

---

SECOND SUBSTITUTE HOUSE BILL 2348

---

State of Washington

57th Legislature

2002 Regular Session

By House Committee on Education (originally sponsored by Representatives Ruderman, Jarrett, Santos, Upthegrove, McIntire, Sommers, Schual-Berke, Conway, Wood, Esser, Kagi and Nixon)

Read first time 02/09/2002. Referred to Committee on .

1 AN ACT Relating to housing allowances for nonsupervisory K-12  
2 employees; amending RCW 28A.400.200, 84.52.0531, 41.32.010, 41.40.010,  
3 and 41.35.010; adding a new section to chapter 28A.400 RCW; adding a  
4 new section to chapter 28A.500 RCW; adding a new section to chapter  
5 84.52 RCW; and creating a new section.

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

7 NEW SECTION. **Sec. 1.** As the disparity in the cost-of-living  
8 between school districts across the state has grown in recent years,  
9 the purchasing power of equalized salaries has become more disparate  
10 for K-12 employees. A major contributor to these costs is housing.  
11 The purpose of this act is to authorize a housing allowance for  
12 nonsupervisory public school employees in order to minimize disparities  
13 in purchasing power among educational employees across the state.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.400  
15 RCW to read as follows:

16 (1) Eligible school districts may provide a housing allowance for  
17 nonsupervisory classified and certificated employees with revenues  
18 raised from a housing allowance levy authorized under this section.

1 (2) The cost of the housing for each school district and the  
2 statewide median shall be determined every four years based on a  
3 standard set of housing specifications and on data reported for the  
4 most recent annual period for which data are available. The collection  
5 of data shall be done by a nationally recognized entity that collects  
6 statistically valid housing cost data for federal government agencies  
7 and businesses, selected by the superintendent of public instruction  
8 and subject to approval by the legislative fiscal committees and the  
9 office of financial management. The office of financial management  
10 shall contract with the entity selected under this subsection (2) from  
11 funds provided for this purpose. For the purposes of this section, the  
12 "statewide median cost of housing" is the cost at which there is an  
13 equal number of districts with higher housing costs and with lower  
14 housing costs.

15 (3) The housing allowance levy shall be authorized for school  
16 districts having housing costs that exceed the statewide median cost of  
17 housing as determined under subsection (2) of this section. The  
18 calculation of the maximum levy allowed for a qualifying school  
19 district shall be the number of nonsupervisory classified and  
20 certificated full-time equivalent employees multiplied by the  
21 difference between the district's cost of housing and the median cost  
22 of housing statewide. For purposes of this calculation, the difference  
23 between the district's cost of housing and the statewide median shall  
24 not exceed fifty percent of the median.

25 (4) Individual payment of the housing allowance to nonsupervisory  
26 classified and certificated employees is subject to collective  
27 bargaining but shall be paid only to actively employed nonsupervisory  
28 classified and certificated employees using a formula that recognizes  
29 and is responsive to the disproportionate housing assistance needs of  
30 new teachers and of certificated and classified employees at the bottom  
31 end of a salary schedule or pay scale. The housing allowance shall not  
32 be considered as within the definition of basic education for the  
33 purposes of chapter 28A.150 RCW, nor is it earnable compensation as  
34 defined in RCW 41.32.010 or compensation earnable as defined in RCW  
35 41.40.010 and 41.35.010.

36 (5) Local school districts that qualify for a housing allowance  
37 levy under subsection (3) of this section may submit to voters an  
38 excess general fund levy on real property to support up to and  
39 including the maximum housing levy authority determined in subsection

1 (3) of this section. This levy is not subject to the limitations in  
2 RCW 84.52.0531. This levy does not qualify a school district for local  
3 effort assistance under chapter 28A.500 RCW.

4 (6) The office of the superintendent of public instruction shall  
5 administer the housing allowance program and shall adopt rules for  
6 implementation.

7 NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.500  
8 RCW to read as follows:

9 Levies authorized under section 2 of this act shall not be  
10 considered in determining a school district's eligibility for local  
11 effort assistance under this chapter.

12 **Sec. 4.** RCW 28A.400.200 and 1997 c 141 s 2 are each amended to  
13 read as follows:

14 (1) Every school district board of directors shall fix, alter,  
15 allow, and order paid salaries and compensation for all district  
16 employees in conformance with this section.

17 (2)(a) Salaries for certificated instructional staff shall not be  
18 less than the salary provided in the appropriations act in the  
19 statewide salary allocation schedule for an employee with a  
20 baccalaureate degree and zero years of service; and

21 (b) Salaries for certificated instructional staff with a masters  
22 degree shall not be less than the salary provided in the appropriations  
23 act in the statewide salary allocation schedule for an employee with a  
24 masters degree and zero years of service;

25 (3)(a) The actual average salary paid to basic education and  
26 special education certificated instructional staff shall not exceed the  
27 district's average basic education and special education program  
28 certificated instructional staff salary used for the state basic  
29 education allocations for that school year as determined pursuant to  
30 RCW 28A.150.410.

31 (b) Fringe benefit contributions for basic education and special  
32 education certificated instructional staff shall be included as salary  
33 under (a) of this subsection only to the extent that the district's  
34 actual average benefit contribution exceeds the amount of the insurance  
35 benefits allocation provided per certificated instructional staff unit  
36 in the state operating appropriations act in effect at the time the  
37 compensation is payable. For purposes of this section, fringe benefits

1 shall not include payment for unused leave for illness or injury under  
2 RCW 28A.400.210; employer contributions for old age survivors  
3 insurance, workers' compensation, unemployment compensation, and  
4 retirement benefits under the Washington state retirement system; or  
5 employer contributions for health benefits in excess of the insurance  
6 benefits allocation provided per certificated instructional staff unit  
7 in the state operating appropriations act in effect at the time the  
8 compensation is payable. A school district may not use state funds to  
9 provide employer contributions for such excess health benefits.

10 (c) Salary and benefits for certificated instructional staff in  
11 programs other than basic education and special education shall be  
12 consistent with the salary and benefits paid to certificated  
13 instructional staff in the basic education and special education  
14 programs.

15 (4) Salaries and benefits for certificated instructional staff may  
16 exceed the limitations in subsection (3) of this section only by  
17 separate contract for additional time, additional responsibilities, or  
18 incentives. Supplemental contracts shall not cause the state to incur  
19 any present or future funding obligation. Supplemental contracts shall  
20 be subject to the collective bargaining provisions of chapter 41.59 RCW  
21 and the provisions of RCW 28A.405.240, shall not exceed one year, and  
22 if not renewed shall not constitute adverse change in accordance with  
23 RCW 28A.405.300 through 28A.405.380. No district may enter into a  
24 supplemental contract under this subsection for the provision of  
25 services which are a part of the basic education program required by  
26 Article IX, section 3 of the state Constitution.

27 (5) Employee benefit plans offered by any district shall comply  
28 with RCW 28A.400.350 and 28A.400.275 and 28A.400.280.

29 (6) Housing allowances authorized in section 2 of this act shall  
30 not be included as salary under this section and shall not be included  
31 in salary limitations.

32 **Sec. 5.** RCW 84.52.0531 and 1997 c 259 s 2 are each amended to read  
33 as follows:

34 The maximum dollar amount which may be levied by or for any school  
35 district for maintenance and operation support under the provisions of  
36 RCW 84.52.053 shall be determined as follows:

1 (1) For excess levies for collection in calendar year 1997, the  
2 maximum dollar amount shall be calculated pursuant to the laws and  
3 rules in effect in November 1996.

4 (2) For excess levies for collection in calendar year 1998 and  
5 thereafter, the maximum dollar amount shall be the sum of (a) plus or  
6 minus (b) and (c) of this subsection minus (d) of this subsection:

7 (a) The district's levy base as defined in subsection (3) of this  
8 section multiplied by the district's maximum levy percentage as defined  
9 in subsection (4) of this section;

10 (b) For districts in a high/nonhigh relationship, the high school  
11 district's maximum levy amount shall be reduced and the nonhigh school  
12 district's maximum levy amount shall be increased by an amount equal to  
13 the estimated amount of the nonhigh payment due to the high school  
14 district under RCW 28A.545.030(3) and 28A.545.050 for the school year  
15 commencing the year of the levy;

16 (c) For districts in an interdistrict cooperative agreement, the  
17 nonresident school district's maximum levy amount shall be reduced and  
18 the resident school district's maximum levy amount shall be increased  
19 by an amount equal to the per pupil basic education allocation included  
20 in the nonresident district's levy base under subsection (3) of this  
21 section multiplied by:

22 (i) The number of full-time equivalent students served from the  
23 resident district in the prior school year; multiplied by:

24 (ii) The serving district's maximum levy percentage determined  
25 under subsection (4) of this section; increased by:

26 (iii) The percent increase per full-time equivalent student as  
27 stated in the state basic education appropriation section of the  
28 biennial budget between the prior school year and the current school  
29 year divided by fifty-five percent;

30 (d) The district's maximum levy amount shall be reduced by the  
31 maximum amount of state matching funds for which the district is  
32 eligible under RCW 28A.500.010.

33 (3) For excess levies for collection in calendar year 1998 and  
34 thereafter, a district's levy base shall be the sum of allocations in  
35 (a) through (c) of this subsection received by the district for the  
36 prior school year, including allocations for compensation increases,  
37 plus the sum of such allocations multiplied by the percent increase per  
38 full time equivalent student as stated in the state basic education  
39 appropriation section of the biennial budget between the prior school

1 year and the current school year and divided by fifty-five percent. A  
2 district's levy base shall not include local school district property  
3 tax levies or other local revenues, or state and federal allocations  
4 not identified in (a) through (c) of this subsection.

5 (a) The district's basic education allocation as determined  
6 pursuant to RCW 28A.150.250, 28A.150.260, and 28A.150.350;

7 (b) State and federal categorical allocations for the following  
8 programs:

9 (i) Pupil transportation;

10 (ii) Special education;

11 (iii) Education of highly capable students;

12 (iv) Compensatory education, including but not limited to learning  
13 assistance, migrant education, Indian education, refugee programs, and  
14 bilingual education;

15 (v) Food services; and

16 (vi) Statewide block grant programs; and

17 (c) Any other federal allocations for elementary and secondary  
18 school programs, including direct grants, other than federal impact aid  
19 funds and allocations in lieu of taxes.

20 (4) A district's maximum levy percentage shall be twenty-two  
21 percent in 1998 and twenty-four percent in 1999 and every year  
22 thereafter; plus, for qualifying districts, the grandfathered  
23 percentage determined as follows:

24 (a) For 1997, the difference between the district's 1993 maximum  
25 levy percentage and twenty percent; and

26 (b) For 1998 and thereafter, the percentage calculated as follows:

27 (i) Multiply the grandfathered percentage for the prior year times  
28 the district's levy base determined under subsection (3) of this  
29 section;

30 (ii) Reduce the result of (b)(i) of this subsection by any levy  
31 reduction funds as defined in subsection (5) of this section that are  
32 to be allocated to the district for the current school year;

33 (iii) Divide the result of (b)(ii) of this subsection by the  
34 district's levy base; and

35 (iv) Take the greater of zero or the percentage calculated in  
36 (b)(iii) of this subsection.

37 (5) "Levy reduction funds" shall mean increases in state funds from  
38 the prior school year for programs included under subsection (3) of  
39 this section: (a) That are not attributable to enrollment changes,

1 compensation increases, or inflationary adjustments; and (b) that are  
2 or were specifically identified as levy reduction funds in the  
3 appropriations act. If levy reduction funds are dependent on formula  
4 factors which would not be finalized until after the start of the  
5 current school year, the superintendent of public instruction shall  
6 estimate the total amount of levy reduction funds by using prior school  
7 year data in place of current school year data. Levy reduction funds  
8 shall not include moneys received by school districts from cities or  
9 counties.

10 (6) For the purposes of this section, "prior school year" means the  
11 most recent school year completed prior to the year in which the levies  
12 are to be collected.

13 (7) For the purposes of this section, "current school year" means  
14 the year immediately following the prior school year.

15 (8) Funds collected from transportation vehicle fund tax levies  
16 shall not be subject to the levy limitations in this section.

17 (9) The limitations in this section do not apply to excess general  
18 fund levies for the support of the housing allowance provided for in  
19 section 2 of this act.

20 (10) The superintendent of public instruction shall develop rules  
21 (~~and regulations~~) and inform school districts of the pertinent data  
22 necessary to carry out the provisions of this section.

23 NEW SECTION. **Sec. 6.** A new section is added to chapter 84.52 RCW  
24 to read as follows:

25 A levy submitted to voters under section 2 of this act may be  
26 submitted as a separate levy, or as part of a maintenance and operation  
27 levy if the housing allowance levy is separately identified.

28 **Sec. 7.** RCW 41.32.010 and 1997 c 254 s 3 are each amended to read  
29 as follows:

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

32 (1)(a) "Accumulated contributions" for plan 1 members, means the  
33 sum of all regular annuity contributions and, except for the purpose of  
34 withdrawal at the time of retirement, any amount paid under RCW  
35 41.50.165(2) with regular interest thereon.

36 (b) "Accumulated contributions" for plan 2 members, means the sum  
37 of all contributions standing to the credit of a member in the member's

1 individual account, including any amount paid under RCW 41.50.165(2),  
2 together with the regular interest thereon.

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

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

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

10 (5)(a) "Beneficiary" for plan 1 members, means any person in  
11 receipt of a retirement allowance or other benefit provided by this  
12 chapter.

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

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

19 (7) "Creditable service" means membership service plus prior  
20 service for which credit is allowable. This subsection shall apply  
21 only to plan 1 members.

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

24 (9) "Disability allowance" means monthly payments during  
25 disability. This subsection shall apply only to plan 1 members.

26 (10)(a) "Earnable compensation" for plan 1 members, means:

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

32 (ii) "Earnable compensation" for plan 1 members also includes the  
33 following actual or imputed payments, which are not paid for personal  
34 services:

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



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

3 (B) If a leave of absence, without pay, is taken by a member for  
4 the purpose of serving as a member of the state legislature, and such  
5 member has served in the legislature five or more years, the salary  
6 which would have been received for the position from which the leave of  
7 absence was taken shall be considered as compensation earnable if the  
8 employee's contribution thereon is paid by the employee. In addition,  
9 where a member has been a member of the state legislature for five or  
10 more years, earnable compensation for the member's two highest  
11 compensated consecutive years of service shall include a sum not to  
12 exceed thirty-six hundred dollars for each of such two consecutive  
13 years, regardless of whether or not legislative service was rendered  
14 during those two years.

15 (iii) For members employed less than full time under written  
16 contract with a school district, or community college district, in an  
17 instructional position, for which the member receives service credit of  
18 less than one year in all of the years used to determine the earnable  
19 compensation used for computing benefits due under RCW 41.32.497,  
20 41.32.498, and 41.32.520, the member may elect to have earnable  
21 compensation defined as provided in RCW 41.32.345. For the purposes of  
22 this subsection, the term "instructional position" means a position in  
23 which more than seventy-five percent of the member's time is spent as  
24 a classroom instructor (including office hours), a librarian, or a  
25 counselor. Earnable compensation shall be so defined only for the  
26 purpose of the calculation of retirement benefits and only as necessary  
27 to insure that members who receive fractional service credit under RCW  
28 41.32.270 receive benefits proportional to those received by members  
29 who have received full-time service credit.

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

31 (A) Remuneration for unused sick leave authorized under RCW  
32 41.04.340, 28A.400.210, or 28A.310.490;

33 (B) Remuneration for unused annual leave in excess of thirty days  
34 as authorized by RCW 43.01.044 and 43.01.041;

35 (C) Housing allowances authorized in section 2 of this act.

36 (b) "Earnable compensation" for plan 2 and plan 3 members, means  
37 salaries or wages earned by a member during a payroll period for  
38 personal services, including overtime payments, and shall include wages  
39 and salaries deferred under provisions established pursuant to sections

1 403(b), 414(h), and 457 of the United States Internal Revenue Code, but  
2 shall exclude lump sum payments for deferred annual sick leave, unused  
3 accumulated vacation, unused accumulated annual leave, ~~((or))~~ any form  
4 of severance pay, and housing allowances authorized in section 2 of  
5 this act.

6 "Earnable compensation" for plan 2 and plan 3 members also includes  
7 the following actual or imputed payments which, except in the case of  
8 (b)(ii)(B) of this subsection, are not paid for personal services:

9 (i) Retroactive payments to an individual by an employer on  
10 reinstatement of the employee in a position or payments by an employer  
11 to an individual in lieu of reinstatement in a position which are  
12 awarded or granted as the equivalent of the salary or wages which the  
13 individual would have earned during a payroll period shall be  
14 considered earnable compensation, to the extent provided above, and the  
15 individual shall receive the equivalent service credit.

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

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

21 (B) Such member's actual earnable compensation received for  
22 teaching and legislative service combined. Any additional  
23 contributions to the retirement system required because compensation  
24 earnable under (b)(ii)(A) of this subsection is greater than  
25 compensation earnable under (b)(ii)(B) of this subsection shall be paid  
26 by the member for both member and employer contributions.

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

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

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

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

36 (15) "Member" means any teacher included in the membership of the  
37 retirement system. Also, any other employee of the public schools who,  
38 on July 1, 1947, had not elected to be exempt from membership and who,

1 prior to that date, had by an authorized payroll deduction, contributed  
2 to the member reserve.

3 (16) "Membership service" means service rendered subsequent to the  
4 first day of eligibility of a person to membership in the retirement  
5 system: PROVIDED, That where a member is employed by two or more  
6 employers the individual shall receive no more than one service credit  
7 month during any calendar month in which multiple service is rendered.  
8 The provisions of this subsection shall apply only to plan 1 members.

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

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

15 (19) "Prior service" means service rendered prior to the first date  
16 of eligibility to membership in the retirement system for which credit  
17 is allowable. The provisions of this subsection shall apply only to  
18 plan 1 members.

19 (20) "Prior service contributions" means contributions made by a  
20 member to secure credit for prior service. The provisions of this  
21 subsection shall apply only to plan 1 members.

22 (21) "Public school" means any institution or activity operated by  
23 the state of Washington or any instrumentality or political subdivision  
24 thereof employing teachers, except the University of Washington and  
25 Washington State University.

26 (22) "Regular contributions" means the amounts required to be  
27 deducted from the compensation of a member and credited to the member's  
28 individual account in the member reserve. This subsection shall apply  
29 only to plan 1 members.

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

32 (24)(a) "Retirement allowance" for plan 1 members, means monthly  
33 payments based on the sum of annuity and pension, or any optional  
34 benefits payable in lieu thereof.

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

38 (25) "Retirement system" means the Washington state teachers'  
39 retirement system.

1 (26)(a) "Service" for plan 1 members means the time during which a  
2 member has been employed by an employer for compensation.

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

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

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

13 (b) "Service" for plan 2 and plan 3 members, means periods of  
14 employment by a member for one or more employers for which earnable  
15 compensation is earned subject to the following conditions:

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

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

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

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

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

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

1 (iv) Any person who is a member of the teachers' retirement system  
2 and who is elected or appointed to a state elective position may  
3 continue to be a member of the retirement system and continue to  
4 receive a service credit month for each of the months in a state  
5 elective position by making the required member contributions.

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

10 (vi) As authorized by RCW 28A.400.300, up to forty-five days of  
11 sick leave may be creditable as service solely for the purpose of  
12 determining eligibility to retire under RCW 41.32.470. For purposes of  
13 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal  
14 to two service credit months. Use of less than forty-five days of sick  
15 leave is creditable as allowed under this subsection as follows:

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

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

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

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

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

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

28 (viii) The department shall adopt rules implementing this  
29 subsection.

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

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

34 (29) "Teacher" means any person qualified to teach who is engaged  
35 by a public school in an instructional, administrative, or supervisory  
36 capacity. The term includes state, educational service district, and  
37 school district superintendents and their assistants and all employees  
38 certificated by the superintendent of public instruction; and in  
39 addition thereto any full time school doctor who is employed by a

1 public school and renders service of an instructional or educational  
2 nature.

3 (30) "Average final compensation" for plan 2 and plan 3 members,  
4 means the member's average earnable compensation of the highest  
5 consecutive sixty service credit months prior to such member's  
6 retirement, termination, or death. Periods constituting authorized  
7 leaves of absence may not be used in the calculation of average final  
8 compensation except under RCW 41.32.810(2).

9 (31) "Retiree" means any person who has begun accruing a retirement  
10 allowance or other benefit provided by this chapter resulting from  
11 service rendered to an employer while a member.

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

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

15 (34) "State elective position" means any position held by any  
16 person elected or appointed to statewide office or elected or appointed  
17 as a member of the legislature.

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

20 (36) "Substitute teacher" means:

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

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

27 (37)(a) "Eligible position" for plan 2 members from June 7, 1990,  
28 through September 1, 1991, means a position which normally requires two  
29 or more uninterrupted months of creditable service during September  
30 through August of the following year.

31 (b) "Eligible position" for plan 2 and plan 3 on and after  
32 September 1, 1991, means a position that, as defined by the employer,  
33 normally requires five or more months of at least seventy hours of  
34 earnable compensation during September through August of the following  
35 year.

36 (c) 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 (d) The elected position of the superintendent of public  
2 instruction is an eligible position.

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

6 (39) "Plan 2" means the teachers' retirement system, plan 2  
7 providing the benefits and funding provisions covering persons who  
8 first became members of the system on and after October 1, 1977, and  
9 prior to July 1, 1996.

10 (40) "Plan 3" means the teachers' retirement system, plan 3  
11 providing the benefits and funding provisions covering persons who  
12 first become members of the system on and after July 1, 1996, or who  
13 transfer under RCW 41.32.817.

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

18 (42) "Index A" means the index for the year prior to the  
19 determination of a postretirement adjustment.

20 (43) "Index B" means the index for the year prior to index A.

21 (44) "Index year" means the earliest calendar year in which the  
22 index is more than sixty percent of index A.

23 (45) "Adjustment ratio" means the value of index A divided by index  
24 B.

25 (46) "Annual increase" means, initially, fifty-nine cents per month  
26 per year of service which amount shall be increased each July 1st by  
27 three percent, rounded to the nearest cent.

28 (47) "Member account" or "member's account" for purposes of plan 3  
29 means the sum of the contributions and earnings on behalf of the member  
30 in the defined contribution portion of plan 3.

31 (48) "Separation from service or employment" occurs when a person  
32 has terminated all employment with an employer.

33 (49) "Employed" or "employee" means a person who is providing  
34 services for compensation to an employer, unless the person is free  
35 from the employer's direction and control over the performance of work.  
36 The department shall adopt rules and interpret this subsection  
37 consistent with common law.

1       **Sec. 8.** RCW 41.40.010 and 2000 c 247 s 102 are each amended to  
2 read as follows:

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

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

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

9       (3) "State treasurer" means the treasurer of the state of  
10 Washington.

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

22       (b) "Employer" for plan 2 and plan 3 members, means every branch,  
23 department, agency, commission, board, and office of the state, and any  
24 political subdivision and municipal corporation of the state admitted  
25 into the retirement system, including public agencies created pursuant  
26 to RCW 35.63.070, 36.70.060, and 39.34.030; except that after August  
27 31, 2000, school districts and educational service districts will no  
28 longer be employers for the public employees' retirement system plan 2.

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

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

35       (a) Any person who became a member of the system prior to April 1,  
36 1949;

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



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

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

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

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

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

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

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

36 (A) Retroactive payments to an individual by an employer on  
37 reinstatement of the employee in a position, or payments by an employer  
38 to an individual in lieu of reinstatement in a position which are  
39 awarded or granted as the equivalent of the salary or wage which the

1 individual would have earned during a payroll period shall be  
2 considered compensation earnable and the individual shall receive the  
3 equivalent service credit;

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

10 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and  
11 72.09.240;

12 (D) Compensation that a member would have received but for a  
13 disability occurring in the line of duty only as authorized by RCW  
14 41.40.038;

15 (E) Compensation that a member receives due to participation in the  
16 leave sharing program only as authorized by RCW 41.04.650 through  
17 41.04.670; and

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

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

24 (A) Remuneration for unused sick leave authorized under RCW  
25 41.04.340, 28A.400.210, or 28A.310.490;

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

28 (C) Housing allowances authorized in section 2 of this act.

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

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

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

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

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

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

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

24 (iv) Compensation that a member would have received but for a  
25 disability occurring in the line of duty only as authorized by RCW  
26 41.40.038;

27 (v) Compensation that a member receives due to participation in the  
28 leave sharing program only as authorized by RCW 41.04.650 through  
29 41.04.670; and

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

35 (9)(a) "Service" for plan 1 members, except as provided in RCW  
36 41.40.088, means periods of employment in an eligible position or  
37 positions for one or more employers rendered to any employer for which  
38 compensation is paid, and includes time spent in office as an elected  
39 or appointed official of an employer. Compensation earnable earned in

1 full time work for seventy hours or more in any given calendar month  
2 shall constitute one service credit month except as provided in RCW  
3 41.40.088. Compensation earnable earned for less than seventy hours in  
4 any calendar month shall constitute one-quarter service credit month of  
5 service except as provided in RCW 41.40.088. Only service credit  
6 months and one-quarter service credit months shall be counted in the  
7 computation of any retirement allowance or other benefit provided for  
8 in this chapter. Any fraction of a year of service shall be taken into  
9 account in the computation of such retirement allowance or benefits.  
10 Time spent in standby status, whether compensated or not, is not  
11 service.

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

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

24 (iii) A school district employee may count up to forty-five days of  
25 sick leave as creditable service solely for the purpose of determining  
26 eligibility to retire under RCW 41.40.180 as authorized by RCW  
27 28A.400.300. For purposes of plan 1 "forty-five days" as used in RCW  
28 28A.400.300 is equal to two service credit months. Use of less than  
29 forty-five days of sick leave is creditable as allowed under this  
30 subsection as follows:

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

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

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

36 (b) "Service" for plan 2 and plan 3 members, means periods of  
37 employment by a member in an eligible position or positions for one or  
38 more employers for which compensation earnable is paid. Compensation  
39 earnable earned for ninety or more hours in any calendar month shall

1 constitute one service credit month except as provided in RCW  
2 41.40.088. Compensation earnable earned for at least seventy hours but  
3 less than ninety hours in any calendar month shall constitute one-half  
4 service credit month of service. Compensation earnable earned for less  
5 than seventy hours in any calendar month shall constitute one-quarter  
6 service credit month of service. Time spent in standby status, whether  
7 compensated or not, is not service.

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

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

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

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

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

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

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

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

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

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

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

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

7 (13) "Membership service" means:

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

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

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

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

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

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

36 (15) "Regular interest" means such rate as the director may  
37 determine.

38 (16) "Accumulated contributions" means the sum of all contributions  
39 standing to the credit of a member in the member's individual account,

1 including any amount paid under RCW 41.50.165(2), together with the  
2 regular interest thereon.

3 (17)(a) "Average final compensation" for plan 1 members, means the  
4 annual average of the greatest compensation earnable by a member during  
5 any consecutive two year period of service credit months for which  
6 service credit is allowed; or if the member has less than two years of  
7 service credit months then the annual average compensation earnable  
8 during the total years of service for which service credit is allowed.

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

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

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

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

23 (21) "Retirement allowance" means the sum of the annuity and the  
24 pension.

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

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

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

35 (25) "Eligible position" means:

36 (a) Any position that, as defined by the employer, normally  
37 requires five or more months of service a year for which regular  
38 compensation for at least seventy hours is earned by the occupant  
39 thereof. For purposes of this chapter an employer shall not define

1 "position" in such a manner that an employee's monthly work for that  
2 employer is divided into more than one position;

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

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

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

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

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

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

20 (31) "State elective position" means any position held by any  
21 person elected or appointed to statewide office or elected or appointed  
22 as a member of the legislature.

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

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

28 (34) "Plan 2" means the public employees' retirement system, plan  
29 2 providing the benefits and funding provisions covering persons who  
30 first became members of the system on and after October 1, 1977, and  
31 are not included in plan 3.

32 (35) "Plan 3" means the public employees' retirement system, plan  
33 3 providing the benefits and funding provisions covering persons who:

34 (a) First become a member on or after:

35 (i) March 1, 2002, and are employed by a state agency or institute  
36 of higher education and who did not choose to enter plan 2; or

37 (ii) September 1, 2002, and are employed by other than a state  
38 agency or institute of higher education and who did not choose to enter  
39 plan 2; or



1 (b) Transferred to plan 3 under RCW 41.40.795.

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

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

8 (38) "Index B" means the index for the year prior to index A.

9 (39) "Index year" means the earliest calendar year in which the  
10 index is more than sixty percent of index A.

11 (40) "Adjustment ratio" means the value of index A divided by index  
12 B.

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

16 (42) "Separation from service" occurs when a person has terminated  
17 all employment with an employer.

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

21 **Sec. 9.** RCW 41.35.010 and 2001 c 180 s 3 are each amended to read  
22 as follows:

23 The definitions in this section apply throughout this chapter,  
24 unless the context clearly requires otherwise:

25 (1) "Retirement system" means the Washington school employees'  
26 retirement system provided for in this chapter.

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

29 (3) "State treasurer" means the treasurer of the state of  
30 Washington.

31 (4) "Employer," for plan 2 and plan 3 members, means a school  
32 district or an educational service district.

33 (5) "Member" means any employee included in the membership of the  
34 retirement system, as provided for in RCW 41.35.030.

35 (6)(a) "Compensation earnable" for plan 2 and plan 3 members, means  
36 salaries or wages earned by a member during a payroll period for  
37 personal services, including overtime payments, and shall include wages  
38 and salaries deferred under provisions established pursuant to sections

1 403(b), 414(h), and 457 of the United States internal revenue code, but  
2 shall exclude nonmoney maintenance compensation and lump sum or other  
3 payments for deferred annual sick leave, unused accumulated vacation,  
4 unused accumulated annual leave, ~~((or))~~ any form of severance pay, and  
5 housing allowances authorized under section 2 of this act.

6 (b) "Compensation earnable" for plan 2 and plan 3 members also  
7 includes the following actual or imputed payments, which are not paid  
8 for personal services:

9 (i) Retroactive payments to an individual by an employer on  
10 reinstatement of the employee in a position, or payments by an employer  
11 to an individual in lieu of reinstatement, which are awarded or granted  
12 as the equivalent of the salary or wage which the individual would have  
13 earned during a payroll period shall be considered compensation  
14 earnable to the extent provided in this subsection, and the individual  
15 shall receive the equivalent service credit;

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

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

21 (B) Such member's actual compensation earnable received for  
22 nonlegislative public employment and legislative service combined. Any  
23 additional contributions to the retirement system required because  
24 compensation earnable under (b)(ii)(A) of this subsection is greater  
25 than compensation earnable under this (b)(ii)(B) of this subsection  
26 shall be paid by the member for both member and employer contributions;

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

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

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

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

1 (7) "Service" for plan 2 and plan 3 members means periods of  
2 employment by a member in an eligible position or positions for one or  
3 more employers for which compensation earnable is paid. Compensation  
4 earnable earned for ninety or more hours in any calendar month shall  
5 constitute one service credit month except as provided in RCW  
6 41.35.180. Compensation earnable earned for at least seventy hours but  
7 less than ninety hours in any calendar month shall constitute one-half  
8 service credit month of service. Compensation earnable earned for less  
9 than seventy hours in any calendar month shall constitute one-quarter  
10 service credit month of service. Time spent in standby status, whether  
11 compensated or not, is not service.

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

14 (a) Service in any state elective position shall be deemed to be  
15 full-time service.

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

22 (c) For purposes of plan 2 and 3 "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 (i) Less than eleven days equals one-quarter service credit month;

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

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

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

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

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

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

38 (10) "Membership service" means all service rendered as a member.

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

5 (12) "Regular interest" means such rate as the director may  
6 determine.

7 (13) "Accumulated contributions" means the sum of all contributions  
8 standing to the credit of a member in the member's individual account,  
9 including any amount paid under RCW 41.50.165(2), together with the  
10 regular interest thereon.

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

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

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

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

25 (18) "Retirement allowance" for plan 2 and plan 3 members means  
26 monthly payments to a retiree or beneficiary as provided in this  
27 chapter.

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

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

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

38 (22) "Eligible position" means any position that, as defined by the  
39 employer, normally requires five or more months of service a year for

1 which regular compensation for at least seventy hours is earned by the  
2 occupant thereof. For purposes of this chapter an employer shall not  
3 define "position" in such a manner that an employee's monthly work for  
4 that employer is divided into more than one position.

5 (23) "Ineligible position" means any position which does not  
6 conform with the requirements set forth in subsection (22) of this  
7 section.

8 (24) "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 (25) "Retiree" means any person who has begun accruing a retirement  
12 allowance or other benefit provided by this chapter resulting from  
13 service rendered to an employer while a member.

14 (26) "Director" means the director of the department.

15 (27) "State elective position" means any position held by any  
16 person elected or appointed to statewide office or elected or appointed  
17 as a member of the legislature.

18 (28) "State actuary" or "actuary" means the person appointed  
19 pursuant to RCW 44.44.010(2).

20 (29) "Plan 2" means the Washington school employees' retirement  
21 system plan 2 providing the benefits and funding provisions covering  
22 persons who first became members of the public employees' retirement  
23 system on and after October 1, 1977, and transferred to the Washington  
24 school employees' retirement system under RCW 41.40.750.

25 (30) "Plan 3" means the Washington school employees' retirement  
26 system plan 3 providing the benefits and funding provisions covering  
27 persons who first became members of the system on and after September  
28 1, 2000, or who transfer from plan 2 under RCW 41.35.510.

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

33 (32) "Index A" means the index for the year prior to the  
34 determination of a postretirement adjustment.

35 (33) "Index B" means the index for the year prior to index A.

36 (34) "Adjustment ratio" means the value of index A divided by index  
37 B.

38 (35) "Separation from service" occurs when a person has terminated  
39 all employment with an employer.

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

4           (37) "Classified employee" means an employee of a school district  
5 or an educational service district who is not eligible for membership  
6 in the teachers' retirement system established under chapter 41.32 RCW.

--- END ---