
SENATE BILL 6394

State of Washington

53rd Legislature

1994 Regular Session

By Senators Moore, Winsley, Spanel, Nelson and Bauer; by request of
Joint Committee on Pension Policy

Read first time 01/21/94. Referred to Committee on Ways & Means.

1 AN ACT Relating to creating new retirement systems; amending RCW
2 41.40.005, 41.40.010, 41.40.045, 41.32.005, 41.32.010, 41.32.032,
3 41.26.005, 41.45.010, 41.45.020, 41.45.040, 41.45.050, 41.45.070,
4 41.50.075, 41.50.110, 43.43.040, 41.50.030, 41.50.050, 41.50.060,
5 41.54.010, 41.04.440, 41.04.445, and 41.04.450; reenacting and amending
6 RCW 41.40.088 and 41.26.030; adding new sections to chapter 41.40 RCW;
7 adding new sections to chapter 41.32 RCW; adding new sections to
8 chapter 41.26 RCW; adding new sections to chapter 41.50 RCW; adding a
9 new section to chapter 41.45 RCW; adding a new section to chapter 43.43
10 RCW; adding a new section to chapter 41.54 RCW; adding a new section to
11 chapter 43.33A RCW; adding a new chapter to Title 41 RCW; creating new
12 sections; decodifying RCW 41.45.060, 41.45.0601, and 41.45.901;
13 repealing RCW 41.04.250, 41.04.255, 41.04.260, 41.26.450, 41.32.775,
14 41.40.650, 41.50.032, and 41.50.250; and providing an effective date.

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

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

1 recognizes that public employees need a secure and viable retirement
2 benefit, not only for their own financial protection, but also that
3 public funds are spent prudently for their intended purpose.

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

10 Therefore, the purpose of chapter . . ., Laws of 1994 (this act) is
11 to continue to provide public employees with a guaranteed pension at
12 retirement age based on years of public service with an element of
13 inflation protection. It is further the purpose of chapter . . ., Laws
14 of 1994 (this act) to create a parallel retirement plan where employees
15 have options regarding the investment of their retirement contributions
16 and have the opportunity, along with the accompanying risk, to receive
17 a full rate of return on their investments and where employees who
18 leave public employment prior to retirement receive a fair and
19 reasonable value from the retirement system.

20 **PART I**

21 **DEFINED BENEFIT--PERS III**

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

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

26 **Sec. 102.** RCW 41.40.010 and 1993 c 95 s 8 are each amended to read
27 as follows:

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

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

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

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

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

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

17 (5) "Member" means any employee included in the membership of the
18 retirement system, as provided for in RCW 41.40.023.

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

20 (a) Any person who became a member of the system prior to April 1,
21 1949;

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

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

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

34 (e) Any member who has restored all contributions that may have
35 been withdrawn as provided by RCW 41.40.150 and who on the effective
36 date of the individual's retirement becomes entitled to be credited
37 with ten years or more of membership service except that the provisions
38 relating to the minimum amount of retirement allowance for the member

1 upon retirement at age seventy as found in RCW 41.40.190(4) shall not
2 apply to the member;

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

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

14 (8)(a) "Compensation earnable" for plan I members, means salaries
15 or wages earned during a payroll period for personal services and where
16 the compensation is not all paid in money, maintenance compensation
17 shall be included upon the basis of the schedules established by the
18 member's employer: PROVIDED, That retroactive payments to an
19 individual by an employer on reinstatement of the employee in a
20 position, or payments by an employer to an individual in lieu of
21 reinstatement in a position which are awarded or granted as the
22 equivalent of the salary or wage which the individual would have earned
23 during a payroll period shall be considered compensation earnable and
24 the individual shall receive the equivalent service credit: PROVIDED
25 FURTHER, That if a leave of absence is taken by an individual for the
26 purpose of serving in the state legislature, the salary which would
27 have been received for the position from which the leave of absence was
28 taken, shall be considered as compensation earnable if the employee's
29 contribution is paid by the employee and the employer's contribution is
30 paid by the employer or employee.

31 (b) "Compensation earnable" for plan II and plan III members, means
32 salaries or wages earned by a member during a payroll period for
33 personal services, including overtime payments, and shall include wages
34 and salaries deferred under provisions established pursuant to sections
35 403(b), 414(h), and 457 of the United States Internal Revenue Code, but
36 shall exclude nonmoney maintenance compensation and lump sum payments
37 for deferred annual sick leave, unused accumulated vacation, unused
38 accumulated annual leave, or any form of severance pay: PROVIDED, That
39 retroactive payments to an individual by an employer on reinstatement

1 of the employee in a position, or payments by an employer to an
2 individual in lieu of reinstatement in a position which are awarded or
3 granted as the equivalent of the salary or wage which the individual
4 would have earned during a payroll period shall be considered
5 compensation earnable to the extent provided above, and the individual
6 shall receive the equivalent service credit: PROVIDED FURTHER, That in
7 any year in which a member serves in the legislature, the member shall
8 have the option of having such member's compensation earnable be the
9 greater of:

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

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

19 (9)(a) "Service" for plan I members, except as provided in RCW
20 41.40.088, means periods of employment in an eligible position or
21 positions for one or more employers rendered to any employer for which
22 compensation is paid, and includes time spent in office as an elected
23 or appointed official of an employer. Compensation earnable earned in
24 full time work for seventy hours or more in any given calendar month
25 shall constitute one service credit month except as provided in RCW
26 41.40.088. Compensation earnable earned for less than seventy hours in
27 any calendar month shall constitute one-quarter service credit month of
28 service except as provided in RCW 41.40.088. Only service credit
29 months and one-quarter service credit months shall be counted in the
30 computation of any retirement allowance or other benefit provided for
31 in this chapter. Any fraction of a year of service shall be taken into
32 account in the computation of such retirement allowance or benefits.

33 Service by a state employee officially assigned by the state on a
34 temporary basis to assist another public agency, shall be considered as
35 service as a state employee: PROVIDED, That service to any other
36 public agency shall not be considered service as a state employee if
37 such service has been used to establish benefits in any other public
38 retirement system: PROVIDED FURTHER, That an individual shall receive
39 no more than a total of twelve service credit months of service during

1 any calendar year: PROVIDED FURTHER, That where an individual is
2 employed in an eligible position by one or more employers the
3 individual shall receive no more than one service credit month during
4 any calendar month in which multiple service for seventy or more hours
5 is rendered.

6 (b) "Service" for plan II and plan III members, means periods of
7 employment by a member in an eligible position or positions for one or
8 more employers for which compensation earnable is paid. Compensation
9 earnable earned for ninety or more hours in any calendar month shall
10 constitute one service credit month except as provided in RCW
11 41.40.088. Compensation earnable earned for at least seventy hours but
12 less than ninety hours in any calendar month shall constitute one-half
13 service credit month of service. Compensation earnable earned for less
14 than seventy hours in any calendar month shall constitute one-quarter
15 service credit month of service.

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

18 Service in any state elective position shall be deemed to be full
19 time service, except that persons serving in state elective positions
20 who are members of the teachers' retirement system or law enforcement
21 officers' and fire fighters' retirement system at the time of election
22 or appointment to such position may elect to continue membership in the
23 teachers' retirement system or law enforcement officers' and fire
24 fighters' retirement system.

25 A member shall receive a total of not more than twelve service
26 credit months of service for such calendar year: PROVIDED, That when
27 an individual is employed in an eligible position by one or more
28 employers the individual shall receive no more than one service credit
29 month during any calendar month in which multiple service for ninety or
30 more hours is rendered.

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

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

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

37 (13) "Membership service" means:

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

1 (b) All service after October 1, 1947, to any employer prior to the
2 time of its admission into the retirement system: PROVIDED, That an
3 amount equal to the employer and employee contributions which would
4 have been paid to the retirement system on account of such service
5 shall have been paid to the retirement system with interest (as
6 computed by the department) on the employee's portion prior to
7 retirement of such person, by the employee or his employer, except as
8 qualified by RCW 41.40.023: PROVIDED FURTHER, That employer
9 contributions plus employee contributions with interest submitted by
10 the employee under this subsection shall be placed in the employee's
11 individual account in the employees' savings fund and be treated as any
12 other contribution made by the employee, with the exception that the
13 contributions submitted by the employee in payment of the employer's
14 obligation, together with the interest the director may apply to the
15 employer's contribution, shall be excluded from the calculation of the
16 member's annuity in the event the member selects a benefit with an
17 annuity option;

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

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

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

37 (b) "Beneficiary" for plan II and plan III members, means any
38 person in receipt of a retirement allowance or other benefit provided

1 by this chapter resulting from service rendered to an employer by
2 another person.

3 (15) "Regular interest" means such rate as the director may
4 determine.

5 (16) "Accumulated contributions" means the sum of all contributions
6 standing to the credit of a member in the member's individual account
7 together with the regular interest thereon.

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

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

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

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

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

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

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

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

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

38 (24) "Retirement" means withdrawal from active service with a
39 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 for which compensation is paid.

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

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

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

19 (29) "Retiree" means any member in receipt of a retirement
20 allowance or other benefit provided by this chapter resulting from
21 service rendered to an employer by such member.

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

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

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

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

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

35 (35) "Plan III" means the public employees' retirement system, plan
36 III providing the benefits and funding provisions covering persons who
37 first became members of the system on and after the effective date of
38 this act or who transfer under section 505 of this act.

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

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

6 (1) For plans I and II: The amount of contributions which such
7 employer and employee would have been required to contribute between
8 April 1, 1949, and the date of such employer's admission to the
9 retirement system: PROVIDED, That either the employee or employer may
10 make the contributions the employee would have made during the same
11 period of time: PROVIDED FURTHER, That all additional contributions
12 hereunder and under the provisions of RCW 41.40.160(2) must be
13 completed within fifteen years from the date of the employer's
14 admission. Employee contributions for these periods must be made
15 before the member will receive credit for those periods of service,
16 pursuant to such regulations as the department may adopt.

17 (2) For plan III: The amount of contributions that the employer
18 would have been required to contribute prior to the date of such
19 employer's admission to the retirement system. All contributions must
20 be completed within fifteen years from the date of the employer's
21 admission.

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

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

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

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

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

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

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

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

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

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

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

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

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

31 **PLAN III**

32 NEW SECTION. **Sec. 105.** (1) This section and sections 106 through
33 115 of this act shall apply only to plan III members.

34 (2) Plan III consists of two separate elements: (a) A defined
35 benefit portion covered under this subchapter; and (b) a defined
36 contribution portion covered under chapter 41.-- RCW (sections 401
37 through 408 of this act). All contributions on behalf of the employer

1 paid by an employee shall be made to the defined benefit portion of
2 plan III and shall be nonrefundable when paid to the fund described in
3 RCW 41.50.075(3).

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

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

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

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

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

20 (b) The department shall adopt rules that allow a member to select
21 a retirement option that pays the member a reduced retirement allowance
22 and upon death, such portion of the member's reduced retirement
23 allowance as the department by rule designates shall be continued
24 throughout the life of and paid to a person who has an insurable
25 interest in the member's life. Such person shall be nominated by the
26 member by written designation duly executed and filed with the
27 department at the time of retirement. The options adopted by the
28 department shall include, but are not limited to, a joint and one
29 hundred percent survivor option and a joint and fifty percent survivor
30 option.

31 (2) A member, if married, must provide the written consent of his
32 or her spouse to the option selected under this section. If a member
33 is married and both the member and the member's spouse do not give
34 written consent to an option under this section, the department shall
35 pay a joint and fifty percent survivor benefit calculated to be

1 actuarially equivalent to the benefit options available under
2 subsection (1) of this section.

3 NEW SECTION. **Sec. 109.** (1) Any member or beneficiary eligible to
4 receive a retirement allowance under the provisions of section 113,
5 114, or 117 of this act shall be eligible to commence receiving a
6 retirement allowance after having filed written application with the
7 department.

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

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

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

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

21 NEW SECTION. **Sec. 110.** (1) No retiree shall be eligible to
22 receive such retiree's monthly retirement allowance if he or she is
23 employed in an eligible position as defined in RCW 41.40.010 or
24 41.32.010, or as a law enforcement officer or fire fighter as defined
25 in RCW 41.26.030, except that:

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

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

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

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

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

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

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

16 (3) A member who leaves the employ of an employer to enter the
17 armed forces of the United States shall be entitled to retirement
18 system service credit for up to four years of military service if
19 within ninety days of the member's honorable discharge from the United
20 States armed forces, the member applies for reemployment with the
21 employer who employed the member immediately prior to the member
22 entering the United States armed forces.

23 The department shall bill the employer for its contribution
24 required under this act for the period of military service, plus
25 interest as determined by the department. Service credit under this
26 subsection may be obtained only if the member makes the employee
27 contribution plus interest, to the defined contribution portion as
28 determined by the department.

29 The contributions required shall be based on the average of the
30 member's compensation earnable at both the time the member left the
31 employ of the employer to enter the armed forces and the time the
32 member resumed employment.

33 NEW SECTION. **Sec. 112.** (1) The director may pay a member eligible
34 to receive a retirement allowance or the member's beneficiary, subject
35 to the provisions of subsection (3) of this section, a lump sum payment
36 in lieu of a monthly benefit if the initial monthly benefit computed in
37 accordance with section 106 of this act would be less than one hundred
38 dollars. The one hundred dollar limit shall be increased by three

1 percent compounded annually on January 1. The lump sum payment shall
2 be the actuarial equivalent of the monthly benefit.

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

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

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

17 (2) EARLY RETIREMENT. Any member who has attained at least age
18 sixty-two and has completed at least ten years of service shall be
19 eligible to retire and to receive a retirement allowance computed
20 according to the provisions of section 106 of this act, except that a
21 member retiring under this subsection shall have the retirement
22 allowance actuarially reduced to reflect the difference in the number
23 of years between age at retirement and the attainment of age sixty-
24 five.

25 NEW SECTION. Sec. 114. (1) A member of the retirement system who
26 becomes totally incapacitated for continued employment by an employer
27 as determined by the department shall be eligible to receive a monthly
28 disability allowance computed under section 106 of this act and shall
29 have this allowance actuarially reduced to reflect the difference in
30 the number of years between age at disability and the attainment of age
31 sixty-five.

32 Any member who receives an allowance under the provisions of this
33 section shall be subject to comprehensive medical examinations as
34 required by the department. If these medical examinations reveal that
35 a member has recovered from the incapacitating disability and the
36 member is offered reemployment by an employer at comparable
37 compensation, the member shall cease to be eligible for the allowance.

1 (2) The retirement for disability of a judge, who is a member of
2 the retirement system, by the supreme court under Article IV, section
3 31 of the Constitution of the state of Washington (Amendment 71), with
4 the concurrence of the department, shall be considered a retirement
5 under subsection (1) of this section.

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

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

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

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

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

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

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

1 and share alike, until such child or children reach the age of
2 majority.

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

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

11 **PART II**

12 **DEFINED BENEFIT--TRS III**

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

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

17 **Sec. 202.** RCW 41.32.010 and 1993 c 95 s 7 are each amended to read
18 as follows:

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

21 (1)(a) "Accumulated contributions" for plan I members, means the
22 sum of all regular annuity contributions with regular interest thereon.

23 (b) "Accumulated contributions" for plan II members, means the sum
24 of all contributions standing to the credit of a member in the member's
25 individual account together with the regular interest thereon.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (B) Such member's actual earnable compensation received for
37 teaching and legislative service combined. Any additional
38 contributions to the retirement system required because compensation
39 earnable under (b)(ii)(A) of this subsection is greater than

1 compensation earnable under (b)(ii)(B) of this subsection shall be paid
2 by the member for both member and employer contributions.

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

5 (12) "Fiscal year" means a year which begins July 1st and ends June
6 30th of the following year.

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

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

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

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

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

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

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

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

36 (21) "Public school" means any institution or activity operated by
37 the state of Washington or any instrumentality or political subdivision
38 thereof employing teachers, except the University of Washington and
39 Washington State University.

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

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

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

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

13 (25) "Retirement system" means the Washington state teachers'
14 retirement system.

15 (26)(a) "Service" means the time during which a member has been
16 employed by an employer for compensation: PROVIDED, That where a
17 member is employed by two or more employers the individual shall
18 receive no more than one service credit month during any calendar month
19 in which multiple service is rendered.

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

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

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

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

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

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

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

7 Any person who is a member of the teachers' retirement system and
8 who is elected or appointed to a state elective position may continue
9 to be a member of the retirement system and continue to receive a
10 service credit month for each of the months in a state elective
11 position by making the required member contributions.

12 When an individual is employed by two or more employers the
13 individual shall only receive one month's service credit during any
14 calendar month in which multiple service for ninety or more hours is
15 rendered.

16 The department shall adopt rules implementing this subsection.

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

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

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

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

35 (31) "Retiree" means any member in receipt of a retirement
36 allowance or other benefit provided by this chapter resulting from
37 service rendered to an employer by such member.

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

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

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

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

7 (36) "Substitute teacher" means:

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

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

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

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

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

25 (d) The elected position of the superintendent of public
26 instruction is an eligible position.

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

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

34 (40) "Plan III" means the teachers' retirement system, plan III
35 providing the benefits and funding provisions covering persons who
36 first become members of the system on and after the effective date of
37 this act or who transfer under section 505 of this act.

38 (41) "Education association" means an association organized to
39 carry out collective bargaining activities, the majority of whose

1 members are employees covered by chapter 41.59 RCW or academic
2 employees covered by chapter 28B.52 RCW.

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

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

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

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

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

33 Any person, not employed as an educational staff associate on June
34 7, 1984, may, before June 30 of the fifth school year after that
35 person's return to employment as a teacher, request and establish
36 membership and credit under this subsection.

37

PLAN III

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

3 (2) Plan III shall consist of two separate elements: (a) A defined
4 benefit portion covered under this subchapter; and (b) a defined
5 contribution portion covered under chapter 41.-- RCW (sections 401
6 through 408 of this act). All contributions on behalf of the employer
7 paid by an employee shall be made to the defined benefit portion of
8 plan III and shall be nonrefundable when paid to the fund described in
9 RCW 41.50.075(3).

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

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

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

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

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

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

29 (b) The department shall adopt rules that allow a member to select
30 a retirement option that pays the member a reduced retirement allowance
31 and upon death, such portion of the member's reduced retirement
32 allowance as the department by rule designates shall be continued
33 throughout the life of and paid to a person who has an insurable
34 interest in the member's life. Such person shall be nominated by the
35 member by written designation duly executed and filed with the

1 department at the time of retirement. The options adopted by the
2 department shall include, but are not limited to, a joint and one
3 hundred percent survivor option and joint and fifty percent survivor
4 option.

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

12 NEW SECTION. **Sec. 209.** Any member or beneficiary eligible to
13 receive a retirement allowance under the provisions of section 213,
14 214, or 217 of this act shall be eligible to commence receiving a
15 retirement allowance after having filed written application with the
16 department.

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

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

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

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

30 NEW SECTION. **Sec. 210.** (1) No retiree shall be eligible to
31 receive such retiree's monthly retirement allowance if he or she is
32 employed in an eligible position as defined in RCW 41.40.010 or
33 41.32.010, or as a law enforcement officer or fire fighter as defined
34 in RCW 41.26.030, except that a plan III retiree may work in eligible
35 positions on a temporary basis for up to five months per calendar year.

36 (2) If a retiree's benefits have been suspended under this section,
37 his or her benefits shall be reinstated when the retiree terminates the

1 employment that caused the suspension of benefits. Upon reinstatement,
2 the retiree's benefits shall be actuarially recomputed pursuant to the
3 rules adopted by the department.

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

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

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

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

19 (3) A member who leaves the employ of an employer to enter the
20 armed forces of the United States shall be entitled to retirement
21 system service credit for up to four years of military service if
22 within ninety days of the member's honorable discharge from the United
23 States armed forces, the member applies for reemployment with the
24 employer who employed the member immediately prior to the member
25 entering the United States armed forces.

26 The department shall bill the employer for its contribution
27 required under this act for the period of military service, plus
28 interest as determined by the department. Service credit under this
29 subsection may be obtained only if the member makes the employee
30 contribution plus interest to the defined contribution portion as
31 determined by the department.

32 The contributions required shall be based on the average of the
33 member's earnable compensation at both the time the member left the
34 employ of the employer to enter the armed forces and the time the
35 member resumed employment.

36 NEW SECTION. **Sec. 212.** (1) The director may pay a member eligible
37 to receive a retirement allowance or the member's beneficiary a lump

1 sum payment in lieu of a monthly benefit if the initial monthly benefit
2 would be less than one hundred dollars. The one hundred dollar limit
3 shall be increased by three percent compounded annually on January 1.
4 The lump sum payment shall be the actuarial equivalent of the monthly
5 benefit.

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

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

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

20 (2) EARLY RETIREMENT. Any member who has attained at least age
21 sixty-two and has completed at least ten years of service shall be
22 eligible to retire and to receive a retirement allowance computed
23 according to the provisions of section 206 of this act, except that a
24 member retiring pursuant to this subsection shall have the retirement
25 allowance actuarially reduced to reflect the difference in the number
26 of years between age at retirement and the attainment of age sixty-
27 five.

28 NEW SECTION. Sec. 214. (1) A member of the retirement system who
29 becomes totally incapacitated for continued employment by an employer
30 as determined by the department shall be eligible to receive an
31 allowance under the provisions of plan III. The member shall receive
32 a monthly disability allowance computed as provided for in section 206
33 of this act and shall have this allowance actuarially reduced to
34 reflect the difference in the number of years between age at disability
35 and the attainment of age sixty-five.

36 Any member who receives an allowance under the provisions of this
37 section shall be subject to comprehensive medical examinations as

1 required by the department. If these medical examinations reveal that
2 a member has recovered from the incapacitating disability and the
3 member is offered reemployment by an employer at a comparable
4 compensation, the member shall cease to be eligible for the allowance.

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

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

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

16 (3) The retirement allowance payable under section 213 of this act
17 to a member who separates after having completed at least twenty years
18 of service shall be increased by twenty-five one-hundredths of one
19 percent, compounded for each month from the date of separation to the
20 date that the retirement allowance commences.

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

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

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

1 and share alike, until such child or children reach the age of
2 majority.

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

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

11 **PART III**

12 **DEFINED BENEFIT--LEOFF III**

13 **Sec. 301.** RCW 41.26.005 and 1992 c 72 s 2 are each amended to read
14 as follows:

15 RCW 41.26.010 through 41.26.062 shall apply to members of plan I
16 (~~and~~), plan II, and plan III.

17 **Sec. 302.** RCW 41.26.030 and 1993 c 502 s 1 and 1993 c 322 s 1 are
18 each reenacted and amended to read as follows:

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

21 (1) "Retirement system" means the "Washington law enforcement
22 officers' and fire fighters' retirement system" provided herein.

23 (2)(a) "Employer" for plan I members, means the legislative
24 authority of any city, town, county, or district or the elected
25 officials of any municipal corporation that employs any law enforcement
26 officer and/or fire fighter, any authorized association of such
27 municipalities, and, except for the purposes of RCW 41.26.150, any
28 labor guild, association, or organization, which represents the fire
29 fighters or law enforcement officers of at least seven cities of over
30 20,000 population and the membership of each local lodge or division of
31 which is composed of at least sixty percent law enforcement officers or
32 fire fighters as defined in this chapter.

33 (b) "Employer" for plan II members, means the following entities to
34 the extent that the entity employs any law enforcement officer and/or
35 fire fighter:

1 (i) The legislative authority of any city, town, county, or
2 district;

3 (ii) The elected officials of any municipal corporation; or

4 (iii) The governing body of any other general authority law
5 enforcement agency.

6 (c) "Employer" for plan III members, means all entities referenced
7 in (b) of this subsection and the Washington state patrol.

8 (3) "Law enforcement officer" beginning January 1, 1994, means any
9 person who is commissioned and employed by an employer on a full time,
10 fully compensated basis to enforce the criminal laws of the state of
11 Washington generally, with the following qualifications:

12 (a) No person who is serving in a position that is basically
13 clerical or secretarial in nature, and who is not commissioned shall be
14 considered a law enforcement officer;

15 (b) Only those deputy sheriffs, including those serving under a
16 different title pursuant to county charter, who have successfully
17 completed a civil service examination for deputy sheriff or the
18 equivalent position, where a different title is used, and those persons
19 serving in unclassified positions authorized by RCW 41.14.070 except a
20 private secretary will be considered law enforcement officers;

21 (c) Only such full time commissioned law enforcement personnel as
22 have been appointed to offices, positions, or ranks in the police
23 department which have been specifically created or otherwise expressly
24 provided for and designated by city charter provision or by ordinance
25 enacted by the legislative body of the city shall be considered city
26 police officers;

27 (d) The term "law enforcement officer" also includes the executive
28 secretary of a labor guild, association or organization (which is an
29 employer under RCW 41.26.030(2) as now or hereafter amended) if that
30 individual has five years previous membership in the retirement system
31 established in chapter 41.20 RCW. The provisions of this subsection
32 (3)(d) shall not apply to plan II members; ((and))

33 (e) The term "law enforcement officer" also includes a person
34 employed on or after January 1, 1993, as a public safety officer or
35 director of public safety, so long as the job duties substantially
36 involve only either police or fire duties, or both, and no other duties
37 in a city or town with a population of less than ten thousand. The
38 provisions of this subsection (3)(e) shall not apply to any public

1 safety officer or director of public safety who is receiving a
2 retirement allowance under this chapter as of May 12, 1993; and

3 (f) The term "law enforcement officer" also includes all cadets, as
4 defined by RCW 43.43.120(6)(a), and commissioned officers of the
5 Washington state patrol first hired on or after the effective date of
6 this act.

7 (4) "Fire fighter" means:

8 (a) Any person who is serving on a full time, fully compensated
9 basis as a member of a fire department of an employer and who is
10 serving in a position which requires passing a civil service
11 examination for fire fighter, and who is actively employed as such;

12 (b) Anyone who is actively employed as a full time fire fighter
13 where the fire department does not have a civil service examination;

14 (c) Supervisory fire fighter personnel;

15 (d) Any full time executive secretary of an association of fire
16 protection districts authorized under RCW 52.12.031. The provisions of
17 this subsection (4)(d) shall not apply to plan II members;

18 (e) The executive secretary of a labor guild, association or
19 organization (which is an employer under RCW 41.26.030(2) as now or
20 hereafter amended), if such individual has five years previous
21 membership in a retirement system established in chapter 41.16 or 41.18
22 RCW. The provisions of this subsection (4)(e) shall not apply to plan
23 II members;

24 (f) Any person who is serving on a full time, fully compensated
25 basis for an employer, as a fire dispatcher, in a department in which,
26 on March 1, 1970, a dispatcher was required to have passed a civil
27 service examination for fire fighter; and

28 (g) Any person who on March 1, 1970, was employed on a full time,
29 fully compensated basis by an employer, and who on May 21, 1971, was
30 making retirement contributions under the provisions of chapter 41.16
31 or 41.18 RCW.

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

34 (6) "Surviving spouse" means the surviving widow or widower of a
35 member. "Surviving spouse" shall not include the divorced spouse of a
36 member except as provided in RCW 41.26.162.

37 (7)(a) "Child" or "children" means an unmarried person who is under
38 the age of eighteen or mentally or physically handicapped as determined

1 by the department, except a handicapped person in the full time care of
2 a state institution, who is:

3 (i) A natural born child;

4 (ii) A stepchild where that relationship was in existence prior to
5 the date benefits are payable under this chapter;

6 (iii) A posthumous child;

7 (iv) A child legally adopted or made a legal ward of a member prior
8 to the date benefits are payable under this chapter; or

9 (v) An illegitimate child legitimized prior to the date any
10 benefits are payable under this chapter.

11 (b) A person shall also be deemed to be a child up to and including
12 the age of twenty years and eleven months while attending any high
13 school, college, or vocational or other educational institution
14 accredited, licensed, or approved by the state, in which it is located,
15 including the summer vacation months and all other normal and regular
16 vacation periods at the particular educational institution after which
17 the child returns to school.

18 (8) "Member" means any fire fighter, law enforcement officer, or
19 other person as would apply under subsections (3) or (4) of this
20 section whose membership is transferred to the Washington law
21 enforcement officers' and fire fighters' retirement system on or after
22 March 1, 1970, and every law enforcement officer and fire fighter who
23 is employed in that capacity on or after such date.

24 (9) "Retirement fund" means the "Washington law enforcement
25 officers' and fire fighters' retirement system fund" as provided for
26 herein.

27 (10) "Employee" means any law enforcement officer or fire fighter
28 as defined in subsections (3) and (4) of this section.

29 (11)(a) "Beneficiary" for plan I members, means any person in
30 receipt of a retirement allowance, disability allowance, death benefit,
31 or any other benefit described herein.

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

36 (12)(a) "Final average salary" for plan I members, means (i) for a
37 member holding the same position or rank for a minimum of twelve months
38 preceding the date of retirement, the basic salary attached to such
39 same position or rank at time of retirement; (ii) for any other member,

1 including a civil service member who has not served a minimum of twelve
2 months in the same position or rank preceding the date of retirement,
3 the average of the greatest basic salaries payable to such member
4 during any consecutive twenty-four month period within such member's
5 last ten years of service for which service credit is allowed, computed
6 by dividing the total basic salaries payable to such member during the
7 selected twenty-four month period by twenty-four; (iii) in the case of
8 disability of any member, the basic salary payable to such member at
9 the time of disability retirement; (iv) in the case of a member who
10 hereafter vests pursuant to RCW 41.26.090, the basic salary payable to
11 such member at the time of vesting.

12 (b) "Final average salary" for plan II and plan III members, means
13 the monthly average of the member's basic salary for the highest
14 consecutive sixty service credit months of service prior to such
15 member's retirement, termination, or death. Periods constituting
16 authorized unpaid leaves of absence may not be used in the calculation
17 of final average salary.

18 (13)(a) "Basic salary" for plan I members, means the basic monthly
19 rate of salary or wages, including longevity pay but not including
20 overtime earnings or special salary or wages, upon which pension or
21 retirement benefits will be computed and upon which employer
22 contributions and salary deductions will be based.

23 (b) "Basic salary" for plan II and plan III members, means salaries
24 or wages earned by a member during a payroll period for personal
25 services, including overtime payments, and shall include wages and
26 salaries deferred under provisions established pursuant to sections
27 403(b), 414(h), and 457 of the United States Internal Revenue Code, but
28 shall exclude lump sum payments for deferred annual sick leave, unused
29 accumulated vacation, unused accumulated annual leave, or any form of
30 severance pay. In any year in which a member serves in the legislature
31 the member shall have the option of having such member's basic salary
32 be the greater of:

33 (i) The basic salary the member would have received had such member
34 not served in the legislature; or

35 (ii) Such member's actual basic salary received for nonlegislative
36 public employment and legislative service combined. Any additional
37 contributions to the retirement system required because basic salary
38 under (b)(i) of this subsection is greater than basic salary under

1 (b)(ii) of this subsection shall be paid by the member for both member
2 and employer contributions.

3 (14)(a) "Service" for plan I members, means all periods of
4 employment for an employer as a fire fighter or law enforcement
5 officer, for which compensation is paid, together with periods of
6 suspension not exceeding thirty days in duration. For the purposes of
7 this chapter service shall also include service in the armed forces of
8 the United States as provided in RCW 41.26.190. Credit shall be
9 allowed for all service credit months of service rendered by a member
10 from and after the member's initial commencement of employment as a
11 fire fighter or law enforcement officer, during which the member worked
12 for seventy or more hours, or was on disability leave or disability
13 retirement. Only service credit months of service shall be counted in
14 the computation of any retirement allowance or other benefit provided
15 for in this chapter.

16 (i) For members retiring after May 21, 1971 who were employed under
17 the coverage of a prior pension act before March 1, 1970, "service"
18 shall also include (A) such military service not exceeding five years
19 as was creditable to the member as of March 1, 1970, under the member's
20 particular prior pension act, and (B) such other periods of service as
21 were then creditable to a particular member under the provisions of RCW
22 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit
23 be allowed for any service rendered prior to March 1, 1970, where the
24 member at the time of rendition of such service was employed in a
25 position covered by a prior pension act, unless such service, at the
26 time credit is claimed therefor, is also creditable under the
27 provisions of such prior act.

28 (ii) A member who is employed by two employers at the same time
29 shall only be credited with service to one such employer for any month
30 during which the member rendered such dual service.

31 (b) "Service" for plan II and plan III members, means periods of
32 employment by a member for one or more employers for which basic salary
33 is earned for ninety or more hours per calendar month which shall
34 constitute a service credit month. Periods of employment by a member
35 for one or more employers for which basic salary is earned for at least
36 seventy hours but less than ninety hours per calendar month shall
37 constitute one-half service credit month. Periods of employment by a
38 member for one or more employers for which basic salary is earned for

1 less than seventy hours shall constitute a one-quarter service credit
2 month.

3 Members of the retirement system who are elected or appointed to a
4 state elective position may elect to continue to be members of this
5 retirement system.

6 Service credit years of service shall be determined by dividing the
7 total number of service credit months of service by twelve. Any
8 fraction of a service credit year of service as so determined shall be
9 taken into account in the computation of such retirement allowance or
10 benefits.

11 If a member receives basic salary from two or more employers during
12 any calendar month, the individual shall receive one service credit
13 month's service credit during any calendar month in which multiple
14 service for ninety or more hours is rendered; or one-half service
15 credit month's service credit during any calendar month in which
16 multiple service for at least seventy hours but less than ninety hours
17 is rendered; or one-quarter service credit month during any calendar
18 month in which multiple service for less than seventy hours is
19 rendered.

20 (15) "Accumulated contributions" means the employee's contributions
21 made by a member plus accrued interest credited thereon.

22 (16) "Actuarial reserve" means a method of financing a pension or
23 retirement plan wherein reserves are accumulated as the liabilities for
24 benefit payments are incurred in order that sufficient funds will be
25 available on the date of retirement of each member to pay the member's
26 future benefits during the period of retirement.

27 (17) "Actuarial valuation" means a mathematical determination of
28 the financial condition of a retirement plan. It includes the
29 computation of the present monetary value of benefits payable to
30 present members, and the present monetary value of future employer and
31 employee contributions, giving effect to mortality among active and
32 retired members and also to the rates of disability, retirement,
33 withdrawal from service, salary and interest earned on investments.

34 (18) "Disability board" for plan I members means either the county
35 disability board or the city disability board established in RCW
36 41.26.110.

37 (19) "Disability leave" means the period of six months or any
38 portion thereof during which a member is on leave at an allowance equal
39 to the member's full salary prior to the commencement of disability

1 retirement. The definition contained in this subsection shall apply
2 only to plan I members.

3 (20) "Disability retirement" for plan I members, means the period
4 following termination of a member's disability leave, during which the
5 member is in receipt of a disability retirement allowance.

6 (21) "Position" means the employment held at any particular time,
7 which may or may not be the same as civil service rank.

8 (22) "Medical services" for plan I members, shall include the
9 following as minimum services to be provided. Reasonable charges for
10 these services shall be paid in accordance with RCW 41.26.150.

11 (a) Hospital expenses: These are the charges made by a hospital,
12 in its own behalf, for

13 (i) Board and room not to exceed semiprivate room rate unless
14 private room is required by the attending physician due to the
15 condition of the patient.

16 (ii) Necessary hospital services, other than board and room,
17 furnished by the hospital.

18 (b) Other medical expenses: The following charges are considered
19 "other medical expenses", provided that they have not been considered
20 as "hospital expenses".

21 (i) The fees of the following:

22 (A) A physician or surgeon licensed under the provisions of chapter
23 18.71 RCW;

24 (B) An osteopath licensed under the provisions of chapter 18.57
25 RCW;

26 (C) A chiropractor licensed under the provisions of chapter 18.25
27 RCW.

28 (ii) The charges of a registered graduate nurse other than a nurse
29 who ordinarily resides in the member's home, or is a member of the
30 family of either the member or the member's spouse.

31 (iii) The charges for the following medical services and supplies:

32 (A) Drugs and medicines upon a physician's prescription;

33 (B) Diagnostic x-ray and laboratory examinations;

34 (C) X-ray, radium, and radioactive isotopes therapy;

35 (D) Anesthesia and oxygen;

36 (E) Rental of iron lung and other durable medical and surgical
37 equipment;

38 (F) Artificial limbs and eyes, and casts, splints, and trusses;

1 (G) Professional ambulance service when used to transport the
2 member to or from a hospital when injured by an accident or stricken by
3 a disease;

4 (H) Dental charges incurred by a member who sustains an accidental
5 injury to his or her teeth and who commences treatment by a legally
6 licensed dentist within ninety days after the accident;

7 (I) Nursing home confinement or hospital extended care facility;

8 (J) Physical therapy by a registered physical therapist;

9 (K) Blood transfusions, including the cost of blood and blood
10 plasma not replaced by voluntary donors;

11 (L) An optometrist licensed under the provisions of chapter 18.53
12 RCW.

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

15 (24) "Retiree" for persons who establish membership in the
16 retirement system on or after October 1, 1977, means any member in
17 receipt of a retirement allowance or other benefit provided by this
18 chapter resulting from service rendered to an employer by such member.

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

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

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

25 (28) "Plan I" means the law enforcement officers' and fire
26 fighters' retirement system, plan I providing the benefits and funding
27 provisions covering persons who first became members of the system
28 prior to October 1, 1977.

29 (29) "Plan II" means the law enforcement officers' and fire
30 fighters' retirement system, plan II providing the benefits and funding
31 provisions covering persons who first became members of the system on
32 and after October 1, 1977.

33 (30) "Plan III" means the law enforcement officers' and fire
34 fighters' retirement system, plan III providing the benefits and
35 funding provisions covering persons who first become members of the
36 system on and after the effective date of this act or who transfer
37 under section 505 of this act.

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

1 (~~(31)~~) (32) "Service credit month" means a full service credit
2 month or an accumulation of partial service credit months that are
3 equal to one.

4 (~~(32)~~) (33) "General authority law enforcement agency" means any
5 agency, department, or division of a municipal corporation, political
6 subdivision, or other unit of local government of this state, and any
7 agency, department, or division of state government, having as its
8 primary function the detection and apprehension of persons committing
9 infractions or violating the traffic or criminal laws in general, but
10 not including the Washington state patrol. Such an agency, department,
11 or division is distinguished from a limited authority law enforcement
12 agency having as one of its functions the apprehension or detection of
13 persons committing infractions or violating the traffic or criminal
14 laws relating to limited subject areas, including but not limited to,
15 the state departments of natural resources, (~~(fisheries)~~) fish and
16 wildlife, and social and health services, the state gambling
17 commission, the state lottery commission, the state parks and
18 recreation commission, the state utilities and transportation
19 commission, the state liquor control board, and the state department of
20 corrections.

21

PLAN III

22 NEW SECTION. **Sec. 303.** (1) Sections 303 through 315 of this act
23 shall apply only to plan III members.

24 (2) Plan III shall consist of two separate elements: (a) A defined
25 benefit portion covered under this subchapter; and (b) a defined
26 contribution portion covered under chapter 41.-- RCW (sections 401
27 through 408 of this act). All contributions on behalf of the employer
28 paid by the employee shall be made to the defined benefit portion of
29 plan III and shall be nonrefundable when paid to the fund described in
30 RCW 41.50.075(3).

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

33 NEW SECTION. **Sec. 304.** A member of the retirement system shall
34 receive a retirement allowance equal to one percent of such member's
35 final average salary for each service credit year.

1 NEW SECTION. **Sec. 305.** Retirement allowances shall have a
2 postretirement cost-of-living allowance calculated and paid as provided
3 in RCW 41.26.440.

4 NEW SECTION. **Sec. 306.** (1) Upon retirement for service as
5 prescribed in section 311 of this act or retirement for disability
6 under section 312 of this act, a member shall elect to have the
7 retirement allowance paid pursuant to one of the following options,
8 calculated so as to be actuarially equivalent to each other:

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

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

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

30 NEW SECTION. **Sec. 307.** (1) Any member or beneficiary eligible to
31 receive a retirement allowance under the provisions of section 311,
32 312, or 315 of this act shall be eligible to commence receiving a
33 retirement allowance after having filed written application with the
34 department.

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

1 (3) Retirement allowances paid to vested members no longer in
2 service, but qualifying for such an allowance section 311 of this act
3 shall accrue from the first day of the calendar month immediately
4 following such qualification.

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

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

11 NEW SECTION. **Sec. 308.** (1) No retiree shall be eligible to
12 receive such retiree's monthly retirement allowance if he or she is
13 employed in an eligible position as defined in RCW 41.40.010 or
14 41.32.010, or as a law enforcement officer or fire fighter as defined
15 in RCW 41.26.030, except that a plan III retiree may work in eligible
16 positions on a temporary basis for up to five months per calendar year.

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

22 NEW SECTION. **Sec. 309.** (1) A member who is on a paid leave of
23 absence authorized by a member's employer shall continue to receive
24 service credit.

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

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

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

34 The contributions required shall be based on the average of the
35 member's basic salary at both the time the authorized leave of absence
36 was granted and the time the member resumed employment.

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

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

14 The contributions required shall be based on the average of the
15 member's basic salary at both the time the member left the employ of
16 the employer to enter the armed forces and the time the member resumed
17 employment.

18 NEW SECTION. Sec. 310. (1) The director may pay a member eligible
19 to receive a retirement allowance or the member's beneficiary, subject
20 to the provisions of subsection (3) of this section, a lump sum payment
21 in lieu of a monthly benefit if the initial monthly benefit computed in
22 accordance with section 304 of this act would be less than one hundred
23 dollars. The one hundred dollar limit shall be increased by three
24 percent compounded annually on January 1. The lump sum payment shall
25 be the actuarial equivalent of the monthly benefit.

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

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

36 NEW SECTION. Sec. 311. (1) NORMAL RETIREMENT. Any vested member
37 who has attained at least age fifty-five shall be eligible to retire

1 and to receive a retirement allowance computed according to the
2 provisions of section 304 of this act.

3 (2) EARLY RETIREMENT. Any member who has attained at least age
4 fifty and has completed at least ten years of service shall be eligible
5 to retire and to receive a retirement allowance computed according to
6 the provisions of section 304 of this act, except that a member
7 retiring under this subsection shall have the retirement allowance
8 actuarially reduced to reflect the difference in the number of years
9 between the age at retirement and the attainment of age fifty-five.

10 NEW SECTION. Sec. 312. (1) A member of the retirement system who
11 becomes totally incapacitated for continued employment by an employer
12 as determined by the department shall be eligible to receive a monthly
13 disability allowance computed as provided for in section 304 of this
14 act and shall have this allowance actuarially reduced to reflect the
15 difference in the number of years between age at disability and the
16 attainment of age fifty-five.

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

23 (2) If the recipient of a monthly retirement allowance under this
24 section dies, any further benefit payments shall be conditioned by the
25 payment option selected by the retiree as provided in section 306 of
26 this act.

27 NEW SECTION. Sec. 313. (1) An active member shall become vested
28 in the right to a benefit upon completing ten years of service or upon
29 completing five years of service and attaining age fifty-five.

30 (2) A vested member who separates or has separated may remain a
31 member during the period of such member's absence from service for the
32 exclusive purpose only of receiving a retirement allowance under the
33 provisions of section 311 of this act.

34 (3) The retirement allowance payable under section 311 of this act
35 to a member who separates after having completed at least twenty years
36 of service shall be increased by twenty-five one-hundredths of one

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

3 NEW SECTION. **Sec. 314.** A nonvested member who leaves service and
4 then reenters membership must earn an additional twelve service credit
5 months to restore past service credit in the defined benefit portion of
6 plan III.

7 NEW SECTION. **Sec. 315.** If a member who is vested dies prior to
8 retirement, the surviving spouse or eligible child or children shall
9 receive a retirement allowance computed as provided in section 304 of
10 this act actuarially reduced to reflect a joint and one hundred percent
11 survivor option and if the member was not eligible for normal
12 retirement at the date of death a further reduction as described in
13 section 311(2) of this act.

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

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

25 NEW SECTION. **Sec. 316.** Sections 303 through 315 of this act are
26 designated as a subchapter within chapter 41.26 RCW with the subchapter
27 heading "Provisions Applicable to Plan III."

28 **PART IV**

29 **DEFINED CONTRIBUTION PORTION OF PLAN III**

30 NEW SECTION. **Sec. 401.** The purpose of chapter . . . , Laws of 1994
31 (this act) is to:

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

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

7 NEW SECTION. **Sec. 402.** As used in this chapter, the following
8 terms have the meanings indicated:

- 9 (1) "Actuary" means the state actuary or the office of the state
10 actuary.
- 11 (2) "Board" means the employee retirement benefits board authorized
12 in chapter 41.50 RCW.
- 13 (3) "Department" means the department of retirement systems.
- 14 (4) "Compensation" for purposes of this chapter is the same as:
15 (a) "Basic salary" for plan III in chapter 41.26 RCW;
16 (b) "Earnable compensation" for plan III in chapter 41.32 RCW;
17 (c) "Compensation earnable" for plan III in chapter 41.40 RCW.
- 18 (5) "Member" means any employee included in the membership of a
19 retirement system as provided for plan III in chapters 41.26, 41.32,
20 and 41.40 RCW unless otherwise specified.
- 21 (6) "Member account" means the sum of the contributions and
22 earnings on behalf of the member.
- 23 (7) "Retiree" means any member in receipt of an allowance or other
24 benefit provided by this chapter resulting from service rendered to an
25 employer by such member.

26 NEW SECTION. **Sec. 403.** (1) This chapter applies only to members
27 of plan III retirement systems created under chapters 41.26, 41.32, and
28 41.40 RCW.

29 (2) Plan III consists of two separate elements: (a) A defined
30 benefit portion covered under sections 101 through 315, chapter . . . ,
31 Laws of 1994 (sections 101 through 315 of this act); and (b) a defined
32 contribution portion covered under this chapter. Unless specified
33 otherwise, all references to "plan III" in this chapter refer to the
34 defined contribution portion of plan III.

35 NEW SECTION. **Sec. 404.** A member shall contribute from his or her
36 compensation according to one of the following rate structures:

- 1 (1) Members under chapter 41.40 RCW 5%;
- 2 (2) Members under chapter 41.32 RCW 6%; or
- 3 (3) Members under chapter 41.26 RCW 8%.
- 4 These contribution rates are subject to future change.

5 NEW SECTION. **Sec. 405.** The member's account shall be invested by
6 the state investment board unless the member elects to self-direct
7 investments as authorized by the board. Members who make this election
8 shall pay the expenses for self-directed investment.

9 NEW SECTION. **Sec. 406.** (1) If the member retires, becomes
10 disabled, or otherwise terminates employment, the balance in the
11 member's account may be distributed in accordance with an option
12 selected by the member either as a lump sum or pursuant to other
13 options authorized by the board.

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

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

31 NEW SECTION. **Sec. 407.** (1) Subject to subsections (2) and (3) of
32 this section, the right of a person to a pension, an annuity, a
33 retirement allowance, any optional benefit, any other right accrued or
34 accruing to any person under the provisions of this chapter, and the
35 various funds created by chapter . . . , Laws of 1994 (this act) and all
36 moneys and investments and income thereof, is hereby exempt from any

1 state, county, municipal, or other local tax, and shall not be subject
2 to execution, garnishment, attachment, the operation of bankruptcy or
3 insolvency laws, or other process of law whatsoever, and shall be
4 unassignable.

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

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

29 NEW SECTION. **Sec. 408.** (1) The retirement plan created by this
30 chapter shall be administered so as to comply with the federal Internal
31 Revenue Code, Title 28 U.S.C., and specifically with plan qualification
32 requirements imposed on governmental plans by section 401(a) of the
33 Internal Revenue Code.

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

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

7 NEW SECTION. **Sec. 409.** Sections 401 through 408 of this act shall
8 constitute a new chapter in Title 41 RCW.

9 **PART V**
10 **MISCELLANEOUS**

11 NEW SECTION. **Sec. 501.** A new section is added to chapter 41.50
12 RCW to read as follows:

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

15 (2) The board shall be composed of eight members appointed by the
16 governor and one ex officio member as follows:

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

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

27 (c) Two members representing the law enforcement and fire fighters'
28 retirement system: One active, one retired. The members shall be
29 appointed from a list of nominations submitted by organizations
30 representing each category. The initial term shall be three years for
31 one of the two members and one year for the remaining member.
32 Appointments shall be rotated between law enforcement officers, fire
33 fighters, and state patrol members and retirees.

34 (d) Two members with experience in defined contribution plan
35 administration. The initial term for these members shall be two years
36 for one and four for the other.

1 (e) The director of the department shall serve ex officio and shall
2 be the chair of the board.

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

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

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

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

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

15 (8) The state investment board shall provide advice and support to
16 the board.

17 NEW SECTION. **Sec. 502.** A new section is added to chapter 41.50
18 RCW to read as follows:

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

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

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

31 (3) Approval of actuarially equivalent annuities that may be
32 purchased from the combined plan II and plan III funds under RCW
33 41.50.075 (1), (2), or (3);

34 (4) Determination of the basis for administrative charges to the
35 self-directed investment fund to offset self-directed account expenses;
36 and

37 (5) Selection of investment options for the deferred compensation
38 program.

1 NEW SECTION. **Sec. 503.** A new section is added to chapter 41.26
2 RCW under the subchapter heading "Plan II" to read as follows:

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

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

8 (b) The accumulated contributions in plan II may be transferred to
9 the member's account in the defined contribution portion established in
10 sections 402 through 408 of this act, pursuant to procedures developed
11 by the department and subject to section 408 of this act.

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

14 (d) Members employed by an employer in an eligible position on
15 January 1, 1997, who requested to transfer to plan III by January 1,
16 1997, shall have their account in the defined contribution portion of
17 plan III increased by twenty percent of the plan II accumulated
18 contributions as of January 1, 1995.

19 (e) The legislature reserves the right to discontinue the right to
20 transfer under this section.

21 (2) Any member who elects to transfer to plan III and has eligible
22 unrestored withdrawn contributions in plan II, may subsequently restore
23 such contributions under the provisions of RCW 41.26.550. The restored
24 plan II service credit will be automatically transferred to plan III.
25 Contributions restored will be transferred to the member's account in
26 plan III.

27 (3) Anyone previously retired from plan II is prohibited from
28 transferring to plan III.

29 NEW SECTION. **Sec. 504.** A new section is added to chapter 41.32
30 RCW under the subchapter heading "Plan II" to read as follows:

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

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

36 (b) The accumulated contributions in plan II may be transferred to
37 the member's account in the defined contribution portion established in

1 sections 402 through 408 of this act, pursuant to procedures developed
2 by the department and subject to section 408 of this act.

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

5 (d) Members employed by an employer in an eligible position on
6 January 1, 1997, who requested to transfer to plan III by January 1,
7 1997, shall have their account in the defined contribution portion of
8 plan III increased by twenty percent of the plan II accumulated
9 contributions as of January 1, 1995.

10 (e) The legislature reserves the right to discontinue the right to
11 transfer under this section.

12 (2) Any member who elects to transfer to plan III and has eligible
13 unrestored withdrawn contributions in plan II, may subsequently restore
14 such contributions under the provisions of RCW 41.32.825. The restored
15 plan II service credit will be automatically transferred to plan III.
16 Contributions restored will be transferred to the member's account in
17 plan III.

18 (3) Anyone previously retired from plan II is prohibited from
19 transferring to plan III.

20 NEW SECTION. **Sec. 505.** A new section is added to chapter 41.40
21 RCW under this subchapter heading "Plan II" to read as follows:

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

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

27 (b) The accumulated contributions in plan II may be transferred to
28 the member's account in the defined contribution portion established in
29 sections 402 through 408 of this act, pursuant to procedures developed
30 by the department and subject to section 408 of this act.

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

33 (d) Members employed by an employer in an eligible position on
34 January 1, 1997, who requested to transfer to plan III by January 1,
35 1997, shall have their account in the defined contribution portion of
36 plan III increased by twenty percent of the plan II accumulated
37 contributions as of January 1, 1995.

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

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

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

11 **Sec. 506.** RCW 41.45.010 and 1989 c 273 s 1 are each amended to
12 read as follows:

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

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

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

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

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

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

36 **Sec. 507.** RCW 41.45.020 and 1989 c 273 s 2 are each amended to
37 read as follows:

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

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

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

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

13 (4) "~~Law enforcement officers' and fire fighters' retirement system~~
14 ~~plan II~~" means the benefits and funding provisions covering persons who
15 first became members of the law enforcement officers' and fire
16 fighters' retirement system on or after October 1, 1977)) under chapter
17 41.26 RCW.

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

23 (6) "~~Public employees' retirement system plan II~~" means the
24 benefits and funding provisions covering persons who first became
25 members of the public employees' retirement system on or after October
26 1, 1977)) under chapter 41.40 RCW.

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

32 (8) "~~Teachers' retirement system plan II~~" means the benefits and
33 funding provisions covering persons who first became members of the
34 teachers' retirement system on or after October 1, 1977)) under chapter
35 41.32 RCW.

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

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

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

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

5 **Sec. 508.** RCW 41.45.040 and 1993 c 519 s 18 are each amended to
6 read as follows:

7 (1) The adoption of the economic assumptions and the contribution
8 rates (~~(as provided in RCW 41.45.060)~~) shall be by affirmative vote of
9 at least five members of the council.

10 (2) The employer and state contribution rates adopted by the
11 council shall be the level percentages of pay which are needed:

12 (a) To fully amortize the total costs of the public employees'
13 retirement system plan I, the teachers' retirement system plan I, the
14 law enforcement officers' and fire fighters' retirement system plan I,
15 and the unfunded liability of the Washington state patrol retirement
16 system not later than June 30, 2024; and

17 (b) To (~~(also continue to)~~) fully fund the public employees'
18 retirement system plan II and III, the teachers' retirement system plan
19 II and III, and the law enforcement officers' and fire fighters'
20 retirement system plan II and III in accordance with (~~(the provisions~~
21 ~~of RCW 41.40.650, 41.32.775, and 41.26.450, respectively)~~) this
22 section.

23 (3) The aggregate actuarial cost method shall be used to calculate
24 a combined plan II and III employer contribution rate.

25 (4) Not later than September 30, 1994, and every two years
26 thereafter:

27 (a) The council shall adopt the contributions to be used in the
28 ensuing biennial period for the systems specified in RCW 41.45.010.

29 (b) The council shall immediately notify the directors of the
30 office of financial management and department of retirement systems of
31 the state of the employer contribution rates adopted under (a) of this
32 subsection.

33 (c) The director of the department of retirement systems shall
34 collect those rates adopted by the council under this chapter.

35 **Sec. 509.** RCW 41.45.050 and 1989 c 273 s 5 are each amended to
36 read as follows:

1 (1) (~~Beginning September 1, 1990,~~) Employers of members of the
2 public employees' retirement system, the teachers' retirement system,
3 and the Washington state patrol retirement system shall make
4 contributions to those systems based on the rates established in RCW
5 (~~41.45.060~~) 41.45.040 and 41.45.070.

6 (2) (~~Beginning September 1, 1990,~~) The state shall make
7 contributions to the law enforcement officers' and fire fighters'
8 retirement system based on the rates established in RCW (~~41.45.060~~)
9 41.45.040 and 41.45.070. The state treasurer shall transfer the
10 required contributions each month on the basis of salary data provided
11 by the department.

12 (3) (~~Beginning September 1, 1990,~~) The department shall bill
13 employers, and the state shall make contributions to the law
14 enforcement officers' and fire fighters' retirement system, using the
15 combined rates established in RCW (~~41.45.060~~) 41.45.040 and 41.45.070
16 regardless of the level of pension funding provided in the biennial
17 budget. Any member of an affected retirement system may, by mandamus
18 or other appropriate proceeding, require the transfer and payment of
19 funds as directed in this section.

20 (4) The contributions received for the public employees' retirement
21 system shall be allocated between the public employees' retirement
22 system plan I fund and the combined public employees' retirement system
23 plan II and plan III fund as follows: The contributions necessary to
24 fully fund the combined public employees' retirement system plan II and
25 plan III employer contribution (~~required by RCW 41.40.650~~) shall
26 first be deposited in the combined public employees' retirement system
27 plan II and plan III fund. All remaining public employees' retirement
28 system employer contributions shall be deposited in the public
29 employees' retirement system plan I fund.

30 (5) The employer contributions for the teachers' retirement system,
31 and the state contributions for the law enforcement officers' and fire
32 fighters' retirement system shall be combined and allocated in the same
33 manner as (~~the public employees' retirement system and in accordance~~
34 ~~with the law enforcement officers' and fire fighters' retirement system~~
35 ~~plan II and the teachers' retirement system plan II contribution rates~~
36 ~~required by RCW 41.26.450 and 41.32.775 respectively~~) subsection (4)
37 of this section.

1 **Sec. 510.** RCW 41.45.070 and 1990 c 18 s 2 are each amended to read
2 as follows:

3 (1) (~~Beginning September 1, 1991,~~) In addition to the basic
4 employer contribution rate established in RCW (~~41.45.060~~) 41.45.040,
5 the department shall also charge employers of public employees'
6 retirement system, teachers' retirement system, or Washington state
7 patrol retirement system members an additional supplemental rate to pay
8 for the cost of additional benefits, if any, granted to members of
9 those systems (~~after January 1, 1990~~). The supplemental contribution
10 rates required by this section shall be calculated by the state actuary
11 and shall be charged regardless of language to the contrary contained
12 in the statute which authorizes additional benefits.

13 (2) (~~Beginning September 1, 1991,~~) In addition to the basic state
14 contribution rate established in RCW (~~41.45.060~~) 41.45.040 for the
15 law enforcement officers' and fire fighters' retirement system the
16 department shall also establish a supplemental rate to pay for the cost
17 of additional benefits, if any, granted to members of the law
18 enforcement officers' and fire fighters' retirement system (~~after~~
19 ~~January 1, 1990~~). This supplemental rate shall be calculated by the
20 state actuary and the state treasurer shall transfer the additional
21 required contributions regardless of language to the contrary contained
22 in the statute which authorizes the additional benefits.

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

30 (4) The supplemental rate charged under this section to fund
31 benefit increases provided to active and retired members of the public
32 employees' retirement system plan II and plan III, the teachers'
33 retirement system plan II and plan III, or the law enforcement
34 officers' and fire fighters' retirement system plan II and plan III,
35 shall be calculated as the level percentage of all members' pay needed
36 to fund the cost of the benefit, as calculated under RCW 41.40.650,
37 41.32.775, or 41.26.450, respectively.

38 (5) The supplemental rate charged under this section to fund
39 postretirement adjustments which are provided on a nonautomatic basis

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

9 NEW SECTION. **Sec. 511.** A new section is added to chapter 41.45
10 RCW to read as follows:

11 (1) The required contribution rates for members of the plan II
12 retirement system shall be fixed at the rates in effect on the
13 effective date of this act, subject to the following:

14 (a) Beginning September 1, 1997, except as provided in (b) of this
15 subsection, the employee contribution rate shall not exceed the
16 employer plan II and III rates adopted under RCW 41.45.040 and
17 41.45.070 for the public employees' retirement system and teachers'
18 retirement system and shall not exceed the sum of the employer and
19 state rate in plan II and III of the law enforcement officers' and fire
20 fighters' retirement system;

21 (b) In addition, the employee contribution rate for plan II shall
22 be increased by fifty percent of the contribution rate increase caused
23 by any plan II benefit increase passed after the effective date of this
24 act.

25 (2) The required plan II and III contribution rates for employers
26 shall be adopted in the manner described in RCW 41.45.040.

27 (3) The state shall pay forty percent of the employer plan II and
28 III cost of the law enforcement officers' and fire fighters' retirement
29 system, except for port districts established under Title 53 RCW,
30 institutions of higher education as defined in 28B.10.016 and the
31 Washington state patrol.

32 (4) The employer and employee contributions collected under this
33 section shall be deposited in the combined plan II and III fund.

34 **Sec. 512.** RCW 41.50.075 and 1991 c 35 s 108 are each amended to
35 read as follows:

36 (1) Two funds are hereby created and established in the state
37 treasury to be known as the Washington law enforcement officers' and

1 fire fighters' system plan I retirement fund, and the Washington law
2 enforcement officers' and fire fighters' system combined plan II and
3 III retirement fund which shall consist of all moneys paid into them in
4 accordance with the provisions of this chapter and chapters 41.26 and
5 43.43 RCW, whether such moneys take the form of cash, securities, or
6 other assets. The plan I fund shall consist of all moneys paid to
7 finance the benefits provided to members of the law enforcement
8 officers' and fire fighters' retirement system plan I, and the combined
9 plan II and III fund shall consist of all moneys paid to finance the
10 benefits provided to members of the law enforcement officers' and fire
11 fighters' retirement system plans II and III.

12 (2) All of the assets of the Washington state teachers' retirement
13 system shall be credited according to the purposes for which they are
14 held, to two funds to be maintained in the state treasury, namely, the
15 teachers' retirement system plan I fund and the teachers' retirement
16 system combined plan II and III fund. The plan I fund shall consist of
17 all moneys paid to finance the benefits provided to members of the
18 Washington state teachers' retirement system plan I, and the combined
19 plan II and III fund shall consist of all moneys paid to finance the
20 benefits provided to members of the Washington state teachers'
21 retirement system plan II and III.

22 (3) There is hereby established in the state treasury two separate
23 funds, namely the public employees' retirement system plan I fund and
24 the public employees' (~~{retirement system}~~) retirement system
25 combined plan II and III fund. The plan I fund shall consist of all
26 moneys paid to finance the benefits provided to members of the public
27 employees' retirement system plan I, and the combined plan II and III
28 fund shall consist of all moneys paid to finance the benefits provided
29 to members of the public employees' retirement system plans II and III.

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

33 **Sec. 513.** RCW 41.50.110 and 1990 c 8 s 3 are each amended to read
34 as follows:

35 (1) Notwithstanding any provision of law to the contrary, the
36 retirement system expense fund is hereby redesignated as the department
37 of retirement systems expense fund from which shall be paid the
38 expenses of the administration of the department and the expenses of

1 administration of the retirement systems created in chapters 2.10,
2 2.12, 41.26, 41.32, 41.40, 41.-- (sections 401 through 408 of this
3 act), and 43.43 RCW.

4 (2) In order to reimburse the department of retirement systems
5 expense fund on an equitable basis the department shall ascertain and
6 report to each employer, as defined in RCW 41.26.030, 41.32.010, or
7 41.40.010, the sum necessary to defray its proportional share of the
8 entire expense of the administration of the retirement system that the
9 employer participates in during the ensuing biennium or fiscal year
10 whichever may be required. Such sum is to be computed in an amount
11 directly proportional to the estimated entire expense of the
12 administration as the ratio of monthly salaries of the employer's
13 members bears to the total salaries of all members in the entire
14 system. It shall then be the duty of all such employers to include in
15 their budgets or otherwise provide the amounts so required.

16 (3) The department shall compute and bill each employer, as defined
17 in RCW 41.26.030, 41.32.010, or 41.40.010, at the end of each month for
18 the amount due for that month to the department of retirement systems
19 expense fund and the same shall be paid as are its other obligations.
20 Such computation as to each employer shall be made on a percentage rate
21 of salary established by the department. However, the department may
22 at its discretion establish a system of billing based upon calendar
23 year quarters in which event the said billing shall be at the end of
24 each such quarter.

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

28 ~~((3) All employers shall pay a standard fee to the department to~~
29 ~~cover the cost of administering the system.)) (5) An employer who fails~~
30 to submit timely and accurate reports to the department may be assessed
31 an additional fee related to the increased costs incurred by the
32 department in processing the deficient reports. Fees paid under this
33 subsection shall be deposited in the retirement system expense fund.

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

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

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

4 (6) Expenses incurred pursuant to section 405 of this act shall be
5 deducted from the defined contribution fund in accordance with rules
6 established by the board under section 502 of this act.

7 NEW SECTION. **Sec. 514.** A new section is added to chapter 43.43
8 RCW to read as follows:

9 Membership in the retirement system created under this chapter is
10 prohibited for persons who are newly commissioned or become a cadet
11 after the effective date of this act.

12 **Sec. 515.** RCW 43.43.040 and 1987 c 185 s 17 are each amended to
13 read as follows:

14 (1) Subsections (2) and (3) of this section shall apply only to
15 members of the Washington state patrol retirement system.

16 (2) The chief of the Washington state patrol shall relieve from
17 active duty Washington state patrol officers who, while in the
18 performance of their official duties, or while on standby or available
19 for duty, have been or hereafter may be injured or incapacitated to
20 such an extent as to be mentally or physically incapable of active
21 service: PROVIDED, That:

22 (a) Any officer disabled while performing line duty who is found by
23 the chief to be physically incapacitated shall be placed on disability
24 leave for a period not to exceed six months from the date of injury or
25 the date incapacitated. During this period, the officer shall be
26 entitled to all pay, benefits, insurance, leave, and retirement
27 contributions awarded to an officer on active status, less any
28 compensation received through the department of labor and industries.
29 No such disability leave shall be approved until an officer has been
30 unavailable for duty for more than five consecutive work days. Prior
31 to the end of the six-month period, the chief shall either place the
32 officer on disability status or return the officer to active status.

33 For the purposes of this section, "line duty" is active service
34 which encompasses the traffic law enforcement duties and/or other law
35 enforcement responsibilities of the state patrol. These activities
36 encompass all enforcement practices of the laws, accident and criminal

1 investigations, or actions requiring physical exertion or exposure to
2 hazardous elements.

3 The chief shall define by rule the situations where a disability
4 has occurred during line duty;

5 (b) Benefits under this section for a disability that is incurred
6 while in other employment will be reduced by any amount the officer
7 receives or is entitled to receive from workers' compensation, social
8 security, group insurance, other pension plan, or any other similar
9 source provided by another employer on account of the same disability;

10 (c) An officer injured while engaged in wilfully tortious or
11 criminal conduct shall not be entitled to disability benefits under
12 this section; and

13 (d) Should a disability beneficiary whose disability was not
14 incurred in line of duty, prior to attaining age fifty, engage in a
15 gainful occupation, the chief shall reduce the amount of his retirement
16 allowance to an amount which when added to the compensation earned by
17 him in such occupation shall not exceed the basic salary currently
18 being paid for the rank the retired officer held at the time he was
19 disabled. All such disability beneficiaries under age fifty shall file
20 with the chief every six months a signed and sworn statement of
21 earnings and any person who shall knowingly swear falsely on such
22 statement shall be subject to prosecution for perjury. Should the
23 earning capacity of such beneficiary be further altered, the chief may
24 further alter his disability retirement allowance as indicated above.
25 The failure of any officer to file the required statement of earnings
26 shall be cause for cancellation of retirement benefits.

27 ~~((+2))~~ (3) Officers on disability status shall receive one-half of
28 their compensation at the existing wage, during the time the disability
29 continues in effect, less any compensation received through the
30 department of labor and industries. They shall be subject to mental or
31 physical examination at any state institution or otherwise under the
32 direction of the chief of the patrol at any time during such relief
33 from duty to ascertain whether or not they are able to resume active
34 duty.

35 NEW SECTION. **Sec. 516.** A new section is added to chapter 41.50
36 RCW to read as follows:

37 (1) "Employee" as used in this section and section 518 of this act
38 includes all full-time, part-time, and career seasonal employees of the

1 state, a county, a municipality, or other political subdivision of the
2 state, whether or not covered by civil service; elected and appointed
3 officials of the executive branch of the government, including full-
4 time members of boards, commissions, or committees; justices of the
5 supreme court and judges of the court of appeals and of the superior
6 and district courts; and members of the state legislature or of the
7 legislative authority of any county, city, or town.

8 (2) The state, through the department, and any county,
9 municipality, or other political subdivision of the state acting
10 through its principal supervising official or governing body is
11 authorized to contract with an employee to defer a portion of that
12 employee's income, which deferred portion shall in no event exceed the
13 amount allowable under 26 U.S.C. Sec. 457, and deposit or invest such
14 deferred portion in a credit union, savings and loan association, bank,
15 or mutual savings bank or purchase life insurance, shares of an
16 investment company, or fixed and/or variable annuity contracts from any
17 insurance company or any investment company licensed to contract
18 business in this state.

19 (3) The department can provide such plans as the early retirement
20 benefits board, established under section 501 of this act, deems are in
21 the interests of state employees. In addition to the types of
22 investments described in this section, the department may invest the
23 deferred portion of an employee's income, without limitation as to
24 amount, in any of the class of investments described in RCW 43.84.150
25 as in effect on January 1, 1981. Any income deferred under such a plan
26 shall continue to be included as regular compensation, for the purpose
27 of computing the state or local retirement and pension benefits earned
28 by any employee.

29 (4) Coverage of an employee under a deferred compensation plan
30 under this section shall not render such employee ineligible for
31 simultaneous membership and participation in any pension system for
32 public employees.

33 NEW SECTION. **Sec. 517.** A new section is added to chapter 41.50
34 RCW to read as follows:

35 In addition to its other powers prescribed in this chapter, the
36 department is authorized to offer to employees one or more individual
37 retirement account plans established under applicable state or federal

1 law. The department is also authorized to administer the medical
2 benefits plan identified in RCW 41.04.340.

3 NEW SECTION. **Sec. 518.** A new section is added to chapter 41.50
4 RCW to read as follows:

5 (1) The deferred compensation principal account is hereby created
6 in the state treasury. Any deficiency in the deferred compensation
7 administrative account caused by an excess of administrative expenses
8 disbursed from that account over earnings of investments of balances
9 credited to that account shall be eliminated by transferring moneys to
10 that account from the deferred compensation principal account.

11 (2) The amount of compensation deferred by employees under
12 agreements entered into under the authority contained in section 516 of
13 this act shall be paid into the deferred compensation principal account
14 and shall be sufficient to cover costs of administration and staffing
15 in addition to such other amounts as determined by the department. The
16 deferred compensation principal account shall be used to carry out the
17 purposes of section 516 of this act. All eligible state employees
18 shall be given the opportunity to participate in agreements entered
19 into by the department under section 516 of this act. State agencies
20 shall cooperate with the department in providing employees with the
21 opportunity to participate.

22 (3) Any county, municipality, or other subdivision of the state may
23 elect to participate in any agreements entered into by the department
24 under section 516 of this act, including the making of payments
25 therefrom to the employees participating in a deferred compensation
26 plan upon their separation from state or other qualifying service.
27 Accordingly, the deferred compensation principal account shall be
28 considered to be a public pension or retirement fund within the meaning
29 of Article XXIX, section 1 of the state Constitution, for the purpose
30 of determining eligible investments and deposits of the moneys therein.

31 (4) All moneys in the deferred compensation principal account, all
32 property and rights purchased therewith, and all income attributable
33 thereto, shall remain (until made available to the participating
34 employee or other beneficiary) solely the money, property, and rights
35 of the state and participating counties, municipalities, and
36 subdivisions (without being restricted to the provision of benefits
37 under the plan) subject only to the claims of the state's and

1 participating jurisdictions' general creditors. Participating
2 jurisdictions shall each retain property rights separately.

3 (5) The state investment board, at the request of the early
4 retirement benefits board as established under section 501 of this act,
5 is authorized to invest moneys in the deferred compensation principal
6 account in accordance with RCW 43.84.150. Except as provided in RCW
7 43.33A.160, one hundred percent of all earnings from these investments
8 shall accrue directly to the deferred compensation principal account.

9 (6) The deferred compensation administrative account is hereby
10 created in the state treasury. All expenses of the department
11 pertaining to the deferred compensation plan including staffing and
12 administrative expenses shall be paid out of the deferred compensation
13 administrative account. Any excess of earnings of investments of
14 balances credited to this account over administrative expenses
15 disbursed from this account shall be transferred to the deferred
16 compensation principal account. Any deficiency in the deferred
17 compensation administrative account caused by an excess of
18 administrative expenses disbursed from this account over earnings of
19 investments of balances credited to this account shall be transferred
20 to this account from the deferred compensation principal account.

21 (7) In addition to the duties specified in this section and section
22 516 of this act, the department shall administer the salary reduction
23 plan established in RCW 41.04.600 through 41.04.645.

24 (8) The department shall keep or cause to be kept full and adequate
25 accounts and records of the assets, obligations, transactions, and
26 affairs of any deferred compensation plans created under sections 516
27 and 517 of this act and this section.

28 (9) The department shall file an annual report of the financial
29 condition, transactions, and affairs of the deferred compensation plans
30 under its jurisdiction. A copy of the annual report shall be filed
31 with the speaker of the house of representatives, the president of the
32 senate, the governor, and the state auditor.

33 (10) Members of the early retirement benefits board established
34 under section 501 of this act shall be deemed to stand in a fiduciary
35 relationship to the employees participating in the deferred
36 compensation plans created under sections 516 and 517 of this act and
37 this section and shall discharge the duties of their respective
38 positions in good faith and with that diligence, care, and skill which

1 ordinary prudent persons would exercise under similar circumstances in
2 like positions.

3 (11) The department may adopt rules necessary to carry out the
4 purposes of section 516 of this act and this section.

5 **Sec. 519.** RCW 41.50.030 and 1975-'76 2nd ex.s. c 105 s 5 are each
6 amended to read as follows:

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

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

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

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

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

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

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

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

26 (3) The department shall administer sections 401 through 408 of
27 this act.

28 **Sec. 520.** RCW 41.50.050 and 1993 c 61 s 1 are each amended to read
29 as follows:

30 The director shall:

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

33 (2) Have free access to all files and records of various funds
34 assigned to the department and inspect and audit the files and records
35 as deemed necessary;

36 (3) Employ personnel to carry out the general administration of the
37 department;

1 (4) Submit an annual written report of the activities of the
2 department to the governor and the chairs of the appropriate
3 legislative committees with one copy to the staff of each of the
4 committees, including recommendations for statutory changes the
5 director believes to be desirable;

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

9 **Sec. 521.** RCW 41.50.060 and 1975-'76 2nd ex.s. c 105 s 8 are each
10 amended to read as follows:

11 The director may delegate the performance of such powers, duties,
12 and functions, other than those relating to rule making, to employees
13 of the department, but the director shall remain and be responsible for
14 the official acts of the employees of the department.

15 The director shall be responsible for the public employees'
16 retirement system, the teachers' retirement system, the judicial
17 retirement system, the law enforcement officers' and fire fighters'
18 retirement system, and the Washington state patrol retirement system.
19 The director shall also be responsible for the deferred compensation
20 program.

21 **Sec. 522.** RCW 41.54.010 and 1993 c 517 s 8 are each amended to
22 read as follows:

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

25 (1) "Base salary" means salaries or wages earned by a member of a
26 system during a payroll period for personal services and includes wages
27 and salaries deferred under provisions of the United States internal
28 revenue code, but shall exclude overtime payments, nonmoney maintenance
29 compensation, and lump sum payments for deferred annual sick leave,
30 unused accumulated vacation, unused accumulated annual leave, any form
31 of severance pay, any bonus for voluntary retirement, any other form of
32 leave, or any similar lump sum payment.

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

34 (3) "Director" means the director of the department of retirement
35 systems.

36 (4) "Dual member" means a person who (a) is or becomes a member of
37 a system on or after July 1, 1988, (b) has been a member of one or more

1 other systems, and (c) has never been retired for service from a
2 retirement system and is not receiving a disability retirement or
3 disability leave benefit from any retirement system listed in RCW
4 41.50.030 or subsection (6) of this section.

5 (5) "Service" means the same as it may be defined in each
6 respective system. For the purposes of RCW 41.54.030, military service
7 granted under RCW 41.40.170(3) or 43.43.260 may only be based on
8 service accrued under chapter 41.40 or 43.43 RCW, respectively.

9 (6) "System" means the retirement systems established under
10 chapters 41.32, 41.40, 41.44, and 43.43 RCW; plans II and III of the
11 system established under chapter 41.26 RCW; and the city employee
12 retirement systems for Seattle, Tacoma, and Spokane. The inclusion of
13 an individual first class city system is subject to the procedure set
14 forth in RCW 41.54.061.

15 NEW SECTION. **Sec. 523.** A new section is added to chapter 41.54
16 RCW to read as follows:

17 Any dual member who elects to transfer under section 503, 504, or
18 505 of this act may simultaneously transfer to plan III any prior plan
19 II service credit earned under the same retirement system.

20 NEW SECTION. **Sec. 524.** A new section is added to chapter 43.33A
21 RCW to read as follows:

22 Pursuant to section 502 of this act, the state investment board, at
23 the request of the early retirement benefits board, is authorized to
24 offer investment options for self-directed investment under plan III.

25 **Sec. 525.** RCW 41.04.440 and 1984 c 227 s 1 are each amended to
26 read as follows:

27 (1) The sole purpose of RCW 41.04.445 and 41.04.450 is to allow the
28 members of the retirement systems created in chapters 2.10, 2.12,
29 41.26, 41.32, 41.40, 41.-- (sections 401 through 408 of this act), and
30 43.43 RCW to enjoy the tax deferral benefits allowed under 26 USC
31 414(h). ~~((This act does not alter in any manner the provisions of RCW
32 41.26.450, 41.32.775 and 41.40.650 which require that the member
33 contribution rates shall be set so as to provide fifty percent of the
34 costs of the respective retirement plans.))~~

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

4 **Sec. 526.** RCW 41.04.445 and 1992 c 212 s 15 are each amended to
5 read as follows:

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

7 (a) Judges under the retirement system established under chapter
8 2.10, 2.12, or 2.14 RCW;

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

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

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

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

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

23 (a) RCW 2.10.090(1);

24 (b) RCW 2.12.060;

25 (c) RCW 2.14.090;

26 (d) RCW 41.32.263;

27 (e) RCW 41.32.350;

28 (f) ~~((RCW 41.32.775;~~

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

30 ~~((h) RCW 41.40.650; and))~~ (g) Section 406 of this act;

31 ~~((i)))~~ (h) RCW 43.43.300; and

32 (i) Section 404 of this act.

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

36 (4) All member contributions to the respective retirement system
37 picked up by the employer as provided by this section, plus the accrued
38 interest earned thereon, shall be paid to the member upon the

1 withdrawal of funds or lump-sum payment of accumulated contributions as
2 provided under the provisions of the retirement systems.

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

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

7 (b) Notification of such implementation to the director of the
8 department of retirement systems.

9 **Sec. 527.** RCW 41.04.450 and 1985 c 13 s 3 are each amended to read
10 as follows:

11 (1) Employers of those members under chapters 41.26 (~~and~~), 41.40,
12 and 41.-- (sections 401 through 408 of this act) RCW who are not
13 specified in RCW 41.04.445 may choose to implement the employer pick up
14 of all member contributions without exception under RCW 41.26.080(1),
15 (~~41.26.450,~~) 41.40.330(1), (~~and 41.40.650~~) and chapter 41.-- RCW
16 (sections 401 through 408 of this act). If the employer does so
17 choose, the employer and members shall be subject to the conditions and
18 limitations of RCW 41.04.445 (3), (4), and (5) and RCW 41.04.455.

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

24 NEW SECTION. **Sec. 528.** The following acts or parts of acts are
25 each repealed:

26 (1) RCW 41.04.250 and 1981 c 256 s 2, 1975 1st ex.s. c 274 s 2,
27 1973 1st ex.s. c 99 s 1, 1972 ex.s. c 19 s 1, & 1971 ex.s. c 264 s 1;

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

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

30 (4) RCW 41.26.450 and 1993 c 502 s 2, 1989 c 273 s 14, 1986 c 268
31 s 1, 1984 c 184 s 10, & 1977 ex.s. c 294 s 6;

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

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

36 (7) RCW 41.50.032 and 1984 c 184 s 15 & 1982 c 163 s 9; and

1 (8) RCW 41.50.250 and 1991 c 35 s 72, 1989 c 273 s 21, 1981 c 3 s
2 32, 1969 c 128 s 4, 1963 c 174 s 6, 1955 c 220 s 2, 1953 c 200 s 3,
3 1949 c 240 s 5, & 1947 c 274 s 9.

4 NEW SECTION. **Sec. 529.** RCW 41.45.060, 41.45.0601, and 41.45.901
5 are each decodified.

6 NEW SECTION. **Sec. 530.** This act shall take effect July 1, 1995.

7 NEW SECTION. **Sec. 531.** Part headings and subchapter headings as
8 used in this act constitute no part of the law.

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