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PENSIONS AND RETIREMENT PLAN ENACTMENTS IN 2004 STATE LEGISLATURES

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INTRODUCTION. This report summarizes selected pensions and retirement legislation that state legislatures enacted in 2004. I have reviewed legislation enacted in all states that held regular legislative sessions through September, 2004. The report also includes a few items of legislation enacted too late in 2003 for inclusion in the 2003 report.

The sources of this report are retirement systems' Web sites and direct communication with legislative and retirement system staff. I am indebted to the many legislative staff who write and share summaries of their Legislatures' acts, the many retirement system staff throughout the United States who have posted legislative summaries on their web sites, and the staff of Legislatures and retirement systems who have taken time to identify and explain legislation and its context to me.

The goal of this report is to help researchers and policy makers know how other states have addressed issues that could arise in any state. In keeping with that goal, I have excluded most clean-up legislation, cost-of-living adjustments, administrative procedures and technical amendments. This report is organized according to the topics that legislatures addressed in 2004. The remainder of the introduction summarizes action on the issues that received the most attention in 2004, in terms of the volume of legislation. Following it is a list of the topics the report covers and summaries of legislation, organized by topic.

LEGISLATIVE OVERSIGHT AND ADMINISTRATIVE MANAGEMENT

Legislation in 2004 reflected concerns over the financial and administrative management of public retirement programs. Major concerns about the management of pensions systems in Ohio were addressed in Senate Bill 133, summarized at length in Appendix A of this report. Louisiana strengthened legislative oversight of the state retirement systems, requiring legislative approval of budgets and proposals for benefits increases. Oklahoma and South Dakota also increased requirements for systems' financial transparency and reporting.

FINANCES AND BONDS

Funding was a major concern across the country. Across-the-board benefit increases do not appear in any substantial way in the legislation summarized below.

Pension obligation bonds, an issue in a number of states in 2003, were authorized for state government use only in California in 2004. Legislation established a unique funding method for the proposed bonds. New state employees will be members of an alternative retirement plan instead of the regular defined benefit plan for their first 24 months of employment, after which they will begin making contributions to the defined benefit plan. The state will not make contributions on their behalf during the 24 months, providing potential funding for pension bonds.

States did not otherwise authorize pension obligation bonds in 2004, although Kansas completed the authorization it initiated in 2003 with the issuance of bonds, and the 2003 authorization in West Virginia continued to work its way through the courts. Colorado and South Dakota limited some former employee benefits. A number of states statutorily increased employer contribution rates. Employee contribution rates generally continued unchanged, although Nebraska levied a one-year employee increase in response to poor investment returns, and the Arizona State Retirement System announced an increase in both employee and employer contribution rates for the fiscal years following July 1, 2005. (This report generally includes only statutory contribution changes, and has not attempted to track those made by administrative rules.)

South Carolina prepared for future state fiscal difficulties by providing that employees who are furloughed in the course of the fiscal year will continue to accrue retirement benefits as well as receive any other employee benefits. The furloughing agency will pay the employee's share of the costs as well as the employer's share, in most cases.

DEFINED CONTRIBUTION AND ALTERNATIVE RETIREMENT PLANS AND OTHER STRUCTURAL CHANGES

Structural changes in plan design were rare in 2004. The Colorado General Assembly created a defined contribution plan as an optional alternative to its defined benefit plan for state and local government employees hired after January 1, 2006. Colorado also will open its defined contribution plan for elected officials to general employees on that date. Oklahoma and Ohio broadened opportunities for alternative plan choices for employees in higher education. Hawaii created a new contributory defined benefit plan for all new state and county employees and teachers after July 1, 2006, when the existing non-contributory defined benefit plan will be closed to additional members. A New Jersey bill, not enacted at the time of writing, is notable for permitting higher education employees who are members of a defined contribution plan to transfer membership back to the state defined benefit plan or TIAA/CREF, depending on the person's earlier having been a member of one or the other. The person could return only to the plan of which he or she was formerly a member.

EARLY RETIREMENT OPTIONS AND SERVICE CREDIT

The widespread use of early retirement options in recent years may have contributed to their limited creation in 2004. Illinois offered an unusual early termination benefit to specified groups of state employees who ended their employment and waived future retirement benefits in exchange for twice their employee retirement contributions plus interest, an incentive that fewer employees than expected were willing to accept. A follow-up program of increased severance payments was not completed at the time this was being written. Iowa, Louisiana and Utah provided more traditional early retirement incentives; Michigan's legislature turned them down out of concerns about previous reductions in the size of the state workforce.

A substantial number of legislatures turned their attention to provisions for the purchase of service credit, without specifying that more generous provisions were intended as a retirement incentive. New Mexico doubled its allowance of time that may be purchased to 24 months to aid members in meeting requirements for maximum retirement benefits. A number of states, including Arizona, Georgia, Louisiana, South Dakota and Washington, specified that purchases of service credit must be at the actuarial value of the credit. Provisions in a number of states appear to be intended to assist public employees called to active military duty, explicitly so in Idaho, Iowa and Oklahoma.

RE-EMPLOYMENT AFTER RETIREMENT

As in other recent years, states continued to ease restrictions on teachers' and other public employees' return to covered employment after retirement. Ten states acted on the issue in 2004, generally on behalf of returning retired teachers to work.

LIST OF TOPICS

Alternative Retirement Plans
Benefits
Charter Schools
Contribution Rates and Funding Issues
Deferred Compensation Plans/Optional Retirement Plans
Defined Benefit Plan Changes (including partial lump-sum options)
Defined Benefit Plan – New
Defined Contribution Plans For Broad Categories of Employees
Disability
Early Retirement Incentives
Furloughs
Governance
Health Coverage
Legislators' Retirement Plans
Military Service
Re-employment after Retirement
Service Credit/ Purchase of Service/ Transfer of Credit
Studies
Taxation
Vesting

Alternative Retirement Plans

California. Chapter 214, Laws of 2004 (SB 1105) provides that new state employees who become members of the California Public Employee Retirement system (CalPERS) shall not make contributions to CalPERS, nor receive service credit for their service, and the state employer shall not make contributions on their behalf, during their first 24 months of employment. Requires those members to make contributions to an alternative retirement program (ARP), administered by DPA, during that 24 months, after which the members shall begin contributing to CalPERS and earning service credit in the system. Provides that, in months 47 to 49, the member may elect to receive the ARP contributions as cash or transfer the accumulated contributions in the ARP to CalPERS and thereby receive service credit for that 24-month period. Provides that the 24-month period shall be treated as state service for vesting for preretirement death benefits, retirement eligibility, and retiree health coverage regardless of whether contributions are transferred to CalPERS. Provides that a member who does not transfer the contributions from ARP to CalPERS may, at any time prior to retirement, purchase the service credit at full present value cost.

New Jersey. Senate Bill 1967 (not enacted in October 2004) addresses the desire of some higher education employees to change their retirement plan from a defined contribution plan to the state defined benefit plan. Current law requires faculty and officers of institutions of public higher education to be members of the Alternative Benefit Plan (ABP), a defined contribution plan. This bill would require anyone who enters such a position with 10 years or more membership in TIAA/CREF or the New Jersey Public Employees Retirement System to continue membership in that plan. In addition, the bill allows any person who (1) is employed by a county college or community college as a full-time officer, full-time member of the faculty, a regularly appointed teacher or an administrative staff member; (2) is a member of the ABP; and (3) was previously a member of either the TPAF or the PERS and elected to transfer to the ABP to transfer back to the TPAF or PERS, if the person files an application within six months of the effective date of the bill.

Benefits

Kentucky. HB 290 reduced the multiplier for members of the County Employee Retirement System from 2.25 to 2% for employees whose participation begins on or after August 1, 2004.

Louisiana. HB 224 provides that benefits paid a member's heirs from the Teachers Retirement System must at least equal a member's accumulated contributions, whether through survivor benefits or a payment to the former member's estate.

South Dakota. HB 1032 provides that beginning July 1, 2004, for the purposes of calculating benefits from the SD Retirement System, compensation in a person's last quarter cannot exceed 115% of any previous quarter and the average compensation of the last four quarters cannot exceed 110% of any previous quarter. Termination pay will not be considered as compensation for SDRS purposes and no employer or member contributions will be required. Beginning July 1, 2004, the percentages mentioned above will be reduced to 105%. *See also* South Dakota in "Contribution rates."

Wisconsin. SB 344 allows the percentage threshold for fixed annuity increases to be established by rule promulgated by the Department of Employee Trust Funds, and provides that administrative rules promulgated by the department do not require the approval of the Teachers Retirement Board or the Wisconsin Retirement Board. Previous law required that the minimum increase in annuitants' payments be 2 percent. The new law sets the threshold at 0.5 percent unless the department establishes a different threshold upon advice from its actuary. [The effect of the new legislation is to allow increases in annuity payments when resources are not sufficient to cover a 2 percent increase, as in 2004.]

CHARTER SCHOOLS

Washington. Chapter 22, Laws of 2004, provides for the creation of charter schools. It establishes charter schools as employers and charter school employees as members of the Teachers' Retirement System, the School Employees' Retirement System and the Public Employees' Retirement System, respectively.

CONTRIBUTION RATES AND FUNDING ISSUES

Arizona. On October 1, the Arizona Retirement System announced an increase in employee and employer contribution rates from 5.2 percent to approximately 7.75 percent. The system cited past benefit increases, mid-term investment returns and changing demographics of the ASRS membership as factors that helped require the increase. The increase is effective for the two fiscal years that follow July 1, 2005. *ASRS Weekly Report*, October 1, 2004

California. Chapter 215, Laws of 2004 (SB 1106) establishes the Pension Obligation Bond Committee, authorized to issue bonds and take other actions under the California Pension Obligation Financing Act. Enacts the California Pension Restructuring Bond Act of 2004, authorizing the issuance, during any 2 fiscal years after June 30, 2004, of bonds for the purpose of funding or refunding the state's obligations to the PERF. Authorizes the cumulative amount of the bonds to be the lesser of $2 billion or the anticipated reduction, as estimated by the Director of Finance, in state contributions to CalPERS due to enactment of SB 1105. *See Alternative Retirement Plans, above, for SB 1105.*

Colorado. Chapter 214, Laws of 2004 (SB 132) ends MatchMaker contributions for payrolls for which the payroll period ends June 1, 2004, or later; reduces interest credit on member contributions to a maximum of 5 percent per year; sets the due date for PERA contributions at five business days after payroll date; reallocates 0.08% of salary of employer contributions to the Public Employee Retirement Association (PERA) trust funds rather than to the PERA Health Care Trust Fund.

Chapter 393 (SB 257) provides that the state employer contribution rate will be 10.15% of salary, down from 10.4%. This amount goes to the State DC Plan if the new hire elects that plan, and it goes to PERA if the new hire elects PERA. (See "Defined Contribution Plans For Broad Categories of Employees" below.)

The legislation also provides a separate school employer contribution rate of 10.15%, formerly 10.4%, and provides that it will increase to 10.55% on January 1, 2013. This reflects the separation of PERA's state employee and school plan into two separate programs. The actuarial normal cost of PERA benefits in the School Category is about 0.4 percent of salary higher than in the State Category. This difference would be applied to the School employer rate beginning January 1, 2013 (after the Amortization Equalization Disbursement has been fully implemented, see below). At that time, the School employer rate becomes 10.55 percent (10.15 percent plus 0.4 percent), not including the AED.

Each PERA employer in the State Division will pay to PERA an amount equal to 0.5 percent of the salaries paid to all employees who are PERA members or who were eligible to elect PERA membership on or after January 1, 2006. This is called the Amortization Equalization Disbursement (AED). The AED payment begins January 1, 2006. The AED will increase by 0.5 percent of salary in 2007, and then by 0.4 percent of salary per year to a maximum of 3 percent of salary by 2012. The School Division is scheduled under the bill to have another increase effective in 2013.

If the unfunded liability amortization period drops to 40 years or less, the AED would be scaled back in that division. Any reduction in the AED would be permanent. Current projections indicate it is unlikely that the amortization period will drop to 40 years for a long time.

The legislation also require employers contributions on salaries paid to PERA retirees. This will help compensate PERA for the cost of early retirement. Beginning July 1, 2005, PERA employers will pay employer contributions on salaries of PERA retirees working for them.

[Note. Creation of the AED seems to reflect the provision of DC plans for state employees in the same legislation. AED payments will be made to PERA on the salaries of DC plan members, rather than deposited in individual DC members' accounts.]

Florida. Florida Retirement System contribution rates for 2004-2005 were set at levels slightly below those for 2003-2004. See Chapter 2003-260; 2004-293.

Kansas. SB 520 raised the statutory caps on contributions from local government employers to the Kansas Public Employee Retirement System (KPERS) so that contributions will reach approximately 7.81% in calendar year (CY) 2013 and ensure the long term stability of retirement system funding. The increases will mean about $3.3 million additional expense for local governments in CY 2006, an additional $8.2 million in CY 2007 and an additional $15 million in CY 2008, with further increases in the following years.

SB 520 also separated the KPERS state and school systems for actuarial calculations and determination of employer contribution rates. Actuarial calculations indicate that the combined systems would reach equilibrium at an employer contribution rate of 12.3% in

2018, whereas separately the state employees group will reach equilibrium in FY 2009 at 6.84% and the school group in 2024 at approximately 16%.

Louisiana. The Public Retirement Systems' Actuarial Committee has recommended that the employer contribution rate for the Louisiana School Employees' Retirement System be set at 18.8% of payroll for FY 2005, up from 11.2% for FY 2004. The committee observed that the rate for FY 2004 should have been 17.4%, from an actuarial perspective, and that the rate of 18.8% includes the shortfall from FY 2004.

The member contribution rate for 2004-2005 will remain at 7.5%.

Act 588 (SB 622) addressed major funding issues for the State Employees' Retirement System (LASERS), The Teachers' Retirement System (TRSL) and the school employees' system. Previous legislation had established the Employee Experience Account to share actuarial gains and losses and required that the retirement boards provide COLAs when the experience account showed a sufficient balance. Investment losses in recent years removed the resources for COLAs while the legal requirement to provide them remained. Act 588 roles the EA losses into the systems' main funds and reamortizes them over 30 years while the reamortization period for the previous fund bases remains at 25 years. Employer contributions to LASERS and TRSL must be at least 15.5% a year for 25 years. The legislation makes any future COLAs subject to legislative approval.

The reamortization reduces employer contribution rates for the three systems from previous assumptions: LASERS, from 19.1% to 17.8%; TRSL, from 17.3% to 15.5%; and School from 18.8% to 14.8%.

Mississippi. The Mississippi State Employees' Retirement System will increase the employer contribution rate from 9.75% to 10.75 percent effective July 1, 2005.

Nebraska. LB 514 increased contribution rates for employees and employers from 11 percent of salary to 12 percent of salary for one year to redress poor investment returns. LB1097 created a new optional retirement plan to benefit the spouses of judges by providing the spouse a benefit of 50 percent of a retired judge's benefit after the judge's death, provided that the judge had joined the optional plan. It requires a contribution of 8 percent of salary for 20 years and 4 percent of salary thereafter.

New York. A11758/S.7677 is designed to assist local governments in New York cope with rapidly rising requirements for employer contributions to the New York Employees' Retirement System. The bill will:

- allow municipal governments to set up reserve funds for future pension contributions;
- change the due date for local governments to pay retirement contributions from Dec. 15 to Feb. 1 of the year after the payment statement is issued -- providing a cash flow benefit in fiscal year 2004-2005 of approximately $980 million to about 1,100 local governments that have a calendar year fiscal year;
- cap the maximum local governments must pay as a percent of payroll at 9.5% in 2005-06 and 10.5% in 2006-07. Obligations above those percentages may be

amortized over 10 years at a market rate of interest to be set by the State Comptroller; and,

- modify the annual amortization payments due for local governments' fiscal year 2004-05 by making the first payment due on Feb.1, 2006, instead of Dec. 15, 2004.

One estimate is that the legislation provides $1.7 billion in fiscal relief to local governments in FY 2004-05.

Oklahoma. SB 1134 provides for increases in employer contribution rates for the Public Employees Retirement System. Currently, all participating state agencies pay a contribution rate of 10% of the monthly compensation of each member. Beginning July 1, 2005, state agencies will contribute 11.5%. This percentage will increase by 1% annually beginning July 1, 2006, and each year thereafter, through the fiscal year ending June 30, 2011, when it tops out at a rate of 16.5%.

Non-state participating employers and their employees currently pay a total of 13.5% of the monthly compensation of each member. For the fiscal year ending June 30, 2006, the total employer and employee contributions will be 15%. That total will increase by 1% each year, finally reaching 20% in FY 2011. In addition, the maximum employer contribution rate of 10% is increased to 11.5% for FY 2006 and increases by 1% each fiscal year thereafter to a maximum of 16.5%.

Pennsylvania. The School Employees' Retirement System has announced the employer contribution rate for FY 2005 of 4.23%, up from a total contribution rate of 3.77% for FY2004. The total includes a decrease in the health care contribution from .77% to .23%. The SERS also has released estimates of future employer contribution requirements:

10-YEAR PROJECTED EMPLOYER CONTRIBUTION RATES—Selected Years
(Presumes an 8.5% rate of return)

Fiscal Year Ending June	Total Employer Contribution Rate
05/06	4.82%
07/08	10.11%
09/10	11.15%
11/12	11.20%
13/14	26.61%
14/15	25.08%

Pennsylvania. Act 40 of 2003, signed 12/10/03, concerns the Public School Employee Retirement System (PSERS) and the State Employee Retirement System (SERS) Beginning July 1, 2004, it would change the amortization period for the increased liabilities of Act 9 of 2001 for the outstanding balances of the net actuarial losses incurred in fiscal year 2000-2001 and fiscal year 2001-2002, and for the future gains and losses experienced in all future years from 10-year level dollar to 30-year level dollar; 2) Retain the current 10-year level dollar amortization period for all pre-Act 9 of 2001 unfunded liabilities, the Act 38 of 2002 asset valuation method change, and for future benefit changes and cost-of-living adjustments (COLAs); and 3) Beginning July 1, 2004, increase from 1% to 4.0% the minimum employer contribution rate exclusive of the premium assistance contribution rate. The bill would amend the SERS Code to: 1) Beginning July 1, 2004, change the amortization period for the increased liabilities of Act 9 of 2001 for the outstanding balances of the net actuarial losses incurred in calendar year 2002, and for the future gains and losses experienced in all future years from 10-year level dollar to 30-year level dollar; 2) Retain the current 10-year level dollar amortization period for all pre-Act 9 of 2001 unfunded liabilities and for future benefit changes and cost-of-living adjustments (COLAs); 3) Increase the 1% minimum employer contribution rate in the following manner: 2% for the year beginning July 1, 2004; 3% for the year beginning July 1, 2005; and 4% for the year beginning July 1, 2006.

Rhode Island. The State Retirement Board has recommended that the state increase its employer contribution for retirement plans for state employees and teachers from $196 million for FY 2005 to $284 million for FY 2006. Workers' contributions rates set in law at 8.75 percent of pay for state workers, 9.5 percent for teachers. The state's contribution for state employees will increase from 11.51 percent of payroll this year, to 16.96 in FY 2006. That for teachers will increase from .84 percent this year to 20.01 percent of payroll next year. The anticipated result will be an increase of $55.1 million, from $124.7 million this year to $179.8 million next year in state and local payments toward the teachers' pension, with the state responsible for paying about 60 percent of that amount, and the cities and towns where each of these teachers work, the rest. The board decided against scaling back its assumed 8.25-percent rate of return on investment. Providence Journal September 14, 2004

South Dakota. HB 1033 provides that for all South Dakota Retirement System members over the age of 55 who receive more than $2,000 in termination pay (annual leave, sick leave, contract buyouts, retirement incentives), the amount will be deposited in a Special Pay Plan and not considered compensation for SDRS or Social Security purposes. Federal taxes will be deferred. No retirement system contributions will be made from the termination pay and it will not count in the calculation of final average earnings. Members will receive tax advantages, and the retirement system will reduce its long-term obligations.

HB 1034 provides that the contribution rate for members who choose optional spousal benefits will increase from 0.8% to 1.2% of compensation with the intention of making the program self-sustaining.

Utah. SB 83 provides that the actuarial funded ratio of the state retirement systems may reach and be maintained at 110%, as determined by the board's actuary using assumptions adopted by the board, before the board is required to certify a decrease in contribution rates, and that the board may not increase contribution rates to attain an actuarial funded ratio greater than 100%.

DEFINED BENEFIT PLAN CHANGES

California. AB 1852 removes an age requirement for electing a partial lump sum payment option at retirement for members of the State Teachers' Retirement System (CALSTRS). In order to maintain no net actuarial effect on CALSTRS, the act requires that a lump sum payment be adjusted by a factor adopted by the governing board to account for possible adverse selection.

Colorado. Chapter 392, Laws of 2004 (SB 257) separates the state and school employee division of the Public Employee Retirement Association into separate divisions with different employer contribution requirements to take into account the creation of two new optional defined contribution plans for state employees. The separation protects the School Division from any actuarial losses stemming from the new DC plans. See "Contribution rates and funding issues," above.

Iowa. HF 2262 provides that the retirement age for sheriffs and deputy sheriffs with 22 or more years of eligible service to qualify for a full retirement benefit will be reduced from 55 to 50 over a period of five years. The increased cost will be met by increasing the share of contributions to the system that comes from employee salaries as well as increasing contributions overall.

Georgia. Act 248 and Act No. 547 allow a reduced retirement benefit together with a partial lump sum distribution for teachers and public employees. The amount of the lump sum may not exceed the sum of 36 months of the monthly retirement allowance that would have been received if the lump sum option had not been elected.

New Mexico. SB 426 provides that any elected official may gain exemption from membership in the Public Employee Retirement Association within 24 months of taking office. The exemption cannot be retroactive.

Washington. HB 2538 (Chapter 85, Laws of 2004) establishes a $1,000 minimum monthly benefit for PERS Plan 1 members and TRS Plan 1 members who have at least twenty-five years of service and who have been retired at least twenty years.

DEFERRED COMPENSATION PLANS/OPTIONAL RETIREMENT PLANS

Oklahoma. HB 2226 creates the "Alternate Retirement Plan for Eligible Employees of Participating State Institutions of Higher Education Act of 2004"

1. Allows new employees at the University of Oklahoma, the OU Health Sciences Center, or Oklahoma State University to enroll in either an alternate retirement plan established by the universities, or enrolling in the Oklahoma Teachers Retirement System (TRS).
2. Provides for a one-time election by current TRS members employed at OU, the OU Health Sciences Center, or OSU to opt out of TRS if the Internal Revenue Service approves.
3. Changes the retirement formula for TRS members employed by OU, the OU Health Sciences Center, or OSU to more closely parallel benefits received by other TRS members. A special provision will increase benefits for retired university employees effective Jan. 1, 2005, but will not allow payment of retroactive benefits.
4. Requires the universities to fund the cost of this proposal over 30 years, and provides that the surcharge paid by the universities can increase if liabilities increase.

DEFINED BENEFIT PLAN -- NEW

Hawaii. Act 179 created a contributory defined benefit plan as an optional alternative to and eventual replacement for the old (now closed) state contributory plan and the current non-contributory plan. Although the plan is referred to as a *hybrid* plan in Hawaii, it is not the combination of DB and DC provisions to which that term usually refers.

The new plan will go into effect on July 1, 2006. All state and county general employees and teachers and certain other public employees hired after that date will be members. Members of the existing contributory plan may transfer as may certain other employees. Legislators, judges, legislative officers, most public safety employees, and employees not covered by Social Security are not eligible. The system is seeking an IRS letter ruling on the question whether non-contributory plan members can transfer to the new "hybrid" plan.

Most members will contribute 6% of salary to the new plan; some public safety and technical workers who are eligible for earlier retirement than most employees will contribute 9.75%. For general employees the unreduced retirement provisions are 62/5 or 55/30, and the benefit calculation is 2% of average final compensation times years of service. Age and service requirements are similar to those for retirement in the existing contributory plan, but its benefit calculation uses a factor of 1.25%.

The legislation also created a "pop-up" benefit for retirees who had selected a beneficiary benefit.

DEFINED CONTRIBUTION PLANS FOR BROAD CATEGORIES OF EMPLOYEES

Colorado. Chapter 392, Laws of 2004 (SB 257) created a new defined contribution plan for eligible state employees. An eligible employee is one hired on or after January 1, 2006, who has not been a member or retiree of the Public Employee Retirement Association (PERA-- the state DB plan) or the (existing) DC plan for public officials and employees, and is not a higher education employee. Such new employees must elect the new DC plan within 60 days or will become a PERA member. Members of the DC plan may continue membership if they move to a state position in which the DC plan is not available. Members of the DC plan will be immediately vested in their contributions and 50% of employer contributions, plus earnings, and will be vested gradually in the remaining employer contributions over five years. Employer and employee contributions will be the same as for the DB plan. Members of the DC plan are to be provided investment options, will control the investment of their accounts, and will be provided options for disability, survivor and retiree health care coverage. Those who elect a choice of PERA or the DC plan may make an irrevocable decision to change plans during the 2nd through the 5th years of employment. A person who changes from the DC to the DB plan may use the DC account to buy service credit through a direct rollover. Any such service credit will not count toward vesting in the DB plan.

The chapter further provides an additional DC option to employees newly hired on or after January 1, 2006, by opening to them the existing DC plan administered by the state department of personnel for elected officials and other specified state employee. That plan is also authorized to provide its members options for disability, survivor and retiree health care coverage. A choice to participate in this plan is irrevocable and can be carried forward if the employee moves to a state position for which the plan is not otherwise available.

Ohio. SB 133 extends eligibility to participate in an alternative retirement plan to all full-time employees, with less than five years of service, of a public institution of higher education. Under current law, full-time academic and administrative employees are eligible to participate in an alternative retirement plan, rather than PERS, STRS, or SERS. The state retirement systems would not pay health and disability benefits for those employees who choose an alternative retirement plan.

Virginia. HB 576 created a new defined contribution plan that employers may use to provide supplemental retirement benefits to designated employees. Initially the plan will be used by local school board to provide enhanced retirement benefits to the middle school teacher corps and "turnaround specialists" in schools not meeting minimum standards.

DISABILITY

Arizona. HB 2077 (partial summary) –

- Requires existing employees of new employers to meet the same 12-month preexisting condition limitations as new employees of existing employers.
- Suspends the disability payment if the member refuses to participate in a recommended work rehabilitation program for which the member is reasonably qualified by education, training or experience. ·
- Requires members to pursue obtaining Social Security disability benefits through all available levels
- Clarifies that LTD benefits shall be reduced by both primary and dependent social security benefits received by the member.
- Allows a member on LTD program to elect to rely on treatment by prayer through spiritual means in accordance with the tenets and practice of a recognized church or religious denomination or Native American traditional medicine without suffering a reduction or suspension of LTD benefits.
- Prohibits an ASRS member convicted of a criminal offense and sentenced to more than six months in any penal institution from receiving LTD benefits for the period of confinement beginning the first day of the month following the first 30 days continuous of the member's confinement.

EARLY RETIREMENT INCENTIVES

Illinois. Public Act 93-0839 (SB 2206) proved an early termination incentive and a separate severance payment plan for specified job titles under the governor's purview and all other state job titles.

The early termination plan will be available to the first 3,000 employees who apply to the State Employee Retirement System (SERS). Depending on position, application had to be made by September 1 or September 30 and the employee was required to terminate service within two weeks of approval of the application, but no later than October 31, 2004. The enhanced refund will be the employee's total contributions to SERS at 6.5 percent annual interest, multiplied by two. (The regular refund is only contributions with no interest.) The recipient must waive rights to any type of SERS benefit, but retains group health insurance benefits. An employee who subsequently returns to covered employment must repay the enhanced refund (not including the employee contributions) plus interest. To re-establish the service credit forfeited by taking the refund, the employee may return the full enhanced refund plus interest from the date of the refund to the date of repayment.

The Act also specified job titles under the governor's purview eligible for a severance payment and provides that the Department of Central Management Services may limit the number of eligible people. Department or agency heads not under the governor's purview may limit the number of their eligible staff and otherwise limit the severance payments. For those under the governor's purview, applications are due by October 31 and termination must occur between November 1 and December 31, 2004. The maximum severance payment is 25 percent of final monthly salary for each year of state service up to a maximum equal to six months' salary. Anyone who returns to state service must repay the severance payment unless returning in a temporary position or as an elected official. The payment may include up to 6 months' cost of health insurance. Payments will be funded from agencies' salary pool. *Illinois Economic and Fiscal Commission Monthly Revenue Briefing, July 2004*.

Iowa. Chapter 1035, Acts of 2004 (HF 2497) permits eligible executive branch employees for which the sum of the number of years of credited service under the Iowa Public Employees' Retirement System (IPERS) and the Public Safety Peace Officers' Retirement, Accident, and Disability System (PORS) and the employee's age as of December 31, 2004, equals or exceeds 75 to separate from service with the state and receive a sick leave and vacation incentive benefit payable in five fiscal years beginning with the fiscal year that ends on June 30, 2005. The incentive benefit is equal to the employee's unused vacation plus the lesser of an amount equal to 75 percent of the employee's regular annual salary or an amount equal to 75 percent of the value of the employee's sick leave. To receive the incentive benefit, an eligible employee must acknowledge the employee's ineligibility to return to permanent part time or permanent full time employment with the state, and waive any claims to unused sick leave or vacation balances otherwise payable upon termination of employment. Employees who participate in the program are eligible to continue to participate in group insurance coverage from the state in the same manner as employees who retire from state employment. The act also establishes a goal of increasing the ratio of employees per supervisor to 12 to 1 by December 31, 2005, for executive branch agencies.

Louisiana. Act 194 (HB 58), the "Early Retirement and Permanent Payroll Reduction Act of 2004," provides that members of the State Employees' Retirement System (LASERS) are eligible for early retirement through 12/31/06. Eligibility requirements include attaining the age of 50 with 10 years of service credit other than military service credit. Existing law provides for early retirement with 20 years of service. Actuarial reduction of benefits applies. Positions that become vacant under the new law or existing law shall remain vacant and must be abolished. They can be recreated only by specific administrative action in any branch of government. The law also limits the number that may be recreated. Reestablished positions may be filled only by moving a qualified person from another position in the agency (if such a person exists), in which case the person's previous position shall be abolished.

Utah. HB 263 provides an early retirement incentive by offering the possibility for members of the State Retirement System to purchase up to five years service credit on condition that the purchaser retire immediately after the purchase. The amount of time purchased must be sufficient to allow the purchaser to retire immediately with no actuarial reduction in benefits. The purchaser's employer may share the cost of the purchase, but the purchaser must pay at least 5% of the cost, which is the actuarial cost of the service. The purchaser must previously have at least five years of service credit before the purchase.

FURLOUGHS

South Carolina. The 2004 budget bill included provisions allowing school districts, institutions of higher education and state agencies to furlough employees under certain fiscal conditions. The length of the furloughs is limited, variously by type of employer. For state agencies, the furlough may be as long as 90 days a year, but is to be voluntary. Furloughed employees are to receive all benefits except salary while furloughed, and during the furlough employers are responsible for both employee and employer contributions for the benefits, except that for benefits that require only an employee contribution, the employee remains responsible. Constitutional officers may take 45 days furlough, while retaining their authority, and may expend the savings as they see fit. Same benefit provisions apply to them.

GOVERNANCE

Arizona. Chap. 217, Laws 2004, requires the state treasurer and the retirement system fund manager to report annually to the Legislature on the economic impact of global security risks of investments under their management, including a list of companies in their portfolios known or suspected of doing business in terrorist-sponsoring countries, the total amount invested in each company and an assessment of the level of global security risk based on the "prudent investor rule."

Ohio. SB 133 provides various pension system governance reforms.

- Requires the Ohio Retirement Study Council (ORSC) to have an independent auditor conduct a fiduciary performance audit of each of the state retirement systems at least once every ten years;
- Requires the Auditor of State to conduct an audit of any of the five state retirement systems at the request of the ORSC;
- Makes several changes in membership to each of the boards, including an increase in the total number of board members for each board except the Ohio Police and Fire Board;
- Imposes rules upon candidates who seek election to a retirement board including filing certain disclosures with the Ohio Secretary of State;

- Requires the boards of the state retirement systems to jointly develop an ethics policy and an orientation and continuing education program for board members;
- Requires each board to review its existing travel and travel reimbursement policies and to adopt rules establishing new or revised policies pertaining to travel and bonus awards to all employees of the system
- Requires every state retirement investment officer hired after the effective date of the bill to be licensed with the Division of Securities within the Department of Commerce.

More details are available in Appendix A to this report.

Iowa. HF 2262 allows the Iowa Public Employee Retirement system to step up efforts to identify when wages are being manipulated to make members eligible for more benefits than they should get. A change in the schedule of when wages are paid or an increase in wages of 10% or more for any two consecutive years may trigger a review. IPERS may refer cases of wage manipulation to the state auditor and to law enforcement for prosecution.

Kansas. SB 520 Adjusts the limit on alternative investments by the Public Employee Retirement System (KPERS) but continues to allow only a small percentage of the total portfolio to be invested in this manner.

Under current law, KPERS alternative investments are limited to five percent of the total portfolio. This bill replaces the five percent limitation with an annual limitation of one percent of total market value in new alternative investments. Alternative investments are those that are not publicly traded on an exchange. Because they are typically less liquid and potentially more risky than more traditional investments, there have been limits on the percentage of the portfolio that may be invested in this asset class. Over time, the proposed modification is expected to have a positive fiscal impact to the extent that it provides the opportunity for additional investment opportunity and income. The amount and timing of that impact will depend on long-term market conditions.

Louisiana. Provisions in a number of enactments increase legislative oversight of the state retirement systems.

Act 588 (SB 622) provides that State Employees" Retirement System (LASERS), the Teachers; Retirement System (TRSL) and the School Employees' Retirement System (School) cannot provide cost-of-living increases to members without legislative approval in a concurrent resolution.

Act 686 (SB 835) requires that consultants and fund managers for state retirement systems provide full disclosure of any conflicts of interest and that consultants disclose any hard or soft payments they receive for any service from money managers.

SCR 14 requires the legislative auditor to perform a financial and compliance audit on the relationships of the public retirement systems board and investment advisors, consultants and managers.

Act 868 (HB 1215) requires persons who have or who are seeking to obtain a contractual or other relationship with a state public retirement system to disclose certain expenditures on trustees and/or employees.

Act 275 (HB 1200) requires LASERS to submit its operating budget to the Joint Legislative Committee on the Budget for review and approval.

Act 851 (HB 938) requires LASERS to report on utilization of Louisiana broker-dealers in regard to state systems.

Oklahoma. S.B. 1134 provides that the Public Employees Retirement System (OPERS) Board of Trustees must include a cost of living adjustment assumption in its annual actuarial valuation report.

S.B. 1434 permits OPERS to disclose a member's name, age, amount of contributions paid in, benefits being paid, amount of credited service, and any documents verifying credited service or benefits. The prior consent of the member is not required to release such information. All other information related to a member, as kept in his or her retirement file, shall be kept confidential unless the member has consented to its release. Any information in a member's retirement file is subject to subpoena or court order. [Note: the bill followed media scrutiny of state legislators' retirement benefits.]

South Dakota. HB 1040 clarifies and enlarges upon statutory requirements for the board of the Retirement System to report its funding status to the governor and Legislature. The new requirement includes an annual report on the system's funding status, and an analysis of the conditions required for improvement in the funding status when the funding ratio is less than 80% or the market value of assets is less than 90% of the actuarial value of assets. If such conditions exist for three consecutive years, the board is required to make recommendations for action to the Legislature.

HEALTH COVERAGE

Kentucky. Chapter 33, Laws of 2004 (HB 290), provides that state and county employee retiree health insurance shall not be considered as benefits protected by the inviolable contract provisions of the Kentucky Statutes. The General Assembly reserves the right to suspend or reduce retiree insurance benefits if in its judgment the welfare of the Commonwealth so demands. The law also provides that no employee hired after July 1, 2003, is entitled to retiree health benefits unless the employee has earned 120 months of service credit in a state retirement system. The benefit will be a monthly benefit of $10 for each year of service for employees not in hazardous duty, and $15 per year for those in hazardous duty. The amounts will be annually adjusted for inflation measured by the CPI up to 5% a year.

Chapter 121 (HB 434), section 12, establishes an Employer Medical Insurance Fund Stabilization Contribution. These state-funded employer contributions would be utilized to provide an adequate funding formula for the teachers' retirement system's medical insurance fund that provides medical insurance for eligible participants. The percentage to be contributed by the employer would be determined by the retirement system's actuary for each biennial budget period. The retirement system actuary has determined the employer contribution to be 0.85% for fiscal year 2004-2005 and 1.87% for fiscal year 2005-2006. This amounts to $21,250,000 in fiscal year 2004-2005 and approximately $46,750,000 in fiscal year 2005-2006. No budget has been enacted for those fiscal years as of August 1, 2004.

Illinois. Public Act 93-0679, creates the Teachers' Retirement Insurance Program (TRIP) agreement which provides retired teachers a health insurance program. This replaces expiring legislation. The new legislation does not include a date of expiration. It increases the mandatory contributions from teachers and employers, includes incentives to move to managed care health plans with a slower rate increase than for the teacher-optin plan, limits future annual contribution increases to 5% a year, provides for subsidies for people in areas where managed-care options are unavailable, increases benefits, and creates a commission to find a long-term solution for funding issues.

Maryland. SB 548 provides that beginning in fiscal 2006, any subsidy received by the State that is provided to employers as a result of the federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003 or other similar federal subsidy must be deposited in the Postretirement Health Benefits Trust Fund. For fiscal 2006 through 2016, no payments may be made from the fund. For fiscal 2016 and each fiscal year thereafter, the board must transfer to the general fund, for the sole purpose of assisting in the payment of the State's postretirement health insurance subsidy, the lesser of: (1) one-quarter of the prior year's investment gains; or (2) the amount necessary to pay the annual health insurance premium and other costs that constitute the State's postretirement health insurance subsidy.

Oklahoma. SB 1226 provides for what is commonly known as a "Medicare Gap" option or "income leveling." This option allows those who retire before becoming Medicare eligible to receive a higher benefit to cover the cost of health insurance until that person becomes Medicare eligible. The year after that person becomes Medicare eligible, his or her retirement benefit will be reduced. The total benefits payable to the member over a lifetime will remain essentially the same, on average, and the calculation of the benefit must be actuarially neutral to the Public Employee Retirement System (OPERS). The option must be chosen prior to retirement, and if a member chooses this option, such election is irrevocable. OPERS has until January 2005 to make the option available. It will not be implemented until the appropriate formulas are determined with the assistance of an actuary.

SB 1144 requires an Oklahoma Teachers Retirement System retiree to have at least 10 years of credited service to continue insurance coverage and receive the premium supplement paid by the retirement system.

Vermont. Enacted as statute a regulatory requirement that a retired teacher must have a minimum of 10 years of service to receive the Teachers Retirement System's contribution to the cost of medical premiums.

LEGISLATORS' RETIREMENT PLANS

Idaho. HB 831 – Separation of Legislative Service from Other PERSI Service (not enacted) This bill would have segregated service as a State Legislator from all other PERSI service for benefit calculation purposes. For legislators whose service first begins after December 1, 2004, service and average salary for that service will be calculated separately from all other PERSI service.

MILITARY SERVICE

Alaska. Chap. 65 SLA 03 (SB 26) provides that the governor may authorize state employees who are members of a reserve or auxiliary component of the armed forces of the United States, including the Alaska Guard and the Alaska Naval Militia, and who are called to active duty by the appropriate state or federal authority to continue to receive the equivalent of their state compensation and some or all of their state benefits. Benefits inlude credited service in a state retirement system, membership in the supplemental employee benefits system and group life and health insurance. Retroactive to September 11, 2001.

Delaware. Vol. 74, chap 189 (S.B. 143) will protect the retirement benefits of those State employees who take military leave in order to serve in Operation Noble Eagle, Operation Enduring Freedom and Operational Iraqi Freedom. It will also protect such benefits for future, like operations. This will assure that the employee will not realize a reduction in pension benefits because of a reduction in their salary during a period of time that might fall in their highest three years of earnings. The law reads: If the Final Average Compensation of an employee has been reduced because of a leave of absence resulting from Presidential determinations to augment active forces, such employee shall have their Final Average Compensation adjusted by their amount of military compensation. This adjustment will be no greater then what the employee would have received had they remained in employment for the period of leave. The employee will contribute 3% of the amount that was adjusted. §5533, Chapter 55, Title 29

RE-EMPLOYMENT AFTER RETIREMENT

California. SB 1852 modifies restrictions upon return to covered employment for retired teachers who received a retirement incentive from their employer.

Florida. Chapter 2004-355 provides that after a retired TRS member has been retired for 1 calendar month, a district school board may reemploy the retiree as a substitute or hourly teacher on a noncontractual basis, or as a classroom teacher on an annual contractual basis, without further restriction. All retirees reemployed under this paragraph will become renewed members of the FRS, and district school boards must make appropriate contributions on such renewed members' behalf. Refunds will be provided for any TRS retiree who was reemployed by a district school board on or after July 1, 2003, if the retiree had to suspend or repay benefits under s. 121.091(9)(b)2., F.S., and for any employer held liable for such repayment. The legislation also similarly eases reemployment restrictions for instructional personnel employed by developmental research schools and the Florida School for the Deaf and the Blind, as well as for charter schools participating in the FRS.

Georgia. Act 758, H.B. 366, allows a member of the Teachers Retirement System who has retired to return to work and continue to receive retirement benefits. The retiree must have retired before 12/31/03. Local school districts may re-employ a retiree as a fulltime teacher, principal, superintendent, counselor or librarian, except that a retired principal may not return to the school at which he or she was employed at retirement, nor may a superintendent return to his or her previous district. System must make employer contributions to TRS as if the retiree were an active member.

Kentucky. Chapter 121, Laws of 2004 (HB 434) provides that the Kentucky Teachers' Retirement system may reduce a member's retirement allowance on a dollar-for-dollar basis for each dollar that a retired member earns in employment exceeding 100 days or 12 teaching hours, and provide that the board shall adopt a methodology for a pro rata apportionment of days and hours for retired members who return to work in both teaching and non-teaching positions.

Massachusetts. Chapter 149, Acts of 2004, section 88, allows a person retired under G.L. c. 32, §§ 5 or 10, to return to membership in the Retirement System when employed in the public sector after retirement. The retiree would become a member upon payment to the appropriate retirement system of an amount equal to the retirement allowance that the person had received while retired plus "actuarial assumed interest". The person will contribute to the retirement system at the rate in effect on the date that the person waived his or her allowance or the date that the member was reinstated to membership, which-ever date is earlier. If the person remains a reinstated member (as a full-time employee) for more than 5 years, he or she will be eligible to retire again, with additional creditable service and a likely new three year average rate of regular compensation. If the person is reinstated to membership for less than 5 years, upon retirement, he or she will receive a refund of all amounts that were paid into the system.

New Mexico. SB 426 reduces contribution requirements for Public Employee Retirement Association (PERA) members who return to covered employment. Previous law required contributions at the same level as others working for the same employer. Starting January 1, 2007, employee contributions will not be required on the first $25,000 earned in a calendar year. Employer contributions are required on all earnings. Someone who earns $25,000 in one calendar year must begin making contributions on the first dollar of earnings in the next year regardless of what total earnings may be in the subsequent year.

Effective on passage, PERA retirees who return to work as session-only legislative employees are exempt from contributions as is their employer. They must apply for the exemption, and earn no service credit from the employment.

New York. Chapter 4, Laws of 2004, effective February 2, 2004, increased the amount of money a retired state or local employee or teacher may earn in public employment from $25,000 to $27,500. The law applies to salary earned in 2004 and after.

Pennsylvania. Act 2004--63 expands the period of time and conditions under which PSERS retirees may return to Pennsylvania public school employment without loss of their monthly retirement benefit. This law specifically defines the ability of a PSERS retiree to be employed by a Pennsylvania public school in emergency, shortage of personnel and extracurricular situations.

Whenever a school employer determines there has been an increase in workload that creates a serious impairment of service to the public, or there is a shortage of appropriate subject certified teachers or other personnel, a retiree may return to Pennsylvania public school service for a period not to extend beyond the school year during which the emergency or shortage occurs.

A retiree may be employed under separate contract by a Pennsylvania public school in an extracurricular position performed primarily outside regular instructional hours and not part of the mandated educational curriculum. The new legislation specifically includes the position of athletic director as being eligible for the extracurricular designation and extends this provision to employment with community colleges and public universities.

A retiree returning under either of the exceptions noted may not earn any service credit; no retirement contributions may not be deducted and no credit for the service may be purchased at any time.

Previous law required an emergency or shortage of subject certified teachers; New law requires emergency or shortage of any school personnel. Previous law limited employment to 95 days per school year; new law allows employment to throughout the school year in which the emergency or shortage occurs

Rhode Island. Chapter 379, Laws of 2004, increased the amount that a retired person who returns to service as a university or public school teacher or state employee may earn in a year from $12,000 to $15,000 without loss of retirement benefits: limited to specified kinds of re-employment.

South Dakota. HB 1037 provides new provisions for benefits for retired members who are rehired in covered employment to prevent the accrual of additional benefits who cost must be shifted to the system and other employees. Those retired and rehired before July 1, 2004, will continue to accrue benefits under the former law. Under the new provisions, regular retirees may receive benefits but no COLAs during re-employment. Early retirees will receive no benefits during re-employment. In both cases, rehired members will be considered as new members, and in both cases, benefits will be recalculated at final retirement.

SERVICE CREDIT/ PURCHASE OF SERVICE/ TRANSFER OF CREDIT

Arizona. H.B. 2029 provided that the formula used to calculate the cost to purchase the service credit is changed to a single standard based on the actuarial present value of the additional benefit. Payment for credited service may be via a rollover contribution of the member's accrued vacation, sick leave or overtimepay as long as certain conditions are met.

Georgia. Act No. 538 (House Bill 480) allows a member to purchase up to three additional years of creditable service by paying the full actuarial cost. Application and payment must be made in conjunction with and simultaneously with the member's application for retirement. Creditable service shall not be used to obtain 10 years of service for vesting purposes or to qualify for a benefit at age 60.

Idaho. Chapter 232, Laws of 2004, (SB 1446) amended the requirements for Military Service to permit accrual of military service in the case of survivor benefits. Former law required a member to leave active PERSI service and assume active military duty within 90 days, and return to active PERSI service from military duty within 90 days. There was no provision for crediting military service in case of a member on active military duty who might be killed. This amendment provided for military service from date of active duty to date of death.

Iowa. H.F. 2262 allows members of the Iowa Public Employees Retirement System on unpaid leave to purchase IPERS service credit. A member on an unpaid leave of absence, other than under the Family Medical Leave Act (FMLA) and military leave qualifying under the Uniformed Services Employment and Reemployment Rights Act (USERRA), cannot earn IPERS service credit. Service credit may be purchased for period of the unpaid leave. A member whose wages are reduced due to a reduction in hours or lay-off may replace contributions to IPERS that would have been paid on the higher wages. This change only applies to members who receive a layoff notice and stay in IPERS covered employment by exercising bumping rights. It does not apply to laid off members who completely leave IPERS covered employment, or who voluntarily take a lower paying position prior to receiving a layoff notice, without the exercise of bumping rights. This is limited to reductions in pay for the eligible group beginning January 1, 2002 through June 30, 2005.

Louisiana. Act 349 (HB 980) allows purchase of up to five years of service credit for members with one year of service, requires that the purchase cost offset the increased actuarial cost to the system based upon the purchaser's current salary, repeals various provisions for the purchase of specified kinds of previous service, and permits purchases in one-month increments until 12/31/04.

Minnesota. SF 676, the *2004 Omnibus Retirement Bill* extended the sunset date on the service credit purchase provisions for prior military service for various retirement plans to 2006, removed a prohibition against purchase if the individual is entitled to a current or deferred military pension, and modified a prior prohibition on purchases that were credited by another defined benefit plan to prohibit the multiple purchase of the same military service credit period in more than one Minnesota defined benefit pension plan.

New Hampshire. Chapter 216 (SB 338) makes changes to eligibility requirements for Out-of-State Service and Modifications purchases.

Out of State: Members who had prior service with a public employer in another state or with the federal government may apply to purchase that time as creditable service with NHRS at any point before they retire. (Previous law restricted the opportunity to make purchases to only those who had a break in service between that job and joining NHRS of no more than 18 months and to those who applied within 5 years of joining NHRS.)

Modifications: Members who worked for their employer (a municipality, school district or other political subdivision) before their employer joined NHRS can now apply to buy that service at any point before they retire, as long as they joined NHRS within a year of the date their employer joined.

- These purchases will not count toward eligibility for the Medical Insurance Subsidy.
- The cost of the purchases is calculated on the employee's share plus the employer's share of contributions, as a percentage of the member's current base pay.

New Mexico. SB 426 allows members of the Public Employee Retirement Association to purchase up to 12 months of "air time" even if they have already purchased the limit of 12 months of service credit for time not earned (for example, through military service." Such time can be used to meet requirements to achieve maximum retirement benefits.

Oklahoma. SB 1345 broadened the definition of military service for which the Oklahoma Public Employees Retirement System may grant military service credit. The bill adds language that allows military service credit if the member served during a period of war or combat military operation other than the conflicts listed in the statute. The war or combat military operation must have lasted for a period of *ninety (90) days or more.* The member must have served in the area of responsibility of the war or combat military operation and only the service time while in that area of responsibility may be used as credited service for retirement. A member who served on active duty for training only is excluded from claiming a military service credit unless the member was discharged from that duty for a service-connected disability. The burden of proof is on the member to provide adequate documentation of such service including exact dates served in the specified are of responsibility, and the proof must be provided in the time and manner required by the System.

South Dakota. HB 1036 provides that a member's cost to purchase credited service will be based on compensation and the actuarially-determined rate for the member's age in order to cover the full cost of the increased benefit. The previous purchase provisions did not cover the cost of the additional benefits.

Utah. HB 263 provides an early retirement incentive by offering the possibility for members of the State Retirement System to purchase up to five years service credit on condition that the purchaser retire immediately after the purchase. The amount of time purchased must be sufficient to allow the purchaser to retire immediately with no actuarial reduction in benefits. The purchaser's employer may share the cost of the purchase, but the purchaser must pay at least 5% of the cost, which is the actuarial cost of the service. The purchaser must previously have at least five years of service credit before the purchase.

Washington. HB 2535 (Chapter 172, Laws of 2004) provides that a member who applies for early retirement in PERS or SERS Plan 2 or Plan 3 may, at the time of retirement purchase up to five years of additional service credit. The cost of the additional service credit is the actuarial equivalent value of the resulting increase in the member's benefit. A member may pay all or part of the cost of the additional service credit with an eligible transfer from a qualified retirement plan. Additional purchased service credit could not be used to qualify a member for the three percent per year early retirement reduction available to members of PERS and SERS Plan 2 or Plan 3 with 30 years of service.

STUDIES

Colorado. Chapter 250, Laws of 2004 (HB 1171) requires the State Personnel Department to investigate the feasibility of a program in which active state employees could elect to make voluntary contributions to an account that would be used for their future retiree health care expenses.

Indiana. HB1285 requires the pension management oversight commission to study the feasibility of authorizing members of the retirement funds administered by the board of trustees of the Public Employees' Retirement Fund (PERF board) to withdraw, before retirement, a member's contributions when the member demonstrates an immediate and great financial need. Provides that individual participant records and membership information for the retirement funds administered by the PERF board are confidential.

Louisiana. SCR 15 requires the Commission on Public Retirement to study the feasibility of establishing a portable DC plan or a modified DB plan, as specified in the resolution, in the major state retirement plans and to report in early 2005.

Oklahoma. SB 1134 requires the Public Employees Retirement System (OPERS) to study the creation of a deferred retirement option plan ("DROP") for active and future members of the system. A report on the DROP study must be issued and submitted to the Legislature no later than December 1, 2004.

OPERS also is required to conduct a comparative study of retirement benefit designs used by other states regarding retirement benefits for employees engaged in public safety positions. The study is to cover retirement benefits, disability benefits and survivor benefits. The study must have a recommendation for what jobs should be included in such a benefit structure, as well as recommended employer and employee contribution rates. The study is to be submitted to the Legislature no later than December 1, 2004.
HB 2536 creates the "Task Force for the Study of Public Retirement Systems Benefit Design and Equity." Its purpose is to conduct a review of the major state public retirement systems. The Task Force is to consist of 17 members and must include the Executive Director of OPERS, or a person designated by the Executive Director. The review must cover a history of benefit designs of each state system, the funding history of each system, dedicated taxes going to certain systems, COLA's, and other relevant matters.

Virginia. HJR 34 establishes a joint subcommittee to study the benefit structure and funding of retirement plans administered by the Virginia Retirement System (VRS). This study will also examine line of duty benefits for public safety officers. VRS is to provide technical support to the joint subcommittee.

TAXATION

Georgia. Act No. 928 (HB 1313) increases the State of Georgia retirement income exclusion of taxable net income from any source for income tax purposes to $14,500 for taxable year beginning on or after January 1, 2002 and prior to January 1, 2003 and $15,000 for taxable years beginning on or after January 1, 2003.

Oklahoma. State Question 713 (HB 2660), approved by the voters on November 2, 2004, increased the state income tax retirement income exclusion from $5,500 to $7,500 for tax year 2005 and subsequent years. The exclusion applies to all public sector retirement benefits and most private sector pension plans and deferred compensation plans. The income qualification was increased from $25,000 to $37,500 for single filers and from $50,000 to $75,000 for joint filers.

VESTING

South Dakota. HB 1039 provides that a minimum of three years of contributory service will be required for a members to receive a regular or disability benefit. Previous law allowed a new member to purchase credited service to meet the three-year vesting requirement. That will no longer be allowed. A re-hired employee will not be eligible for a disability benefit without three additional years of contributory service after re-entry into SDRS, unless the disability is job-related.

Vermont. Act 122 (H768) clarified that members of the Vermont state employees' retirement system and the state teachers' retirement system of Vermont hired after July 1, 2004, must complete five years of creditable service for the purpose of determining the normal retirement date. Under previous law people over 62 years of age were not required to have five years of service to be eligible for retirement and retiree health benefits.

Appendix A.
Summary of Ohio Senate Bill 133 of 2004.

This summary is based on the Ohio Legislative Service Commission's fiscal note for the enrolled version of SB 133, enacted in May 2004.

- The bill requires that the Ohio Retirement Study Council (ORSC) have an independent auditor conduct a fiduciary performance audit of each of the state retirement systems at least once every ten years. The cost of the audits would be paid by the retirement system being audited. This could range from $300,000 to $400,000 per audit. However, there could be a potential for future savings as a result of the findings and recommendations of such audits.

- The bill requires the Auditor of State to conduct an audit of any of the five state retirement systems at the request of the ORSC. This could increase expenditures in the Public Audit Expense Fund, depending on how many audits the Auditor is required to complete. The Auditor may be able to recover part or all of these costs by charging the retirement systems.

- The bill requires several changes in membership to each of the boards, including an increase in the total number of board members for each board except for the OP&F board. This could result in additional administrative expenses for the boards.

- The bill requires candidates, campaign committees, and persons making expenditures in connection with a candidate's efforts to be elected to a retirement board to file campaign financial disclosure statements with the Secretary of State. If a person fails to file a complete and accurate statement, then the Ohio Elections Commission may impose a fine of not more than $100 per day of the violation. In addition, persons who knowingly attempt to affect the nomination or outcome of a board election may be imprisoned for up to six months and/or fined up to $5,000. There could be a potential minimal increase in costs for the Ohio Elections Commission to investigate any violations of this provision.

- The bill requires the boards of the state retirement systems to jointly develop an ethics policy and an orientation and continuing education program for board members. There could be some administrative costs associated with developing and conducting these training and education programs.

- The bill requires each board to review its existing travel and travel reimbursement policies and to adopt rules establishing new or revised policies pertaining to travel and bonus awards to all employees of the system. This provision could present some savings to the retirement systems if the new rules are more restrictive.

- The bill requires every state retirement investment officer hired after the effective date of the bill to be licensed with the Division of Securities within the Department of Commerce. The license fee is set at $50 and would need to be renewed on an annual basis. Current state retirement investment officers would not be required to be licensed. There could be a potential increase in administrative costs for the Division of Securities to begin licensing a new class of investment officer.

- The bill allows employees of public institutions of higher education to participate in an alternative retirement plan. While there would be a loss in revenues to the affected state retirement systems if employees choose to opt out, there would also be a decrease in expenditures for the state retirement systems. In addition, if an employee chooses an alternative retirement plan, the public institution of higher education would still be required to contribute a certain percentage (currently set at 3½%) to the affected state retirement system.

Detailed Fiscal Analysis

The bill makes several changes to the five state retirement systems: the Public Employees Retirement System (PERS), the State Teachers Retirement System (STRS), the School Employees Retirement System (SERS), the Ohio Police & Fire Pension Fund (OP&F), and the Highway Patrol Retirement System (HPRS).

Fiduciary Performance Audits

The bill requires that the Ohio Retirement Study Council (ORSC) have an independent auditor conduct a fiduciary performance audit of each of the state retirement systems at least once every ten years. The cost of the audits would be paid by the retirement system being audited. The cost for an audit could range from $300,000 to $400,000. There could be a potential for future savings as the recommendations of the audits are implemented by the retirement systems.

The bill requires the Auditor of State to conduct financial audits and any special audits of the retirement systems at the request of the ORSC. The bill also requires that the Auditor report on any findings to the ORSC. This provision could increase costs for the Auditor, depending on how many audits are requested by the ORSC.

Board Composition and Elections

Current law provides for all elections of board members to be conducted under the supervision of the retirement boards. The bill requires the Secretary of State to adopt rules governing the election of board members to the state retirement systems. This could lead to a potential increase in administrative costs for the Secretary of State's office because the bill also requires the Secretary to oversee the administration of board member elections.

The bill also makes several changes to the compositions of the state retirement boards, as outlined below:

- The Attorney General is removed as a statutory member from the PERS, STRS, SERS, and OP&F boards and an appointee of the Treasurer of State, who has investment experience and is not a public employee, is added as a statutory member to the PERS, STRS, SERS, OP&F, and HPRS boards.
- The Director of Administrative Services is added as a member to the PERS board.
- The Auditor of State is removed as a statutory member from the PERS, STRS, SERS, OP&F, and HPRS boards.
- Three members are added to the PERS board, two who are investment experts, and one additional retired member.
- Two members are added to the OP&F and the HPRS boards who are to be investment experts.
- The municipal fiscal officer is removed as a member of the OP&F board.
- One additional retired member is added to the HPRS board.
- Three members are added to the SERS board, two who are investment experts, and one additional retired member.
- Three members are added to the STRS board, two who are investment experts, and one additional retired member.

- The bill requires candidates for election to the retirement boards, campaign committees, and individuals or entities that make expenditures in connection with a candidate's efforts to be elected to a retirement board to file two itemized statements with the Secretary of State's office that detail the contributions, in-kind contributions, and expenditures relative to the board election. The first statement is required to be filed 12 days before the election and the second is required to be filed no later than 38 days following the election. The bill also requires candidates elected to fill a vacancy to a retirement board to file a single itemized statement. If the Secretary of State's office determines that a statement is incomplete or inaccurate, then the Ohio Elections Commission can fine that person up to $100 per day that they are in violation. This could result in an increase in revenues to the Ohio Elections Commission Fund. The potential increase is dependent on the number of people who fail to properly file their campaign disclosure statements. Monitoring the elections for the retirement systems could potentially increase the expenditures for the Secretary of State's office.

Ethics Training, Orientation and Continuing Education for Board Members

The bill requires the boards of the state retirement systems to develop an ethics policy, in consultation with the Ohio Ethics Commission, and to provide periodic ethics training to members and employees of the boards.

In addition, the bill requires the boards to jointly develop orientation and continuing education programs for board members. There could be some administrative costs associated with developing and conducting these training and education programs. The boards would jointly pay any cost for establishing and conducting the programs.

Travel and Bonus Policies

The bill requires each board to review its existing travel and travel reimbursement policies and to adopt rules establishing new or revised policies pertaining to travel and bonus awards to all employees, including board members, of the system. In addition, each board is required to submit proposed operating budgets (including administrative budgets) to the ORSC for the next immediate fiscal year, and to submit plans to improve the dissemination of public information about the board. The proposed budgets for each board are required to be submitted to ORSC 60 days prior to adoption. Provided that the new policies are more restrictive, this could offer some savings to the retirement systems.

Licensing of State Retirement Investment Officers

The bill requires investment officers with the retirement boards to hold a valid state retirement system investment officer license issued by the Division of Securities within the Department of Commerce. The bill sets the license fee at $50 and requires holders of the license to renew on an annual basis. Current state retirement investment officers would not be required to be licensed, but anyone hired by the retirement systems as an investment officer after the effective date of the bill would be required to be licensed. All license fees collected under this provision would be paid into the Division of Securities Fund. The potential increase in revenues to this fund would be dependent on the number of new retirement investment officers hired after the effective date of the bill. There is a potential increase in administrative costs for the Department of Commerce to begin licensing a new type of investment officer.

In addition, the bill requires each retirement board to designate a person who is a licensed state retirement investment officer to be the chief investment officer for the retirement fund. The chief investment officer will supervise other investment officers and persons employed by the retirement fund with a view toward preventing violations of federal and state securities laws and rules and regulations pertaining to those laws.

Investment Policy

The bill requires that the five state retirement boards designate qualifying securities dealers as Ohio-qualified agents. Ohio-qualified agents would be so designated if, among other reasons, they have practiced as a securities dealer in Ohio for at least three years, they are subject to Ohio taxes, and employ at least five Ohio residents. In a given year, the bill requires that the retirement boards have a goal to increase utilization of Ohio-qualified agents for the execution of domestic equity and fixed income trades on behalf of the retirement systems.