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SENATE BILL 5932

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State of Washington

59th Legislature

2005 Regular Session

By Senators Esser and Schmidt

Read first time 02/15/2005. Referred to Committee on Early Learning, K-12 & Higher Education.

1 AN ACT Relating to housing allowances for public school teachers;  
2 amending RCW 28A.400.200, 84.52.0531, 84.52.0531, 41.32.010, 41.40.010,  
3 41.40.010, and 41.35.010; adding a new section to chapter 28A.400 RCW;  
4 adding a new section to chapter 28A.500 RCW; adding a new section to  
5 chapter 84.52 RCW; creating a new section; providing effective dates;  
6 and providing expiration dates.

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

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

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

17 (1) School districts may provide a housing allowance for public

1 school teachers with revenues raised from a housing allowance levy  
2 authorized under this section.

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

17 (3) The maximum housing allowance levy allowed for a school  
18 district shall be the sum of the following: Each teacher's full-time  
19 equivalence multiplied by the difference between the statewide median  
20 cost of housing and the lesser of (a) the district's cost of housing or  
21 (b) the cost of housing in the district in which each teacher resides.  
22 For purposes of this calculation, the difference between the district's  
23 cost of housing and the statewide median shall not exceed fifty percent  
24 of the median.

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

33 (5) Local school districts may submit to voters an excess general  
34 fund levy on real property to support up to and including the maximum  
35 housing levy authority determined in subsection (3) of this section.  
36 This levy is not subject to the limitations in RCW 84.52.0531. This  
37 levy does not qualify a school district for local effort assistance  
38 under chapter 28A.500 RCW.

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

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

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

9 **Sec. 4.** RCW 28A.400.200 and 2002 c 353 s 2 are each amended to  
10 read as follows:

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

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

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

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

27 (b) Fringe benefit contributions for certificated instructional  
28 staff shall be included as salary under (a) of this subsection only to  
29 the extent that the district's actual average benefit contribution  
30 exceeds the amount of the insurance benefits allocation provided per  
31 certificated instructional staff unit in the state operating  
32 appropriations act in effect at the time the compensation is payable.  
33 For purposes of this section, fringe benefits shall not include payment  
34 for unused leave for illness or injury under RCW 28A.400.210; employer  
35 contributions for old age survivors insurance, workers' compensation,  
36 unemployment compensation, and retirement benefits under the Washington

1 state retirement system; or employer contributions for health benefits  
2 in excess of the insurance benefits allocation provided per  
3 certificated instructional staff unit in the state operating  
4 appropriations act in effect at the time the compensation is payable.  
5 A school district may not use state funds to provide employer  
6 contributions for such excess health benefits.

7 (c) Salary and benefits for certificated instructional staff in  
8 programs other than basic education shall be consistent with the salary  
9 and benefits paid to certificated instructional staff in the basic  
10 education program.

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

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

25 (6) Housing allowances authorized in section 2 of this act shall  
26 not be included as salary under this section and shall not be included  
27 in salary limitations.

28 **Sec. 5.** RCW 84.52.0531 and 2004 c 21 s 2 are each amended to read  
29 as follows:

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

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

36 (2) For excess levies for collection in calendar year 1998 and

1 thereafter, the maximum dollar amount shall be the sum of (a) plus or  
2 minus (b) and (c) of this subsection minus (d) of this subsection:

3 (a) The district's levy base as defined in subsections (3) and (4)  
4 of this section multiplied by the district's maximum levy percentage as  
5 defined in subsection (5) of this section;

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

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

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

20 (ii) The serving district's maximum levy percentage determined  
21 under subsection (5) of this section; increased by:

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

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

29 (3) For excess levies for collection in calendar year 2005 and  
30 thereafter, a district's levy base shall be the sum of allocations in  
31 (a) through (c) of this subsection received by the district for the  
32 prior school year and the amounts determined under subsection (4) of  
33 this section, including allocations for compensation increases, plus  
34 the sum of such allocations multiplied by the percent increase per full  
35 time equivalent student as stated in the state basic education  
36 appropriation section of the biennial budget between the prior school  
37 year and the current school year and divided by fifty-five percent. A

1 district's levy base shall not include local school district property  
2 tax levies or other local revenues, or state and federal allocations  
3 not identified in (a) through (c) of this subsection.

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

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

8 (i) Pupil transportation;

9 (ii) Special education;

10 (iii) Education of highly capable students;

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

14 (v) Food services; and

15 (vi) Statewide block grant programs; and

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

19 (4) For levy collections in calendar years 2005 through 2007, in  
20 addition to the allocations included under subsection (3)(a) through  
21 (c) of this section, a district's levy base shall also include the  
22 following:

23 (a) The difference between the allocation the district would have  
24 received in the current school year had RCW 84.52.068 not been amended  
25 by chapter 19, Laws of 2003 1st sp. sess. and the allocation the  
26 district received in the current school year pursuant to RCW 84.52.068.  
27 The office of the superintendent of public instruction shall offset the  
28 amount added to a district's levy base pursuant to this subsection  
29 (4)(a) by any additional per student allocations included in a  
30 district's levy base pursuant to the enactment of an initiative to the  
31 people subsequent to June 10, 2004; and

32 (b) The difference between the allocations the district would have  
33 received the prior school year had RCW 28A.400.205 not been amended by  
34 chapter 20, Laws of 2003 1st sp. sess. and the allocations the district  
35 actually received the prior school year pursuant to RCW 28A.400.205.  
36 The office of the superintendent of public instruction shall offset the  
37 amount added to a district's levy base pursuant to this subsection

1 (4)(b) by any additional salary increase allocations included in a  
2 district's levy base pursuant to the enactment of an initiative to the  
3 people subsequent to June 10, 2004.

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

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

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

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

14 (ii) Reduce the result of (b)(i) of this subsection by any levy  
15 reduction funds as defined in subsection (6) of this section that are  
16 to be allocated to the district for the current school year;

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

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

21 (6) "Levy reduction funds" shall mean increases in state funds from  
22 the prior school year for programs included under subsections (3) and  
23 (4) of this section: (a) That are not attributable to enrollment  
24 changes, compensation increases, or inflationary adjustments; and (b)  
25 that are or were specifically identified as levy reduction funds in the  
26 appropriations act. If levy reduction funds are dependent on formula  
27 factors which would not be finalized until after the start of the  
28 current school year, the superintendent of public instruction shall  
29 estimate the total amount of levy reduction funds by using prior school  
30 year data in place of current school year data. Levy reduction funds  
31 shall not include moneys received by school districts from cities or  
32 counties.

33 (7) For the purposes of this section, "prior school year" means the  
34 most recent school year completed prior to the year in which the levies  
35 are to be collected.

36 (8) For the purposes of this section, "current school year" means  
37 the year immediately following the prior school year.

1 (9) Funds collected from transportation vehicle fund tax levies  
2 shall not be subject to the levy limitations in this section.

3 (10) The limitations in this section do not apply to excess general  
4 fund levies for the support of the housing allowance provided for in  
5 section 2 of this act.

6 (11) The superintendent of public instruction shall develop rules  
7 (~~and regulations~~) and inform school districts of the pertinent data  
8 necessary to carry out the provisions of this section.

9 **Sec. 6.** RCW 84.52.0531 and 1997 c 259 s 2 are each amended to read  
10 as follows:

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

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

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

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

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

29 (c) For districts in an interdistrict cooperative agreement, the  
30 nonresident school district's maximum levy amount shall be reduced and  
31 the resident school district's maximum levy amount shall be increased  
32 by an amount equal to the per pupil basic education allocation included  
33 in the nonresident district's levy base under subsection (3) of this  
34 section multiplied by:

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



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

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

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

10 (3) For excess levies for collection in calendar year 1998 and  
11 thereafter, a district's levy base shall be the sum of allocations in  
12 (a) through (c) of this subsection received by the district for the  
13 prior school year, including allocations for compensation increases,  
14 plus the sum of such allocations multiplied by the percent increase per  
15 full time equivalent student as stated in the state basic education  
16 appropriation section of the biennial budget between the prior school  
17 year and the current school year and divided by fifty-five percent. A  
18 district's levy base shall not include local school district property  
19 tax levies or other local revenues, or state and federal allocations  
20 not identified in (a) through (c) of this subsection.

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

23 (b) State and federal categorical allocations for the following  
24 programs:

25 (i) Pupil transportation;

26 (ii) Special education;

27 (iii) Education of highly capable students;

28 (iv) Compensatory education, including but not limited to learning  
29 assistance, migrant education, Indian education, refugee programs, and  
30 bilingual education;

31 (v) Food services; and

32 (vi) Statewide block grant programs; and

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

36 (4) A district's maximum levy percentage shall be twenty-two  
37 percent in 1998 and twenty-four percent in 1999 and every year

1 thereafter; plus, for qualifying districts, the grandfathered  
2 percentage determined as follows:

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

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

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

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

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

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

16 (5) "Levy reduction funds" shall mean increases in state funds from  
17 the prior school year for programs included under subsection (3) of  
18 this section: (a) That are not attributable to enrollment changes,  
19 compensation increases, or inflationary adjustments; and (b) that are  
20 or were specifically identified as levy reduction funds in the  
21 appropriations act. If levy reduction funds are dependent on formula  
22 factors which would not be finalized until after the start of the  
23 current school year, the superintendent of public instruction shall  
24 estimate the total amount of levy reduction funds by using prior school  
25 year data in place of current school year data. Levy reduction funds  
26 shall not include moneys received by school districts from cities or  
27 counties.

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

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

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

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



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

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

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

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

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

14 (ii) For an employee member of the retirement system teaching in an  
15 extended school year program, two consecutive extended school years, as  
16 defined by the employer school district, may be used as the annual  
17 period for determining earnable compensation in lieu of the two fiscal  
18 years.

19 (iii) "Earnable compensation" for plan 1 members also includes the  
20 following actual or imputed payments, which are not paid for personal  
21 services:

22 (A) Retroactive payments to an individual by an employer on  
23 reinstatement of the employee in a position, or payments by an employer  
24 to an individual in lieu of reinstatement in a position which are  
25 awarded or granted as the equivalent of the salary or wages which the  
26 individual would have earned during a payroll period shall be  
27 considered earnable compensation and the individual shall receive the  
28 equivalent service credit.

29 (B) If a leave of absence, without pay, is taken by a member for  
30 the purpose of serving as a member of the state legislature, and such  
31 member has served in the legislature five or more years, the salary  
32 which would have been received for the position from which the leave of  
33 absence was taken shall be considered as compensation earnable if the  
34 employee's contribution thereon is paid by the employee. In addition,  
35 where a member has been a member of the state legislature for five or  
36 more years, earnable compensation for the member's two highest  
37 compensated consecutive years of service shall include a sum not to

1 exceed thirty-six hundred dollars for each of such two consecutive  
2 years, regardless of whether or not legislative service was rendered  
3 during those two years.

4 (iv) For members employed less than full time under written  
5 contract with a school district, or community college district, in an  
6 instructional position, for which the member receives service credit of  
7 less than one year in all of the years used to determine the earnable  
8 compensation used for computing benefits due under RCW 41.32.497,  
9 41.32.498, and 41.32.520, the member may elect to have earnable  
10 compensation defined as provided in RCW 41.32.345. For the purposes of  
11 this subsection, the term "instructional position" means a position in  
12 which more than seventy-five percent of the member's time is spent as  
13 a classroom instructor (including office hours), a librarian, or a  
14 counselor. Earnable compensation shall be so defined only for the  
15 purpose of the calculation of retirement benefits and only as necessary  
16 to insure that members who receive fractional service credit under RCW  
17 41.32.270 receive benefits proportional to those received by members  
18 who have received full-time service credit.

19 (v) "Earnable compensation" does not include:

20 (A) Remuneration for unused sick leave authorized under RCW  
21 41.04.340, 28A.400.210, or 28A.310.490;

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

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

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

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

37 (i) Retroactive payments to an individual by an employer on  
38 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 wages which the  
3 individual would have earned during a payroll period shall be  
4 considered earnable compensation, 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 earnable  
8 compensation be the greater of:

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

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

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

19 (12) "Fiscal year" means a year which begins July 1st and ends June  
20 30th of the following year.

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

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

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

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

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

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

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

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

12 (21) "Public school" means any institution or activity operated by  
13 the state of Washington or any instrumentality or political subdivision  
14 thereof employing teachers, except the University of Washington and  
15 Washington State University.

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

20 (23) "Regular interest" means such rate as the director may  
21 determine.

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

25 (b) "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 (25) "Retirement system" means the Washington state teachers'  
29 retirement system.

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

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

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

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

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

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

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

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

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

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

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

31 (iv) Any person who is a member of the teachers' retirement system  
32 and who is elected or appointed to a state elective position may  
33 continue to be a member of the retirement system and continue to  
34 receive a service credit month for each of the months in a state  
35 elective position by making the required member contributions.

36 (v) When an individual is employed by two or more employers the  
37 individual shall only receive one month's service credit during any



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

3 (vi) As authorized by RCW 28A.400.300, up to forty-five days of  
4 sick leave may be creditable as service solely for the purpose of  
5 determining eligibility to retire under RCW 41.32.470. For purposes of  
6 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal  
7 to two service credit months. Use of less than forty-five days of sick  
8 leave 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 (vii) As authorized in RCW 41.32.065, service earned in an out-of-  
18 state retirement system that covers teachers in public schools may be  
19 applied solely for the purpose of determining eligibility to retire  
20 under RCW 41.32.470.

21 (viii) The department shall adopt rules implementing this  
22 subsection.

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

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

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

35 (30) "Average final compensation" for plan 2 and plan 3 members,  
36 means the member's average earnable compensation of the highest  
37 consecutive sixty service credit months prior to such member's

1 retirement, termination, or death. Periods constituting authorized  
2 leaves of absence may not be used in the calculation of average final  
3 compensation except under RCW 41.32.810(2).

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

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

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

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

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

15 (36) "Substitute teacher" means:

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

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

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

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

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

34 (d) The elected position of the superintendent of public  
35 instruction is an eligible position.

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

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

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

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

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

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

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

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

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

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

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

28 (49) "Employed" or "employee" 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 **Sec. 9.** RCW 41.40.010 and 2003 c 412 s 4 are each amended to read  
34 as follows:

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

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

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

5 (3) "State treasurer" means the treasurer of the state of  
6 Washington.

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

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

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

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

31 (a) Any person who became a member of the system prior to April 1,  
32 1949;

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

36 (c) Any person who first becomes a member by securing employment  
37 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

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

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

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

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

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

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

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

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

37 (b) "Service" for plan 2 and plan 3 members, means periods of  
38 employment by a member in an eligible position or positions for one or



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

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

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

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

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

- 33 (A) Less than eleven days equals one-quarter service credit month;
- 34 (B) Eleven or more days but less than twenty-two days equals one-  
35 half service credit month;
- 36 (C) Twenty-two days equals one service credit month;
- 37 (D) More than twenty-two days but less than thirty-three days  
38 equals one and one-quarter service credit month;

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

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

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

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

9 (13) "Membership service" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (21) "Retirement allowance" means the sum of the annuity and the  
28 pension.

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

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

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

1 (25) "Eligible position" means:

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

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

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

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

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

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

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

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

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

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

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

37 (35) "Plan 3" means the public employees' retirement system, plan  
38 3 providing the benefits and funding provisions covering persons who:

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

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

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

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

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

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

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

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

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

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

22 (42) "Separation from service" occurs when a person has terminated  
23 all employment with an employer. Separation from service or employment  
24 does not occur, and if claimed by an employer or employee may be a  
25 violation of RCW 41.40.055, when an employee and employer have a  
26 written or oral agreement to resume employment with the same employer  
27 following termination.

28 (43) "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 **Sec. 10.** RCW 41.40.010 and 2004 c 242 s 53 are each amended to  
32 read as follows:

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

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

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

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

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

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

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

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

29 (a) Any person who became a member of the system prior to April 1,  
30 1949;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (A) Remuneration for unused sick leave authorized under RCW  
22 41.04.340, 28A.400.210, or 28A.310.490;

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

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

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

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:



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

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

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

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

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

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

24 (v) Compensation that a member receives due to participation in the  
25 leave sharing program only as authorized by RCW 41.04.650 through  
26 41.04.670; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (21) "Retirement allowance" means the sum of the annuity and the  
26 pension.

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

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

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

37 (25) "Eligible position" means:

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

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

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

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

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

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

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

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

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

29 (33) "Plan 1" means the public employees' retirement system, plan  
30 1 providing the benefits and funding provisions covering persons who  
31 first became members of the system prior to October 1, 1977.

32 (34) "Plan 2" means the public employees' retirement system, plan  
33 2 providing the benefits and funding provisions covering persons who  
34 first became members of the system on and after October 1, 1977, and  
35 are not included in plan 3.

36 (35) "Plan 3" means the public employees' retirement system, plan  
37 3 providing the benefits and funding provisions covering persons who:

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

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

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

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

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

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

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

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

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

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

21 (42) "Separation from service" occurs when a person has terminated  
22 all employment with an employer. Separation from service or employment  
23 does not occur, and if claimed by an employer or employee may be a  
24 violation of RCW 41.40.055, when an employee and employer have a  
25 written or oral agreement to resume employment with the same employer  
26 following termination.

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

30 **Sec. 11.** RCW 41.35.010 and 2003 c 157 s 1 are each amended to read  
31 as follows:

32 The definitions in this section apply throughout this chapter,  
33 unless the context clearly requires otherwise.

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

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

1 (3) "State treasurer" means the treasurer of the state of  
2 Washington.

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

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

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

16 (b) "Compensation earnable" for plan 2 and plan 3 members also  
17 includes the following actual or imputed payments, which are not paid  
18 for 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, which are awarded or granted  
22 as the equivalent of the salary or wage which the individual would have  
23 earned during a payroll period shall be considered compensation  
24 earnable to the extent provided in this subsection, and the individual  
25 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 this (b)(ii)(B) of this subsection  
36 shall be 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.

12 (7) "Service" for plan 2 and plan 3 members means periods of  
13 employment by a member in an eligible position or positions for one or  
14 more employers for which compensation earnable is paid. Compensation  
15 earnable earned for ninety or more hours in any calendar month shall  
16 constitute one service credit month except as provided in RCW  
17 41.35.180. Compensation earnable earned for at least seventy hours but  
18 less than ninety hours in any calendar month shall constitute one-half  
19 service credit month of service. Compensation earnable earned for less  
20 than seventy hours in any calendar month shall constitute one-quarter  
21 service credit month of service. Time spent in standby status, whether  
22 compensated or not, is not service.

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

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

27 (b) A member shall receive a total of not more than twelve service  
28 credit months of service for such calendar year. If an individual is  
29 employed in an eligible position by one or more employers the  
30 individual shall receive no more than one service credit month during  
31 any calendar month in which multiple service for ninety or more hours  
32 is rendered.

33 (c) For purposes of plan 2 and 3 "forty-five days" as used in RCW  
34 28A.400.300 is equal to two service credit months. Use of less than  
35 forty-five days of sick leave is creditable as allowed under this  
36 subsection as follows:

37 (i) Less than eleven days equals one-quarter service credit month;

- 1 (ii) Eleven or more days but less than twenty-two days equals one-  
2 half service credit month;
- 3 (iii) Twenty-two days equals one service credit month;
- 4 (iv) More than twenty-two days but less than thirty-three days  
5 equals one and one-quarter service credit month; and
- 6 (v) Thirty-three or more days but less than forty-five days equals  
7 one and one-half service credit month.
- 8 (8) "Service credit year" means an accumulation of months of  
9 service credit which is equal to one when divided by twelve.
- 10 (9) "Service credit month" means a month or an accumulation of  
11 months of service credit which is equal to one.
- 12 (10) "Membership service" means all service rendered as a member.
- 13 (11) "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 (12) "Regular interest" means such rate as the director may  
18 determine.
- 19 (13) "Accumulated contributions" means the sum of all contributions  
20 standing to the credit of a member in the member's individual account,  
21 including any amount paid under RCW 41.50.165(2), together with the  
22 regular interest thereon.
- 23 (14) "Average final compensation" for plan 2 and plan 3 members  
24 means the member's average compensation earnable of the highest  
25 consecutive sixty months of service credit months prior to such  
26 member's retirement, termination, or death. Periods constituting  
27 authorized leaves of absence may not be used in the calculation of  
28 average final compensation except under RCW 41.40.710(2).
- 29 (15) "Final compensation" means the annual rate of compensation  
30 earnable by a member at the time of termination of employment.
- 31 (16) "Annuity" means payments for life derived from accumulated  
32 contributions of a member. All annuities shall be paid in monthly  
33 installments.
- 34 (17) "Pension" means payments for life derived from contributions  
35 made by the employer. All pensions shall be paid in monthly  
36 installments.
- 37 (18) "Retirement allowance" for plan 2 and plan 3 members means

1 monthly payments to a retiree or beneficiary as provided in this  
2 chapter.

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

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

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

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

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

22 (24) "Leave of absence" means the period of time a member is  
23 authorized by the employer to be absent from service without being  
24 separated from membership.

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

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

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

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

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

1 (30) "Plan 3" means the Washington school employees' retirement  
2 system plan 3 providing the benefits and funding provisions covering  
3 persons who first became members of the system on and after September  
4 1, 2000, or who transfer from plan 2 under RCW 41.35.510.

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

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

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

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

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

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

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

22 (38) "Substitute employee" means a classified employee who is  
23 employed by an employer exclusively as a substitute for an absent  
24 employee.

25 NEW SECTION. **Sec. 12.** Section 5 of this act expires January 1,  
26 2008.

27 NEW SECTION. **Sec. 13.** Section 6 of this act takes effect January  
28 1, 2008.

29 NEW SECTION. **Sec. 14.** Section 9 of this act expires July 1, 2006.

30 NEW SECTION. **Sec. 15.** Section 10 of this act takes effect July 1,  
31 2006.

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