29 organization as the member shall have nominated by written designation  
30 duly executed and filed with the department.

31 (3) If a member has a terminal illness and terminates from  
32 employment, the member may choose to have the balance in the member's  
33 account distributed as a lump sum payment based on the most recent  
34 valuation in order to expedite the distribution. The department shall  
35 make this payment within ten working days after receipt of notice of  
36 termination of employment, documentation verifying the terminal  
37 illness, and an application for payment.

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

4 NEW SECTION. **Sec. 31.** (1) Subject to subsections (2) and (3) of  
5 this section, the right of a person to a pension, an annuity, a  
6 retirement allowance, any optional benefit, any other right accrued or  
7 accruing to any person under the provisions of this chapter, and the  
8 various funds created by chapter 239, Laws of 1995, and chapter . . . ,  
9 Laws of 1999 (this act) and all moneys and investments and income  
10 thereof, is hereby exempt from any state, county, municipal, or other  
11 local tax, and shall not be subject to execution, garnishment,  
12 attachment, the operation of bankruptcy or insolvency laws, or other  
13 process of law whatsoever, and shall be unassignable.

14 (2) This section does not prohibit a beneficiary of a retirement  
15 allowance from authorizing deductions therefrom for payment of premiums  
16 due on any group insurance policy or plan issued for the benefit of a  
17 group comprised of public employees of the state of Washington or its  
18 political subdivisions and that has been approved for deduction in  
19 accordance with rules that may be adopted by the state health care  
20 authority and/or the department. This section does not prohibit a  
21 beneficiary of a retirement allowance from authorizing deductions  
22 therefrom for payment of dues and other membership fees to any  
23 retirement association or organization the membership of which is  
24 composed of retired public employees, if a total of three hundred or  
25 more of such retired employees have authorized such deduction for  
26 payment to the same retirement association or organization.

27 (3) Subsection (1) of this section does not prohibit the department  
28 from complying with (a) a wage assignment order for child support  
29 issued pursuant to chapter 26.18 RCW, (b) an order to withhold and  
30 deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll  
31 deduction issued pursuant to RCW 26.23.060, (d) a mandatory benefits  
32 assignment order issued by the department, (e) a court order directing  
33 the department to pay benefits directly to an obligee under a  
34 dissolution order as defined in RCW 41.50.500(3) which fully complies  
35 with RCW 41.50.670 and 41.50.700, or (f) any administrative or court  
36 order expressly authorized by federal law.

1        NEW SECTION.    **Sec. 32.**    (1) The retirement plan created by this  
2 chapter shall be administered so as to comply with the federal Internal  
3 Revenue Code, Title 26 U.S.C., and specifically with plan qualification  
4 requirements imposed on governmental plans by section 401(a) of the  
5 Internal Revenue Code.

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

10       (3) If any section or provision of this chapter is found to be in  
11 conflict with the plan qualification requirements for governmental  
12 plans in section 401(a) of the Internal Revenue Code, the conflicting  
13 part of this chapter is hereby inoperative solely to the extent of the  
14 conflict, and such finding shall not affect the operation of the  
15 remainder of this chapter.

16       NEW SECTION.    **Sec. 33.**    The benefits provided under this chapter  
17 are not provided to employees as a matter of contractual right prior to  
18 September 1, 2001. The legislature retains the right to alter or  
19 abolish these benefits at any time prior to September 1, 2001.

20       NEW SECTION.    **Sec. 34.**    A member who separates from service and  
21 then reestablishes membership may restore contributions to the member  
22 account.

23       NEW SECTION.    **Sec. 35.**        (1) Beginning July 1, 1999, and on  
24 January 1st of odd-numbered years thereafter, the member account of a  
25 person meeting the requirements of this section shall be credited by  
26 the extraordinary investment gain amount.

27       (2) The following persons shall be eligible for the benefit  
28 provided in subsection (1) of this section:

29       (a) Any member who earned service credit during the twelve-month  
30 period from September 1st to August 30th immediately preceding the  
31 distribution and had a balance of at least one thousand dollars in  
32 their member account on August 30th of the year immediately preceding  
33 the distribution; or

34       (b) Any person in receipt of a benefit pursuant to RCW 41.32.875 or  
35 section 20 of this act; or

1 (c) Any person who is a retiree pursuant to RCW 41.34.020(8) and  
2 who:

3 (i) Completed ten service credit years; or  
4 (ii) Completed five service credit years, including twelve service  
5 months after attaining age fifty-four; or  
6 (iii) Completed five service credit years by July 1, 1996, under  
7 plan 2 and who transferred to plan 3 under RCW 41.32.817; or  
8 (iv) Completed five service credit years by January 1, 2000, under  
9 plan 2 and who transferred to plan 3 under section 8 of this act; or  
10 (d) Any person who had a balance of at least one thousand dollars  
11 in their member account on August 30th of the year immediately  
12 preceding the distribution and who:

13 (i) Completed ten service credit years; or  
14 (ii) Completed five service credit years, including twelve service  
15 months after attaining age fifty-four; or  
16 (iii) Completed five service credit years by July 1, 1996, under  
17 plan 2 and who transferred to plan 3 under RCW 41.32.817; or  
18 (iv) Completed five service credit years by January 1, 2000, under  
19 plan 2 and who transferred to plan 3 under section 8 of this act.

20 (3) The extraordinary investment gain amount shall be calculated as  
21 follows:

22 (a) One-half of the value of the net assets held in trust for  
23 pension benefits in the teachers' retirement system combined plan 2 and  
24 3 fund at the close of the previous state fiscal year not including the  
25 amount attributable to member accounts;

26 (b) Multiplied by the amount which investment returns on those  
27 assets geometrically averaged over the previous four state fiscal years  
28 exceeds ten percent;

29 (c) Multiplied by the proportion of:

30 (i) The sum of the service credit on August 30th of the previous  
31 year of all persons eligible for the benefit provided in subsection (1)  
32 of this section; to  
33 (ii) The sum of the service credit on August 30th of the previous  
34 year of:

35 (A) All persons eligible for the benefit provided in subsection (1)  
36 of this section; and  
37 (B) Any person who earned service credit in plan 2 during the  
38 twelve-month period from September 1st to August 30th immediately  
39 preceding the distribution; and

1 (C) Any person in receipt of a benefit pursuant to RCW 41.32.765 or  
2 41.40.630; and

3 (D) Any person with five or more years of service in plan 2;

4 (d) Divided proportionally among persons eligible for the benefit  
5 provided in subsection (1) of this section on the basis of their  
6 service credit total on August 30th of the previous year.

7 (4) On January 1, 2001, the member account of a person meeting the  
8 requirements of this section who transferred to plan 3 under section 8  
9 of this act shall be credited by the extraordinary investment gain  
10 amount calculated for the period of the four state fiscal years  
11 beginning July 1, 1994, and ending June 30, 1998.

12 (5) The legislature reserves the right to amend or repeal this  
13 section in the future and no member or beneficiary has a contractual  
14 right to receive this distribution not granted prior to that time.

15 NEW SECTION. **Sec. 36.** All moneys in members' accounts, all  
16 property and rights purchased therewith, and all income attributable  
17 thereto, shall be held in trust by the state investment board, as set  
18 forth under RCW 43.33A.030, for the exclusive benefit of the members  
19 and their beneficiaries.

20 NEW SECTION. **Sec. 37.** (1) The state investment board has the  
21 full authority to invest all self-directed investment moneys in  
22 accordance with RCW 43.84.150 and 43.33A.140, and cumulative investment  
23 directions received pursuant to RCW 41.34.060 and this section. In  
24 carrying out this authority the state investment board, after  
25 consultation with the employee retirement benefits board regarding any  
26 recommendations made pursuant to RCW 41.50.088(2), shall provide a set  
27 of options for members to choose from for self-directed investment.

28 (2) All investment and operating costs of the state investment  
29 board associated with making self-directed investments shall be paid by  
30 members and recovered under procedures agreed to by the board and the  
31 state investment board pursuant to the principles set forth in RCW  
32 43.33A.160 and 43.84.160. All other expenses caused by self-directed  
33 investment shall be paid by the member in accordance with rules  
34 established by the board under RCW 41.50.088. With the exception of  
35 these expenses, all earnings from self-directed investments shall  
36 accrue to the member's account.

1 (3) The department shall keep or cause to be kept full and adequate  
2 accounts and records of each individual member's account. Pursuant to  
3 RCW 43.33A.180, the state investment board shall account for and report  
4 on the investment of defined contribution assets under this chapter.

5 NEW SECTION. **Sec. 38.** (1) No state board or commission,  
6 agency, or any officer, employee, or member thereof shall be liable for  
7 any loss or deficiency resulting from member defined contribution  
8 investments selected or required pursuant to RCW 41.34.060 (1) or (2).

9 (2) Neither the board nor the state investment board, nor any  
10 officer, employee, or member thereof shall be liable for any loss or  
11 deficiency resulting from reasonable efforts to implement investment  
12 directions pursuant to RCW 41.34.060 (1) or (2).

13 NEW SECTION. **Sec. 39.** The definitions in this section apply  
14 throughout this chapter unless the context clearly requires otherwise.

15 (1) "Actuary" means the state actuary or the office of the state  
16 actuary.

17 (2) "Board" means the employee retirement benefits board authorized  
18 in chapter 41.50 RCW.

19 (3) "Department" means the department of retirement systems.

20 (4) "Member" means any employee included in the membership of a  
21 retirement system as provided for in chapter 41.32 RCW of plan 2 or  
22 chapter 41.40 RCW of plan 2.

23 (5) "Member account" or "member's account" means the sum of any  
24 contributions as provided for in this chapter and the earnings on  
25 behalf of the member.

26 NEW SECTION. **Sec. 40.** (1) Beginning July 1, 1999, and on January  
27 1st of odd-numbered years thereafter, a member's account shall be  
28 credited by the extraordinary investment gain amount.

29 (2) The extraordinary investment gain amount shall be calculated as  
30 follows:

31 (a) One-half of the sum of the value of the net assets held in  
32 trust for pension benefits in the teachers' retirement system combined  
33 plan 2 and 3 fund and the public employees' retirement system combined  
34 plan 2 and 3 fund at the close of the previous state fiscal year not  
35 including the amount attributable to member accounts;

1 (b) Multiplied by the amount which the geometric average of the  
2 rate of investment returns on those assets over the previous four state  
3 fiscal years exceeds ten percent;

4 (c) Multiplied by the proportion of:

5 (i) The sum of the service credit on August 30th of the previous  
6 year of all persons eligible for the benefit provided in subsection (1)  
7 of this section, to:

8 (ii) The sum of the service credit on August 30th of the previous  
9 year of:

10 (A) All persons eligible for the benefit provided in subsection (1)  
11 of this section;

12 (B) Any person who earned service credit in plan 3 during the  
13 twelve-month period from September 1st to August 30th immediately  
14 preceding the distribution;

15 (C) Any person in receipt of a benefit pursuant to RCW 41.32.765,  
16 41.32.875, 41.40.630, or section 20 of this act; and

17 (D) Any person with ten or more years of service in plan 3;

18 (d) Divided proportionally among persons eligible for the benefit  
19 provided in subsection (1) of this section on the basis of their  
20 service credit total on August 30th of the previous year.

21 (3) The legislature reserves the right to amend or repeal this  
22 section in the future and no member or beneficiary has a contractual  
23 right to receive this distribution not granted prior to that amendment  
24 or repeal.

25 NEW SECTION. **Sec. 41.** The member's account shall be invested by  
26 the state investment board except that members may elect to self-direct  
27 their investments as authorized by the board.

28 NEW SECTION. **Sec. 42.** If the member retires, becomes disabled,  
29 dies while in service, or otherwise terminates employment, the balance  
30 in the 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 NEW SECTION. **Sec. 43.** (1) Subject to subsection (2) of this  
34 section, the right of a person to any benefit or right accrued or  
35 accruing to any person under this chapter is hereby exempt from any  
36 state, county, municipal, or other local tax, and shall not be subject

1 to execution, garnishment, attachment, the operation of bankruptcy or  
2 insolvency laws, or other process of law whatsoever, and shall not be  
3 assignable.

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

14 NEW SECTION. **Sec. 44.** (1) The benefit created by this chapter  
15 shall be administered so as to comply with the federal internal revenue  
16 code, Title 26 U.S.C., and specifically with plan qualification  
17 requirements imposed on governmental plans by section 401(a) of the  
18 internal revenue code.

19 (2) Any section or provision of this chapter that may be  
20 susceptible to more than one construction shall be interpreted in favor  
21 of the construction most likely to satisfy requirements imposed by  
22 section 401(a) of the internal revenue code.

23 (3) If any section or provision of this chapter is found to be in  
24 conflict with the plan qualification requirements for governmental  
25 plans in section 401(a) of the internal revenue code, the conflicting  
26 part of this chapter is hereby inoperable solely to the extent of the  
27 conflict, and such finding shall not affect the operation of the  
28 remainder of the chapter.

29 NEW SECTION. **Sec. 45.** Sections 39 through 44 of this act  
30 constitute a new chapter in Title 41 RCW.

31 **Sec. 46.** RCW 41.45.010 and 1995 c 239 s 305 are each amended to  
32 read as follows:

33 It is the intent of the legislature to provide a dependable and  
34 systematic process for funding the benefits provided to members and  
35 retirees of the public employees' retirement system, chapter 41.40 RCW;  
36 the teachers' retirement system, chapter 41.32 RCW; the law enforcement

1 officers' and fire fighters' retirement system, chapter 41.26 RCW; and  
2 the Washington state patrol retirement system, chapter 43.43 RCW.

3 The funding process established by this chapter is intended to  
4 achieve the following goals:

5 (1) To continue to fully fund the public employees' retirement  
6 system plan 2 and plan 3, the teachers' retirement system plans 2 and  
7 3, and the law enforcement officers' and fire fighters' retirement  
8 system plan 2 as provided by law;

9 (2) To fully amortize the total costs of the public employees'  
10 retirement system plan 1, the teachers' retirement system plan 1, and  
11 the law enforcement officers' and fire fighters' retirement system plan  
12 1 not later than June 30, 2024;

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

16 (4) To fund, to the extent feasible, benefit increases for plan 1  
17 members and all benefits for plan 2 and 3 members over the working  
18 lives of those members so that the cost of those benefits are paid by  
19 the taxpayers who receive the benefit of those members' service.

20 **Sec. 47.** RCW 41.45.010 and 1998 c 341 s 401 are each amended to  
21 read as follows:

22 It is the intent of the legislature to provide a dependable and  
23 systematic process for funding the benefits provided to members and  
24 retirees of the public employees' retirement system, chapter 41.40 RCW;  
25 the teachers' retirement system, chapter 41.32 RCW; the law enforcement  
26 officers' and fire fighters' retirement system, chapter 41.26 RCW; the  
27 school employees' retirement system, chapter 41.35 RCW; and the  
28 Washington state patrol retirement system, chapter 43.43 RCW.

29 The funding process established by this chapter is intended to  
30 achieve the following goals:

31 (1) To continue to fully fund the public employees' retirement  
32 system plan 2 and plan 3, the teachers' retirement system plans 2 and  
33 3, the school employees' retirement system plans 2 and 3, and the law  
34 enforcement officers' and fire fighters' retirement system plan 2 as  
35 provided by law;

36 (2) To fully amortize the total costs of the public employees'  
37 retirement system plan 1, the teachers' retirement system plan 1, and

1 the law enforcement officers' and fire fighters' retirement system plan  
2 1 not later than June 30, 2024;

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

6 (4) To fund, to the extent feasible, benefit increases for plan 1  
7 members and all benefits for plan 2 and 3 members over the working  
8 lives of those members so that the cost of those benefits are paid by  
9 the taxpayers who receive the benefit of those members' service.

10 **Sec. 48.** RCW 41.45.020 and 1998 c 283 s 1 are each amended to read  
11 as follows:

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

14 (1) "Council" means the pension funding council created in RCW  
15 41.45.100.

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

17 (3) "Law enforcement officers' and fire fighters' retirement system  
18 plan 1" and "law enforcement officers' and fire fighters' retirement  
19 system plan 2" mean the benefits and funding provisions under chapter  
20 41.26 RCW.

21 (4) "Public employees' retirement system plan 1," ((and)) "public  
22 employees' retirement system plan 2," and "public employees' retirement  
23 system plan 3" mean the benefits and funding provisions under chapter  
24 41.40 RCW.

25 (5) "Teachers' retirement system plan 1," "teachers' retirement  
26 system plan 2," and "teachers' retirement system plan 3" mean the  
27 benefits and funding provisions under chapter 41.32 RCW.

28 (6) "Washington state patrol retirement system" means the  
29 retirement benefits provided under chapter 43.43 RCW.

30 (7) "Unfunded liability" means the unfunded actuarial accrued  
31 liability of a retirement system.

32 (8) "Actuary" or "state actuary" means the state actuary employed  
33 under chapter 44.44 RCW.

34 (9) "State retirement systems" means the retirement systems listed  
35 in RCW 41.50.030.

36 (10) "Work group" means the pension funding work group created in  
37 RCW 41.45.120.

1       **Sec. 49.** RCW 41.45.020 and 1998 c 341 s 402 and 1998 c 283 s 1 are  
2 each reenacted and amended to read as follows:

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

5       (1) "Council" means the pension funding council created in RCW  
6 41.45.100.

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

8       (3) "Law enforcement officers' and fire fighters' retirement system  
9 plan 1" and "law enforcement officers' and fire fighters' retirement  
10 system plan 2" mean the benefits and funding provisions under chapter  
11 41.26 RCW.

12       (4) "Public employees' retirement system plan 1," (~~and~~) "public  
13 employees' retirement system plan 2," and "public employees' retirement  
14 system plan 3" mean the benefits and funding provisions under chapter  
15 41.40 RCW.

16       (5) "Teachers' retirement system plan 1," "teachers' retirement  
17 system plan 2," and "teachers' retirement system plan 3" mean the  
18 benefits and funding provisions under chapter 41.32 RCW.

19       (6) "School employees' retirement system plan 2" and "school  
20 employees' retirement system plan 3" mean the benefits and funding  
21 provisions under chapter 41.35 RCW.

22       (7) "Washington state patrol retirement system" means the  
23 retirement benefits provided under chapter 43.43 RCW.

24       (8) "Unfunded liability" means the unfunded actuarial accrued  
25 liability of a retirement system.

26       (9) "Actuary" or "state actuary" means the state actuary employed  
27 under chapter 44.44 RCW.

28       (10) "State retirement systems" means the retirement systems listed  
29 in RCW 41.50.030.

30       (11) "Work group" means the pension funding work group created in  
31 RCW 41.45.120.

32       (12) "Classified employee" means a member of the Washington school  
33 employees' retirement system plan 2 or plan 3 as defined in RCW  
34 41.35.010.

35       (13) "Teacher" means a member of the teachers' retirement system as  
36 defined in RCW 41.32.010(15).

37       **Sec. 50.** RCW 41.45.050 and 1995 c 239 s 308 are each amended to  
38 read as follows:

1 (1) Employers of members of the public employees' retirement  
2 system, the teachers' retirement system, and the Washington state  
3 patrol retirement system shall make contributions to those systems  
4 based on the rates established in RCW 41.45.060 and 41.45.070.

5 (2) The state shall make contributions to the law enforcement  
6 officers' and fire fighters' retirement system based on the rates  
7 established in RCW 41.45.060 and 41.45.070. The state treasurer shall  
8 transfer the required contributions each month on the basis of salary  
9 data provided by the department.

10 (3) The department shall bill employers, and the state shall make  
11 contributions to the law enforcement officers' and fire fighters'  
12 retirement system, using the combined rates established in RCW  
13 41.45.060 and 41.45.070 regardless of the level of pension funding  
14 provided in the biennial budget. Any member of an affected retirement  
15 system may, by mandamus or other appropriate proceeding, require the  
16 transfer and payment of funds as directed in this section.

17 (4) The contributions received for the public employees' retirement  
18 system shall be allocated between the public employees' retirement  
19 system plan 1 fund and the combined public employees' retirement system  
20 plan 2 and 3 fund as follows: The contributions necessary to fully  
21 fund the public employees' retirement system plan 2 employer  
22 contribution required by RCW 41.40.650 shall first be deposited in the  
23 public employees' retirement system plan 2 fund. All remaining public  
24 employees' retirement system employer contributions shall be deposited  
25 in the public employees' retirement system plan 1 fund.

26 (5) The contributions received for the teachers' retirement system  
27 shall be allocated between the plan 1 fund and the combined plan 2 and  
28 plan 3 fund as follows: The contributions necessary to fully fund the  
29 combined plan 2 and plan 3 employer contribution shall first be  
30 deposited in the combined plan 2 and plan 3 fund. All remaining  
31 teachers' retirement system employer contributions shall be deposited  
32 in the plan 1 fund.

33 (6) The contributions received under RCW 41.26.450 for the law  
34 enforcement officers' and fire fighters' retirement system shall be  
35 allocated between the law enforcement officers' and fire fighters'  
36 retirement system plan 1 and the law enforcement officers' and fire  
37 fighters' retirement system plan 2 fund as follows: The contributions  
38 necessary to fully fund the law enforcement officers' and fire  
39 fighters' retirement system plan 2 employer contributions shall be

1 first deposited in the law enforcement officers' and fire fighters'  
2 retirement system plan 2 fund. All remaining law enforcement officers'  
3 and fire fighters' retirement system employer contributions shall be  
4 deposited in the law enforcement officers' and fire fighters'  
5 retirement system plan 1 fund.

6 **Sec. 51.** RCW 41.45.050 and 1998 c 341 s 403 are each amended to  
7 read as follows:

8 (1) Employers of members of the public employees' retirement  
9 system, the teachers' retirement system, the school employees'  
10 retirement system, and the Washington state patrol retirement system  
11 shall make contributions to those systems based on the rates  
12 established in RCW 41.45.060 and 41.45.070.

13 (2) The state shall make contributions to the law enforcement  
14 officers' and fire fighters' retirement system based on the rates  
15 established in RCW 41.45.060 and 41.45.070. The state treasurer shall  
16 transfer the required contributions each month on the basis of salary  
17 data provided by the department.

18 (3) The department shall bill employers, and the state shall make  
19 contributions to the law enforcement officers' and fire fighters'  
20 retirement system, using the combined rates established in RCW  
21 41.45.060 and 41.45.070 regardless of the level of pension funding  
22 provided in the biennial budget. Any member of an affected retirement  
23 system may, by mandamus or other appropriate proceeding, require the  
24 transfer and payment of funds as directed in this section.

25 (4) The contributions received for the public employees' retirement  
26 system shall be allocated between the public employees' retirement  
27 system plan 1 fund and the combined public employees' retirement system  
28 plan 2 and 3 fund as follows: The contributions necessary to fully  
29 fund the public employees' retirement system plan 2 and 3 employer  
30 contribution required by RCW 41.40.650 shall first be deposited in the  
31 public employees' retirement system plan 2 fund. All remaining public  
32 employees' retirement system employer contributions shall be deposited  
33 in the public employees' retirement system plan 1 fund.

34 (5) The contributions received for the teachers' retirement system  
35 shall be allocated between the plan 1 fund and the combined plan 2 and  
36 plan 3 fund as follows: The contributions necessary to fully fund the  
37 combined plan 2 and plan 3 employer contribution shall first be  
38 deposited in the combined plan 2 and plan 3 fund. All remaining

1 teachers' retirement system employer contributions shall be deposited  
2 in the plan 1 fund.

3 (6) The contributions received for the school employees' retirement  
4 system shall be allocated between the public employees' retirement  
5 system plan 1 fund and the school employees' retirement system combined  
6 plan 2 and plan 3 fund as follows: The contributions necessary to  
7 fully fund the combined plan 2 and plan 3 employer contribution shall  
8 first be deposited in the combined plan 2 and plan 3 fund. All  
9 remaining school employees' retirement system employer contributions  
10 shall be deposited in the public employees' retirement system plan 1  
11 fund.

12 (7) The contributions received under RCW 41.26.450 for the law  
13 enforcement officers' and fire fighters' retirement system shall be  
14 allocated between the law enforcement officers' and fire fighters'  
15 retirement system plan 1 and the law enforcement officers' and fire  
16 fighters' retirement system plan 2 fund as follows: The contributions  
17 necessary to fully fund the law enforcement officers' and fire  
18 fighters' retirement system plan 2 employer contributions shall be  
19 first deposited in the law enforcement officers' and fire fighters'  
20 retirement system plan 2 fund. All remaining law enforcement officers'  
21 and fire fighters' retirement system employer contributions shall be  
22 deposited in the law enforcement officers' and fire fighters'  
23 retirement system plan 1 fund.

24 **Sec. 52.** RCW 41.45.060 and 1998 c 341 s 404, 1998 c 340 s 11, and  
25 1998 c 283 s 6 are each reenacted and amended to read as follows:

26 (1) The state actuary shall provide actuarial valuation results  
27 based on the assumptions adopted under RCW 41.45.030.

28 (2) Not later than September 30, 1998 and every two years  
29 thereafter, consistent with the assumptions adopted under RCW  
30 41.45.030, the council shall adopt changes to:

31 (a) A basic state contribution rate for the law enforcement  
32 officers' and fire fighters' retirement system; ((and))

33 (b) Basic employer contribution rates for the public employees'  
34 retirement system plan 1, the teachers' retirement system plan 1, and  
35 the Washington state patrol retirement system to be used in the ensuing  
36 biennial period; and

1 (c) A basic employer contribution rate for the school employees'  
2 retirement system for funding the public employees' retirement system  
3 plan 1.

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

6 (a) To fully amortize the total costs of the public employees'  
7 retirement system plan 1, the teachers' retirement system plan 1, the  
8 law enforcement officers' and fire fighters' retirement system plan 1,  
9 and the unfunded liability of the Washington state patrol retirement  
10 system not later than June 30, 2024, except as provided in subsection  
11 (5) of this section; and

12 (b) To also continue to fully fund the public employees' retirement  
13 system plan 2 and 3, the teachers' retirement system plans 2 and 3, the  
14 school employees' retirement system plans 2 and 3, and the law  
15 enforcement officers' and fire fighters' retirement system plan 2 in  
16 accordance with RCW 41.40.650, 41.26.450, and this section.

17 (4) The aggregate actuarial cost method shall be used to calculate  
18 a combined plan 2 and 3 employer contribution rate.

19 (5) An amount equal to the amount of extraordinary investment gains  
20 as defined in RCW 41.31.020 shall be used to shorten the amortization  
21 period for the public employees' retirement system plan 1 and the  
22 teachers' retirement system plan 1.

23 (6) The council shall immediately notify the directors of the  
24 office of financial management and department of retirement systems of  
25 the state and employer contribution rates adopted.

26 (7) The director of the department of retirement systems shall  
27 collect those rates adopted by the council.

28 **Sec. 53.** RCW 41.45.070 and 1998 c 340 s 10 and 1998 c 341 s 406  
29 are each reenacted and amended to read as follows:

30 (1) In addition to the basic employer contribution rate established  
31 in RCW 41.45.060, the department shall also charge employers of public  
32 employees' retirement system, teachers' retirement system, school  
33 employees' retirement system, or Washington state patrol retirement  
34 system members an additional supplemental rate to pay for the cost of  
35 additional benefits, if any, granted to members of those systems.  
36 Except as provided in subsection (6) of this section, the supplemental  
37 contribution rates required by this section shall be calculated by the

1 state actuary and shall be charged regardless of language to the  
2 contrary contained in the statute which authorizes additional benefits.

3 (2) In addition to the basic state contribution rate established in  
4 RCW 41.45.060 for the law enforcement officers' and fire fighters'  
5 retirement system the department shall also establish a supplemental  
6 rate to pay for the cost of additional benefits, if any, granted to  
7 members of the law enforcement officers' and fire fighters' retirement  
8 system. Except as provided in subsection (6) of this section, this  
9 supplemental rate shall be calculated by the state actuary and the  
10 state treasurer shall transfer the additional required contributions  
11 regardless of language to the contrary contained in the statute which  
12 authorizes the additional benefits.

13 (3) The supplemental rate charged under this section to fund  
14 benefit increases provided to active members of the public employees'  
15 retirement system plan 1, the teachers' retirement system plan 1, the  
16 law enforcement officers' and fire fighters' retirement system plan 1,  
17 and Washington state patrol retirement system, shall be calculated as  
18 the level percentage of all members' pay needed to fund the cost of the  
19 benefit not later than June 30, 2024.

20 (4) The supplemental rate charged under this section to fund  
21 benefit increases provided to active and retired members of the public  
22 employees' retirement system plan 2 and plan 3, the teachers'  
23 retirement system plan 2 and plan 3, the school employees' retirement  
24 system plan 2 and plan 3, or the law enforcement officers' and fire  
25 fighters' retirement system plan 2, shall be calculated as the level  
26 percentage of all members' pay needed to fund the cost of the benefit,  
27 as calculated under RCW 41.40.650 or 41.26.450, respectively.

28 (5) The supplemental rate charged under this section to fund  
29 postretirement adjustments which are provided on a nonautomatic basis  
30 to current retirees shall be calculated as the percentage of pay needed  
31 to fund the adjustments as they are paid to the retirees. The  
32 supplemental rate charged under this section to fund automatic  
33 postretirement adjustments for active or retired members of the public  
34 employees' retirement system plan 1 and the teachers' retirement system  
35 plan 1 shall be calculated as the level percentage of pay needed to  
36 fund the cost of the automatic adjustments not later than June 30,  
37 2024.

38 (6) A supplemental rate shall not be charged to pay for the cost of  
39 additional benefits granted to members pursuant to chapter 41.31A RCW;

1 section 309, chapter 341, Laws of 1998; (~~or~~) section 701, chapter  
2 341, Laws of 1998; chapter 340, Laws of 1998; or chapter ---, Laws of  
3 1999 (this act).

4 NEW SECTION. Sec. 54. A new section is added to chapter 41.45 RCW  
5 to read as follows:

6 (1) The required contribution rate for members of the plan 2 public  
7 employees' retirement system shall be fixed at the rates in effect on  
8 January 1, 2000, subject to the following:

9 (a) Beginning January 1, 2000, except as provided in (b) of this  
10 subsection, the employee contribution rate shall not exceed the  
11 employer plan 2 and 3 rates adopted under RCW 41.45.060 and 41.45.070  
12 for the public employees' retirement system;

13 (b) In addition, the employee contribution rate for plan 2 shall be  
14 increased by fifty percent of the contribution rate increase caused by  
15 any plan 2 benefit increase passed after January 1, 2000;

16 (c) In addition, the employee contribution rate for plan 2 shall  
17 not be increased as a result of any distributions pursuant to section  
18 35 of this act.

19 (2) The required plan 2 and 3 contribution rates for employers  
20 shall be adopted in the manner described in RCW 41.45.060.

21 **Sec. 55.** RCW 41.50.075 and 1996 c 39 s 16 are each amended to read  
22 as follows:

23 (1) Two funds are hereby created and established in the state  
24 treasury to be known as the Washington law enforcement officers' and  
25 fire fighters' system plan 1 retirement fund, and the Washington law  
26 enforcement officers' and fire fighters' system plan 2 retirement fund  
27 which shall consist of all moneys paid into them in accordance with the  
28 provisions of this chapter and chapter 41.26 RCW, whether such moneys  
29 take the form of cash, securities, or other assets. The plan 1 fund  
30 shall consist of all moneys paid to finance the benefits provided to  
31 members of the law enforcement officers' and fire fighters' retirement  
32 system plan 1, and the plan 2 fund shall consist of all moneys paid to  
33 finance the benefits provided to members of the law enforcement  
34 officers' and fire fighters' retirement system plan 2.

35 (2) All of the assets of the Washington state teachers' retirement  
36 system shall be credited according to the purposes for which they are  
37 held, to two funds to be maintained in the state treasury, namely, the

1 teachers' retirement system plan 1 fund and the teachers' retirement  
2 system combined plan 2 and 3 fund. The plan 1 fund shall consist of  
3 all moneys paid to finance the benefits provided to members of the  
4 Washington state teachers' retirement system plan 1, and the combined  
5 plan 2 and 3 fund shall consist of all moneys paid to finance the  
6 benefits provided to members of the Washington state teachers'  
7 retirement system plan 2 and 3.

8 (3) There is hereby established in the state treasury two separate  
9 funds, namely the public employees' retirement system plan 1 fund and  
10 the ((~~public employees' retirement system~~)) combined plan 2 and 3 fund.  
11 The plan 1 fund shall consist of all moneys paid to finance the  
12 benefits provided to members of the public employees' retirement system  
13 plan 1, and the combined plan 2 and 3 fund shall consist of all moneys  
14 paid to finance the benefits provided to members of the public  
15 employees' retirement system plan 2 and plan 3.

16 **Sec. 56.** RCW 41.50.075 and 1998 c 341 s 503 are each amended to  
17 read as follows:

18 (1) Two funds are hereby created and established in the state  
19 treasury to be known as the Washington law enforcement officers' and  
20 fire fighters' system plan 1 retirement fund, and the Washington law  
21 enforcement officers' and fire fighters' system plan 2 retirement fund  
22 which shall consist of all moneys paid into them in accordance with the  
23 provisions of this chapter and chapter 41.26 RCW, whether such moneys  
24 take the form of cash, securities, or other assets. The plan 1 fund  
25 shall consist of all moneys paid to finance the benefits provided to  
26 members of the law enforcement officers' and fire fighters' retirement  
27 system plan 1, and the plan 2 fund shall consist of all moneys paid to  
28 finance the benefits provided to members of the law enforcement  
29 officers' and fire fighters' retirement system plan 2.

30 (2) All of the assets of the Washington state teachers' retirement  
31 system shall be credited according to the purposes for which they are  
32 held, to two funds to be maintained in the state treasury, namely, the  
33 teachers' retirement system plan 1 fund and the teachers' retirement  
34 system combined plan 2 and 3 fund. The plan 1 fund shall consist of  
35 all moneys paid to finance the benefits provided to members of the  
36 Washington state teachers' retirement system plan 1, and the combined  
37 plan 2 and 3 fund shall consist of all moneys paid to finance the

1 benefits provided to members of the Washington state teachers'  
2 retirement system plan 2 and 3.

3 (3) There is hereby established in the state treasury two separate  
4 funds, namely the public employees' retirement system plan 1 fund and  
5 the ((~~public employees' retirement system~~)) combined plan 2 and 3 fund.  
6 The plan 1 fund shall consist of all moneys paid to finance the  
7 benefits provided to members of the public employees' retirement system  
8 plan 1, and the combined plan 2 and 3 fund shall consist of all moneys  
9 paid to finance the benefits provided to members of the public  
10 employees' retirement system plan 2 and 3.

11 (4) There is hereby established in the state treasury the school  
12 employees' retirement system combined plan 2 and 3 fund. The combined  
13 plan 2 and 3 fund shall consist of all moneys paid to finance the  
14 benefits provided to members of the school employees' retirement system  
15 plan 2 and plan 3.

16 **Sec. 57.** RCW 41.54.030 and 1996 c 55 s 4, 1996 c 55 s 3, and 1996  
17 c 39 s 19 are each reenacted and amended to read as follows:

18 (1) A dual member may combine service in all systems for the  
19 purpose of:

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

22 (b) Qualifying for a benefit under RCW 41.32.840(2) or section 20  
23 of this act.

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

30 (3) The service retirement allowances from a system which, but for  
31 this section, would not be allowed to be paid at this date based on the  
32 dual member's age may be received immediately or deferred to a later  
33 date. The allowances shall be actuarially adjusted from the earliest  
34 age upon which the combined service would have made such dual member  
35 eligible in that system.

36 (4) The service retirement eligibility requirements of RCW  
37 41.40.180 shall apply to any dual member whose prior system is plan 1

1 of the public employees' retirement system established under chapter  
2 41.40 RCW.

3 **Sec. 58.** RCW 41.54.030 and 1998 c 341 s 703 are each amended to  
4 read as follows:

5 (1) A dual member may combine service in all systems for the  
6 purpose of:

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

9 (b) Qualifying for a benefit under RCW 41.32.840(2) ~~((or))~~,  
10 41.35.620, or section 20 of this act.

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

17 (3) The service retirement allowances from a system which, but for  
18 this section, would not be allowed to be paid at this date based on the  
19 dual member's age may be received immediately or deferred to a later  
20 date. The allowances shall be actuarially adjusted from the earliest  
21 age upon which the combined service would have made such dual member  
22 eligible in that system.

23 (4) The service retirement eligibility requirements of RCW  
24 41.40.180 shall apply to any dual member whose prior system is plan 1  
25 of the public employees' retirement system established under chapter  
26 41.40 RCW.

27 **Sec. 59.** RCW 41.05.011 and 1996 c 39 s 21 are each amended to read  
28 as follows:

29 Unless the context clearly requires otherwise, the definitions in  
30 this section shall apply throughout this chapter.

31 (1) "Administrator" means the administrator of the authority.

32 (2) "State purchased health care" or "health care" means medical  
33 and health care, pharmaceuticals, and medical equipment purchased with  
34 state and federal funds by the department of social and health  
35 services, the department of health, the basic health plan, the state  
36 health care authority, the department of labor and industries, the

1 department of corrections, the department of veterans affairs, and  
2 local school districts.

3 (3) "Authority" means the Washington state health care authority.

4 (4) "Insuring entity" means an insurer as defined in chapter 48.01  
5 RCW, a health care service contractor as defined in chapter 48.44 RCW,  
6 or a health maintenance organization as defined in chapter 48.46 RCW.

7 (5) "Flexible benefit plan" means a benefit plan that allows  
8 employees to choose the level of health care coverage provided and the  
9 amount of employee contributions from among a range of choices offered  
10 by the authority.

11 (6) "Employee" includes all full-time and career seasonal employees  
12 of the state, whether or not covered by civil service; elected and  
13 appointed officials of the executive branch of government, including  
14 full-time members of boards, commissions, or committees; and includes  
15 any or all part-time and temporary employees under the terms and  
16 conditions established under this chapter by the authority; justices of  
17 the supreme court and judges of the court of appeals and the superior  
18 courts; and members of the state legislature or of the legislative  
19 authority of any county, city, or town who are elected to office after  
20 February 20, 1970. "Employee" also includes: (a) Employees of a  
21 county, municipality, or other political subdivision of the state if  
22 the legislative authority of the county, municipality, or other  
23 political subdivision of the state seeks and receives the approval of  
24 the authority to provide any of its insurance programs by contract with  
25 the authority, as provided in RCW 41.04.205; (b) employees of employee  
26 organizations representing state civil service employees, at the option  
27 of each such employee organization, and, effective October 1, 1995,  
28 employees of employee organizations currently pooled with employees of  
29 school districts for the purpose of purchasing insurance benefits, at  
30 the option of each such employee organization; and (c) employees of a  
31 school district if the authority agrees to provide any of the school  
32 districts' insurance programs by contract with the authority as  
33 provided in RCW 28A.400.350.

34 (7) "Board" means the public employees' benefits board established  
35 under RCW 41.05.055.

36 (8) "Retired or disabled school employee" means:

37 (a) Persons who separated from employment with a school district or  
38 educational service district and are receiving a retirement allowance  
39 under chapter 41.32 or 41.40 RCW as of September 30, 1993;

1 (b) Persons who separate from employment with a school district or  
2 educational service district on or after October 1, 1993, and  
3 immediately upon separation receive a retirement allowance under  
4 chapter 41.32 or 41.40 RCW;

5 (c) Persons who separate from employment with a school district or  
6 educational service district due to a total and permanent disability,  
7 and are eligible to receive a deferred retirement allowance under  
8 chapter 41.32 or 41.40 RCW.

9 (9) "Benefits contribution plan" means a premium only contribution  
10 plan, a medical flexible spending arrangement, or a cafeteria plan  
11 whereby state and public employees may agree to a contribution to  
12 benefit costs which will allow the employee to participate in benefits  
13 offered pursuant to 26 U.S.C. Sec. 125 or other sections of the  
14 internal revenue code.

15 (10) "Salary" means a state employee's monthly salary or wages.

16 (11) "Participant" means an individual who fulfills the eligibility  
17 and enrollment requirements under the benefits contribution plan.

18 (12) "Plan year" means the time period established by the  
19 authority.

20 (13) "Separated employees" means persons who separate from  
21 employment with an employer as defined in:

22 (a) RCW 41.32.010(11) on or after July 1, 1996((7)); or

23 (b) RCW 41.40.010(4)(b) on or after January 1, 2000;

24 and who are at least age fifty-five and have at least ten years of  
25 service under the teachers' retirement system plan 3 as defined in RCW  
26 41.32.010(40).

27 **Sec. 60.** RCW 41.05.011 and 1998 c 341 s 706 are each amended to  
28 read as follows:

29 Unless the context clearly requires otherwise, the definitions in  
30 this section shall apply throughout this chapter.

31 (1) "Administrator" means the administrator of the authority.

32 (2) "State purchased health care" or "health care" means medical  
33 and health care, pharmaceuticals, and medical equipment purchased with  
34 state and federal funds by the department of social and health  
35 services, the department of health, the basic health plan, the state  
36 health care authority, the department of labor and industries, the  
37 department of corrections, the department of veterans affairs, and  
38 local school districts.

1 (3) "Authority" means the Washington state health care authority.

2 (4) "Insuring entity" means an insurer as defined in chapter 48.01  
3 RCW, a health care service contractor as defined in chapter 48.44 RCW,  
4 or a health maintenance organization as defined in chapter 48.46 RCW.

5 (5) "Flexible benefit plan" means a benefit plan that allows  
6 employees to choose the level of health care coverage provided and the  
7 amount of employee contributions from among a range of choices offered  
8 by the authority.

9 (6) "Employee" includes all full-time and career seasonal employees  
10 of the state, whether or not covered by civil service; elected and  
11 appointed officials of the executive branch of government, including  
12 full-time members of boards, commissions, or committees; and includes  
13 any or all part-time and temporary employees under the terms and  
14 conditions established under this chapter by the authority; justices of  
15 the supreme court and judges of the court of appeals and the superior  
16 courts; and members of the state legislature or of the legislative  
17 authority of any county, city, or town who are elected to office after  
18 February 20, 1970. "Employee" also includes: (a) Employees of a  
19 county, municipality, or other political subdivision of the state if  
20 the legislative authority of the county, municipality, or other  
21 political subdivision of the state seeks and receives the approval of  
22 the authority to provide any of its insurance programs by contract with  
23 the authority, as provided in RCW 41.04.205; (b) employees of employee  
24 organizations representing state civil service employees, at the option  
25 of each such employee organization, and, effective October 1, 1995,  
26 employees of employee organizations currently pooled with employees of  
27 school districts for the purpose of purchasing insurance benefits, at  
28 the option of each such employee organization; and (c) employees of a  
29 school district if the authority agrees to provide any of the school  
30 districts' insurance programs by contract with the authority as  
31 provided in RCW 28A.400.350.

32 (7) "Board" means the public employees' benefits board established  
33 under RCW 41.05.055.

34 (8) "Retired or disabled school employee" means:

35 (a) Persons who separated from employment with a school district or  
36 educational service district and are receiving a retirement allowance  
37 under chapter 41.32 or 41.40 RCW as of September 30, 1993;

38 (b) Persons who separate from employment with a school district or  
39 educational service district on or after October 1, 1993, and

1 immediately upon separation receive a retirement allowance under  
2 chapter 41.32 or 41.40 RCW;

3 (c) Persons who separate from employment with a school district or  
4 educational service district due to a total and permanent disability,  
5 and are eligible to receive a deferred retirement allowance under  
6 chapter 41.32 or 41.40 RCW.

7 (9) "Benefits contribution plan" means a premium only contribution  
8 plan, a medical flexible spending arrangement, or a cafeteria plan  
9 whereby state and public employees may agree to a contribution to  
10 benefit costs which will allow the employee to participate in benefits  
11 offered pursuant to 26 U.S.C. Sec. 125 or other sections of the  
12 internal revenue code.

13 (10) "Salary" means a state employee's monthly salary or wages.

14 (11) "Participant" means an individual who fulfills the eligibility  
15 and enrollment requirements under the benefits contribution plan.

16 (12) "Plan year" means the time period established by the  
17 authority.

18 (13) "Separated employees" means persons who separate from  
19 employment with an employer as defined in:

20 (a) RCW 41.32.010(11) on or after July 1, 1996; (~~or~~)

21 (b) RCW 41.35.010 on or after September 1, 2000; or

22 (c) RCW 41.40.010(4)(b) on or after January 1, 2000;

23 and who are at least age fifty-five and have at least ten years of  
24 service under the teachers' retirement system plan 3 as defined in RCW  
25 41.32.010(40) or the Washington school employees' retirement system  
26 plan 3 as defined in RCW 41.35.010.

27 **Sec. 61.** RCW 43.33A.190 and 1998 c 341 s 707 are each amended to  
28 read as follows:

29 Pursuant to RCW 41.34.130, the state investment board shall invest  
30 all self-directed investment moneys under the teachers' retirement  
31 system plan 3 (~~and~~), the school employees' retirement system plan 3,  
32 and the public employees' retirement system plan 3, with full power to  
33 establish investment policy, develop investment options, and manage  
34 self-directed investment funds.

35 NEW SECTION. **Sec. 62.** Sections 24 through 38 of this act  
36 constitute a new chapter in Title 41 RCW.

1        NEW SECTION.    **Sec. 63.**    Sections 3, 6, 46, 48, 50, 55, 57, and 59  
2 of this act expire September 1, 2000.

3        NEW SECTION.    **Sec. 64.**    Sections 4, 7, 47, 49, 51, 56, 58, and 60  
4 of this act take effect September 1, 2000.

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