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PENSIONS AND RETIREMENT PLAN ENACTMENTS IN 2005 STATE LEGISLATURES

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INTRODUCTION. This report summarizes selected pensions and retirement legislation that state legislatures enacted in 2005. I have reviewed legislation enacted in all states that held regular legislative sessions through October, 2005. The report also includes a few items of legislation enacted too late in 2004 for inclusion in the 2004 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 2005, listed at the end of this introduction. The remainder of the introduction identifies the focal issues of 2005.

MAJOR ISSUES IN 2005. The long-term security of defined benefits was the issue of broadest concern to state legislatures in 2005. Action on it took many forms, including, among others

- the termination of defined benefit retirement plans in Alaska,
- increases in employer and employee contribution levels,
- reduction of benefits packages, and
- modification of provisions for service purchase to ensure that the purchaser bear the cost.

DEFINED BENEFIT AND DEFINED CONTRIBUTION PLANS

The **Alaska** Legislature became the first legislature in a decade to replace a statewide defined benefit plan with a defined contribution plan, doing so for the state plans that covered public employees and teachers. **West Virginia** moved in the opposite direction, closing its defined contribution plan for teachers to new enrollment and reopening the Teachers Retirement System defined benefit plan that was closed in 1991. In March 2006, West Virginia members of the teachers' defined contribution plan will vote on transferring as a group to the defined benefit plan. Individual transfer is not an option. **California** proposals to replace major state defined benefit plans with defined contribution plans did not go to the voters, as originally proposed.

Arkansas created a new contributory defined benefit plan for public employees hired after July 1, 2005, and allowed a window for existing members of the noncontributory plan to transfer into it.

Washington created the Public Safety Officers Retirement System, a defined benefit plan for specified types of positions in state and local government that involve some physical danger for the employee, but which do not qualify the employee for the state law enforcement and firefighters' plan.

Rhode Island enacted major changes in retirement eligibility and benefit calculation for new and nonvested teachers and general employees. Since vesting is set at 10 years in Rhode Island, the changes will affect a number of existing members. Age and service requirements for formula retirement benefits have been increased and the multipliers have been reduced from previous law.

Texas increased the minimum age for unreduced benefits for retiring teachers to 60 for those hired after September 1, 2006 and increased the number of years to be included in calculations of final average salary from three to five.

ANTI-SPIKING MEASURES

Illinois, Louisiana and Nebraska enacted measures to limit the spiking of salaries in the years just before retirement. The **Illinois** law makes school districts and institutions of higher education liable for the present value of an increase in benefits that results from annual salary increases of more than 6 percent in the years used to determine final average salary (FAS). The **Louisiana** law caps increases in salary included in the FAS calculation at 15 percent a year, down from 25 percent in old law. The **Nebraska** law reduced its cap from 10 percent to 7 percent for the five years preceding retirement.

EMPLOYEE CONTRIBUTIONS

This report includes more increases in employee contribution rates than any of its predecessors. In some cases, the increased contribution rates apply only to new system members, not to existing members. This is the case with the **Arkansas** contributory plan for new employees, and for an increase in **Louisiana** from 7.5 percent of salary to 8 percent for state employees. Increases for broad categories of membership in **Minnesota, Nebraska, New Mexico, South Carolina** and **Washington** apply to both present and future members. A provision in the **Wisconsin** budget bill that would have required a retirement contribution of 1.5% from non-unionized public employees was vetoed by Governor Doyle. The state detail below also includes enacted employer contribution changes.

EARLY RETIREMENT INCENTIVES

What little legislation on early retirement incentives there was in 2005 tended to limit rather than expand existing possibilities. The legislation was concerned with funding potentially increased liabilities to an unusual degree for this sort of legislation. **Arizona** legislation set guidelines for employers to offer early retirement incentives, accompanied with a requirement that the employer pay any ensuing unfunded liability. **Illinois** terminated its existing policy on teachers' early

retirement. The replacement policy requires all member teachers to contribute an additional 0.4 percent of salary toward an early retirement plan (refundable individually if not used) and sets fairly steep age requirements and employer and employee contribution levels to ensure adequate funding for the program. **Texas** prohibited local school districts from offering early retirement incentives.

FUNDING

Pension obligation bonds did not reappear on the state funding scene in 2005. The **Maine** legislature considered but finally rejected \$240 million for the retirement system in the bond package it proposed to send to the voters. The **Illinois** legislature reduced state funding for several major state retirement plans by somewhat over \$1 billion for both FY 2006 and FY 2007, as a budget balancing measure. At year's end, in special session, the **Montana** legislature appropriated \$125 million to the trust funds of the state public employees' and teachers' retirement funds. The **Washington** legislature delayed recognition of the future cost of gain-sharing benefits until the 2007-09 biennium, at a saving to employers of nearly \$900 million in the 2005-07 biennium.

GOVERNANCE

Maryland enacted legislation requiring any new public pension system established by a local jurisdiction on or after July 1, 2005 to adhere to the principles incorporated in the Uniform Management of Public Employee Retirement Systems Act (UMPERSA). The bill also requires existing public pension systems, including the State Retirement and Pension System (SRPS), to certify to the Joint Committee on Pensions by July 1, 2006 that the plan provisions governing these plans adhere to the principles incorporated in UMPERSA addressing investment and management of funds for a public pension system. **Wyoming** adopted UMPERSA before Maryland did so, becoming the first state to do so.

PURCHASES OF SERVICE CREDIT

Arkansas enacted legislation to allow members of the Public Employee Retirement System to purchase service credit for out-of-state service. **Louisiana** tightened the requirements for the purchase of air time to require five previous years of service credit and to prevent the purchased service from being used to gain eligibility for benefits. **Texas** repealed the law that allowed members of the Teachers Retirement System with seven years of actual service to purchase up to five years of air time; the law is in effect until January 1, 2006. Members of the Employee Retirement System retain the right to purchase 36 months of air time, down from the previous law cap of 60 months. **Washington** expanded the availability of air time purchases for members of its retirement systems to five years' service credits, effective in July 2006.

TAXATION OF RETIREMENT BENEFITS

Kentucky set its state income tax exclusion for pensions at \$41,110 for tax year 2006 and repealed its automatic annual adjustment of the exclusion based on the consumer price index. **Oklahoma** increased its retirement income exclusion from \$7,500 to \$10,000. **Wisconsin's** legislature enacted a phased-in exclusion of Social Security benefits from income tax, which would have taken gradual effect from tax year 2007 through tax year 2009. The governor exercised his power of partial veto to amend the provision to eliminate the phase-in and to provide a complete exclusion for Social Security income beginning in tax year 2008.

FUTURE ISSUES

Resolutions requiring studies are a guide to the issues legislatures expect to take up or to continue to address. For 2005, these include service requirements, COLAs and contribution rates (**Illinois**); general state retirement system issues (**Louisiana, Rhode Island and Vermont**); retiree health insurance subsidies (**Maryland**); investment performance (**Montana**); COLAs (**New Hampshire**); shifting to a defined contribution plan (**New Mexico**); and health savings accounts and high-deductible health care plans (**Texas**).

LIST OF TOPICS

Benefit Calculation and Eligibility
Deferred Compensation Plans/Optional Retirement Plans
Contribution Rates and Funding Issues
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
Forfeiture of Benefits/Attachment of Benefits
Furloughs

Governance and Investment Policy
Health Coverage
Legislators' Retirement Plans
Military Service
Re-employment after Retirement
Service Credit/ Purchase of Service/
Transfer of Credit
Studies
Taxation of Retirement Benefits

BENEFIT CALCULATION AND ELIGIBILITY

Arkansas. Act 146 clarifies that for Teachers Retirement System benefit calculations, the salary used to calculate FAS cannot grow by more than 10% a year over the preceding year's salary.

Act 1450 increased the multiplier for the non-contributory Public Employee Retirement System plan from 1.72 to 1.75 for service before June 30, 2005.

Georgia. Act 14 (HB 381) allows a retiree who was unmarried at the time of retirement and elected an optional allowance to revoke the election upon marriage and designate the spouse as beneficiary. In such event, the retiree shall receive an actuarially reduced benefit allowance.

HB 85, the General Appropriations Act, provides that effective July 1, 2005, the benefit formula multiplier for the Public School Employees Retirement System for current and future retirees will increase from \$13.00 to \$13.50 per month for each year of service. The General Assembly provided for this increase in the general appropriations act and the Governor has signed the bill.

Louisiana. Act 75 (SB 311) provides that retirement benefits in the Louisiana State Employee Retirement System hired after July 1, 2005, will be based on the member's highest 60 months of service, and will stay at 36 months (as in existing law) for those hired before that date and certain specified classes of public employees (which include the governor, lieutenant governor, certain legislative officials and judges).

For existing employees the amount to be considered in the FAS calculation is capped for the second 12 months of the period at 125% of the amount in the first 12 months, and in the third 12 months at 125% of the second 12 months. New law reduces the anti-spiking percentage to 15% per 12-month period (from 25%) and provides an exception for pay increases that result from system-wide increases adopted by the Department of Civil Service or enacted by the legislature.

Old law provided a number of provisions for benefit eligibility: Any age, 30 years of service; age 55 with 25 years of service; age 60 with 10 years of service; any age, 20 years of service with an actuarial reduction in benefits. These provisions remain in effect for those hired before July 1, 2006. For those hired thereafter, benefit eligibility is limited to age 60 with 10 years of service.

Nebraska. LB 503 (originally in LB 411) changes the definition of compensation in the School Employees Retirement System to provide that the amount of compensation which would be subject to retirement could increase no more than 7% per year (the current limit is 10%) during the five years before retirement unless certain conditions are met. The bill also stipulates the employer would report compensation which exceeds the limit to the Nebraska Public Employees Retirement System. Changes in pay that result from a collective bargaining agreement or from a substantial change in an employee's job position do not qualify as exceptions.

North Dakota. HB 1070 changed the calculation of final average salary for the Highway Patrol Retirement System to the average of the highest 36 months in the member's final 180 months, not the highest 36 consecutive months in the final 120 months as previously. This applies to those who retire on and after July 1, 2009. The bill similarly changed the calculation of final average salary for other members of the Public Employees Retirement System, for those who retire on or after July 1, 2009.

New Hampshire. Chapter 210, Laws of 2005, reduces the number of years that inactive members may leave their funds in the New Hampshire Retirement System (NHRS). An inactive member refers to someone who is no longer making contributions to NHRS through NHRS-covered employment. This new law does not affect vested members--those with at least 10 years of NHRS creditable service. Currently, members who are not vested and terminate their NHRS-covered employment may leave their contributions in NHRS for up to six years, during which time their contributions are credited with interest (current interest rate is 9.0%).

Effective June 30, 2006, inactive members may leave their contributions in NHRS for up to two years, not six years. NHRS will issue refunds to members who have been inactive for two or more years as of June 30, 2006, unless they are vested.

Rhode Island. Chapter 117, Laws of 2005, Article 7 changed retirement eligibility and benefit calculation provisions for teachers and general employees who were not vested (at the 10 year requirement) on or before July 1, 2005. Previous-law eligibility requirements were age 60 with 10 years of service or at any age with 28 years of service. New minimum requirements are age 59 with 29 years of total service; age 60 with 10 years of contributory service, or age 55 with 20 years of total service at an actuarial reduction.

Benefit provisions were changed for the same groups as follows:

Years of Service	Previous Multiplier	New Multiplier
1 – 10	1.7%	1.6%
11-20	1.9%	1.8%
21-34 (Old plan)	3.0%	
35 th year (Old plan)	2.0%	
21 -25 (New plan)		2.0%
26 - 30 (New plan)		2.25%
31 - 37 (New plan)		2.5%
38 th (New plan)		2.25%

The benefit cap was changed for the new plan. The old plan provision is a cap of 80% of final average compensation. The new cap is 75%.

Former law, still applicable to employees vested on or before June 30, 2005, provided for an annual COLA of 3%. New law delays any COLA until three years after retirement, and sets it at 3% or CPI, whichever is less, unless the CPI is negative.

South Carolina. Act 153 (SB 618) provides for a guaranteed annual COLA of up to 1% if the annual CPI index through the previous December 31 is up at least 1%. The act allows the State Budget and Control Board to grant a greater COLA if the unfunded liability amortization period of the S.C. Retirement System does not exceed 30 years. The board approved a 3.4% COLA effective July 1, 2005.

Texas. SB 1691 concerns the Texas Teachers Retirement System. It increases the minimum age required for an unreduced retirement benefit to age 60 for members hired on or after September 1, 2006 and for these participants, adds a new reduced retirement benefit for members who have satisfied the Rule of 80, with a 5% reduction for each year under the age of 60.

The bill will eliminate the early retirement subsidy provided by Section 824.202(c), increase the number of years included in the final average salary calculation from 3 years to 5 years, and requires a member to satisfy the rule of 90 to be eligible to elect a partial lump sum distribution. These three provisions will not apply to TRS members who have already met eligibility for retirement or who have, on or before August 31, 2005, met one of the following: (i) age 50, (ii) 25 years of service, or (iii) age and years of service equal to 70.

§ 28 requires local employers to pay contributions to TRS during the first 90 days of an employee's employment and requires employers of a TRS retiree to pay the member contribution and the employer contribution unless they were reported to TRS in January 2005.

West Virginia. Chapter 201, Acts of 2005 (HB 2984) provides that no retirement system contributions can be withheld from lump sum payments for unused accrued annual leave, nor can the lump sum payments be included in final average salary calculation for the purpose of calculating benefits, because no service credit is granted in relation to them.

The act also provides that a member of the Public Employee Retirement System who becomes a member of PERS after July 1, 2005 and who is retired from a public retirement system for police or firefighters, cannot receive a total, combined benefit greater than 105% of the highest salary received in a position covered by PERS or the police or firefighter positions.

CONTRIBUTION RATES AND FUNDING ISSUES

Arizona. Chapter 286, Laws of 2005 (SB 1513) requires the Arizona State Retirement System to provide a report by the end of each calendar quarter during fiscal year 2005-2006 to the joint legislative budget committee on the discussions and actions of the state retirement system board regarding their efforts to minimize the retirement contribution rate.

§15, Chapter 282, Laws of 2005 (SB 1521) allows ASRS to set the contribution rate for the system for fiscal years 2006 and 2007 at the employer normal cost plus the amount required to amortize the past service funding requirement over a rolling thirty-year period, but not less than 4%. The rate is

to be calculated for the biennium, but any change is to be smoothed over the two years to provide a gradual increase.

The rates set for 2005-06, effective July 1, 2004 are 6.9% rate for the ASRS pension plan, plus 0.50% for the long-term disability plan, for a total contribution rate of 7.40% for both employee and employer for fiscal year 2005-06. The rate for 2006-07 will be a total of 9.1%. *ASRS Weekly Report 7/1/05 and communications from staff.*

Arkansas. Act 2084 created a new contributory defined benefit plan effective for members of the Arkansas Public Employee Retirement System (APERS) hired on or after 7/1/05 – See *Defined Benefit Plan – New* below.

Illinois. P.L. 94-0004 (SB 27) changes the pension funding plan enacted in 1994 in Public Act 88-0593 by setting state contribution levels for FY 2006 and FY 2007 rather than making contributions based on actuarial calculations as the 1994 act required. The 2005 act also eliminated separate funding for the liability created by the 2002 State Employee Retirement System early retirement incentive. State funding for FY 2006 will be about 44% of the actuarial requirement for five state retirement funds, a reduction of \$1,179 million from the actuarial requirement. State funding for FY 2007 will be about 55% of the actuarial requirement for five state retirement funds, a reduction of \$1,133 million from the actuarial requirement. The ramp-up to contributions at a level percent of payroll, scheduled to commence in 2010, will resume for FY2008. The act also appropriated \$74.9 million for the Chicago Teachers Pension Fund, an increase in the traditional appropriations level because the funded level had fallen below 90%. *Illinois Commission on Government Forecasting and Accountability, Sept. 2005.*

P.L. 94-0004 also created mechanisms by which the liability associated with salary increases for members of the State Universities Retirement System (SURS) and the Teachers' Retirement System (TRS) can be shifted to the employer or school district that provides the increases. For both systems, the act provides that during the years used to determine final average salary, the employer must pay the system an amount equal to the present value of the increase in benefits that results from salary increases more than 6%. The provision applies to salaries paid under contracts or bargaining agreements entered, amended or renewed after the effective date of the act.

P.L. 94-0004 also addresses sick leave credit for members of TRS. Currently members may establish up to two years of service credit for unused and uncompensated sick leave without making contributions. The act provides that if days granted by an employer are in excess of normal sick leave, the employer is required to contribute to TRS the normal cost of the benefits that are based on the excess sick leave.

Iowa. Recommendations from IPERS, not enacted in 2005:

Adjust IPERS contribution rate consistent with long-term financial obligations
The Legislature should increase the contribution rate for IPERS' regular members 1 percentage point a year for the next four years beginning July 1, 2005, maintaining the current 60-40 split between employers and employees. After four years, allow IPERS to adjust contribution rates for regular members based on IPERS' actuarial valuation, within parameters established by the Legislature.

Why legislative action is needed

1. IPERS expenses are increasing.
 - a. Membership is aging.
 - b. Retirees are living longer.
 - c. Benefit improvements approved in the past are now being implemented.

2. Funding is not keeping up with increased expenses.
 - a. The contribution rate for regular members has not changed since 1979.
 - b. The contribution rate for regular members rate is 90.9 percent of the actuarially required contribution. Regular members compose about 96 percent of IPERS' total membership.
 - c. IPERS adjusts the contribution rate for Special Service members based on an annual actuarial valuation; only the Legislature can change the rate for regular members.
 - d. Investment income has been lower than expected because of the stock market.
3. According to the 2004 actuarial valuation, assets will not support liabilities if changes are not made.
4. IPERS' unfunded actuarial liability (UAL) has been increasing each year and is now \$2.176 billion. IPERS' UAL is a concern because contributions and investment income are not sufficient to address it. This has resulted in a UAL that cannot be amortized.

Kentucky. SB 267 reduced employer contribution rates for the State Employee Retirement System and the State Patrol system. Kentucky Retirement Systems estimates that the lost revenue will amount to a \$213 million shortfall for the two systems over two years.

Louisiana. Act 75 (SB 311) provides that contribution rates for employees who are members of the Louisiana State Employee Retirement System, who are hired after July 1, 2006, will be 8% of salary. Contribution rates for those hired before then remain at 7.5% of salary.

Maine. The legislature considered but finally decided against submitting to the voters a major bond issue that would have included funding for a deposit of \$240 million toward the unfunded actuarial accrued liability of the Maine State Retirement System.

Minnesota. Laws 2005, First Special Session, Chapter 8, Article 5, Sections 2-4 provide for contribution increases for the Public Employee Retirement Association. The increases affect local governments as well as state government. Coordinated employee and matching employer contribution rates are increased over several years as follows:

- (1) The coordinated member contribution rate and matching employer contribution is increased from 5.1 percent to 5.5 percent on January 1, 2006, to 5.75 percent on January 1, 2007, and to 6.0 percent on January 1, 2008.
- (2) The employer additional contribution rate is increased from .43 percent of pay to 0.5 percent of pay on January 1, 2006, to 0.75 percent on January 1, 2009, and to 1.0 percent of pay on January 1, 2010. If the July 1, 2008, or 2009 actuarial valuations indicate that the 2009 and or 2010 proposed increase in the employer additional contribution rate is not needed to cover the plan's actuarially determined required contributions, those increases would not be implemented.

After July 1, 2010, if there are two consecutive years with a contribution sufficiency or deficiency of at least half of one percent, the PERA Executive Director must determine an appropriate increase or decrease in contribution rates, whichever is applicable, not to exceed a one-quarter percent in either the employee or employer rate. These proposed increases or decreases must be reported to the Legislative Commission on Pensions and Retirement by February 1. If the Commission does not recommend modification or elimination of the proposed change, the rate changes go into effect the next July 1.

Sections 7 and 8 increased contribution rates for the police and fire division of PERA: The employee contribution rate is increased from the current 6.2 percent of pay to 7.0 percent for calendar year 2006, 7.8 percent the next calendar year, followed by 8.6 percent in calendar 2008, and

9.4 percent in calendar 2009 and thereafter. The employer contribution rate is increased from the current 9.3 percent of pay to 10.5 percent for calendar year 2006, 11.7 percent the next calendar year, followed by 12.9 percent in calendar 2008, and 14.9 percent in calendar 2009 and thereafter.

This and the other Minnesota summaries in this report are quoted from the legislative summaries published by the Minnesota Legislative Commission on Pensions and Retirement.

Montana. HB 1 of the 2005 Special Session in December, 2005, appropriated \$100 million to the teachers' retirement system pension trust fund and \$25 million to the public employees' retirement system pension trust fund to address the two systems' potential combined long-term shortfall of \$1.46 billion. The governor has signaled his intention to support legislation in the 2007 regular session to make the state retirement systems actuarially sound.

Nebraska. LB 503 raises contribution rates for the School Employees Retirement System and the State Patrol Plan for two years to address a shortfall in funding. The bill increases employee contributions for the State Patrol plan from 12 percent to 13 percent of pay and raises employer contributions from 12 percent to 15 percent, beginning July 1, 2005. However, in July 2007, the employee contribution reverts to the current 12-percent level and the employer rate will be lowered to 13 percent. (Rates were increased in 2004 for one year from 11 percent to 12 percent for both employee and employer.)

LB 503 also temporarily increases contribution rates for school employees and employers to 7.98 percent and 8.06 percent, respectively, for one year beginning September 2005. In September 2006, contributions will decrease to 7.83 percent for the employee and to 7.91 percent for the employer for one year. However, the rates will revert to the current level of 7.25 percent and 7.32 percent in September 2007.

LB 348 provides for increases in court fees to increase funding for the state judges' retirement fund. Nebraska law forbids increasing judges' contribution to the retirement system without increasing their salary or benefits.

New Mexico. SB 181 increases the amount of employer contributions for the New Mexico Educational Retirement Association from 8.65 percent of salary as follows: Starting July 1, 2005, 9.4 percent; July 1, 2006, 10.15 percent; July 1, 2007, 10.9 percent; July 1, 2008, 11.65 percent; July 1, 2009, 12.4 percent; July 1, 2010, 13.15 percent; July 1, 2011 and thereafter 13.9 percent. This measure also increases the amount of employee contributions as follows: Starting July 1, 2005, 7.675 percent; July 1, 2006, 7.75 percent; July 1, 2007, 7.885 percent; July 1, 2008 and thereafter 7.9 percent.

Oklahoma. HB 1858 requires all members of the Uniform Retirement System for Justices and Judges to make an 8% contribution from salary; previously the 8% contribution had been required only of members who elected a surviving spousal benefit.

SCR 4 set a goal for the legislature of increasing the funded ratio of the Teachers Retirement System to 60% (from a current 47.3%, according to the resolution) by 2015.

Rhode Island. Chapter 117, Laws of 2005, Article 7, provides that in any year in which the actuarially determined state contribution rate for state employees or teachers is lower than that of the previous fiscal year, the governor shall recommend an appropriation to the system equal to 20% of the rate reduction to be applied to the actuarial accrued liability of the system.

South Carolina. Act 153 (SB 618) increased employer and employee contribution rates for the South Carolina Retirement System and the Police Officers Retirement System. Employer contributions will increase from 7.55% of salary to 8.05% on July 1, 2006 and to 8.55% on July 1, 2007. Employee contributions increased from 6% of gross pay to 6.25% as of July 1, 2005 and will increase to 6.5% on July 1, 2007. Retired members who return to covered employment will make active member contributions for the duration of their covered employment. The contribution requirement applies to members of South Carolina's Teacher and Employee Retention Incentive (TERI), a DROP. The requirement for employed retirees and TERI members to contribute to the retirement plan has been challenged in a suit before the state supreme court as of September 1, 2005.

Act 153 (SB 618) capped equity investments of the S.C. Retirement System at 70% of the total portfolio, up from a previous 40%. The act created an investment commission to be appointed by the State Budget and Control Board. The commission may include the state treasurer. Fiduciary responsibility for the retirement system's investments is moved to the new commission.

Texas. SB 1 increases the employer contribution to the Texas Employee Retirement System from 6% to 6.45% beginning September 1, 2005.

Newspaper accounts report that the purpose of the contribution increases is to finance continued annual COLAs for retirees.

Washington. Chapter 370, Laws of 2005 (HB 1044) affects the Public Employees' Retirement System Plans 1 and 3 (PERS 1 & PERS 3), the Teachers' Retirement System Plans 1 and 3 (TRS 1 & TRS 3) and the School Employees' Retirement System Plan 3 (SERS 3) by delaying recognition of the cost of future gain-sharing benefits until the 2007-09 biennium. It appears that the intention of the legislation is to move contributions gradually to high levels now projected for future years with imposing a sudden fiscal impact on the state.

The bill continues the suspension of payments to the PERS 1 and TRS 1 unfunded actuarial accrued liability (UAAL) for the 2005-07 biennium. This suspension would impact the contribution rates for PERS, TRS, SERS, and Public Safety Employees' Retirement System (PSERS) employers.

This bill also affects PERS, SERS and TRS by establishing a 4-year phase-in of employer and Plan 2 member rates for the 2005-07 and 2007-09 biennia. The rates under the phase-in are lower in the 2005-07 biennium than required by the 2003 actuarial valuation and will be higher in the 2007-09 biennium than required by the projected 2005 actuarial valuation.

The Pension Funding Council is required, upon completion of the 2005 actuarial valuation, to adopt contribution rates that will complete the four-year phase-in schedule.

The bill established employee and employer contribution rates for the state retirement systems for FY 2006. The table below shows EMPLOYEE contribution rates for these retirement systems:

- Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF) Plan 2
- Public Employees' Retirement System (PERS) Plan 2
- School Employees' Retirement System (SERS) Plan 2
- Teachers' Retirement System (TRS) Plan 2
- Washington State Patrol Retirement System (WSPRS) Plan 2

Employer contribution rates will increase by comparable or larger amounts.

	FY 2005	FY2006	FY2007	Effective Date of change
LEOFF Plan 2	5.09%	6.75%		July 1, 2005
PERS Plan 2	1.18%	2.25%	3.50%	July 1, 2005
SERS Plan 2	0.85%	2.75%	3.75%	September 1, 2005
TRS Plan 2	0.87%	2.48%	3.00%	September 1, 2005
WSPRS Plan 2	2.00%	4.51%		July 1, 2005

This summary is based upon the fiscal note provided by the Washington Office of the State Actuary. The summary provided by the Select Committee on Pension Policy notes that the legislation will save all employers \$893 million in 2005-2007, cost all employers an additional \$220 million in 2007-09, and cost all employers an additional \$904 million through 2030.

West Virginia. *Charleston Gazette June 26, 2005*

Voters on Saturday June 25, 2005, rejected Gov. Joe Manchin’s plan to repair West Virginia’s ailing retirement system by selling up to \$5.5 billion in bonds. Unofficial results from the special election showed the pension bond measure failed 46 percent to 54 percent.

Manchin, a Democrat who took office in January, said in a statement that he would not seek to hold another election for a pension bond issue. The defeat leaves in place a 40-year payment plan that relies on growing outlays from the state budget to aid the pension plans. This year’s payment takes about \$350 million from general revenue: the final, 2034 payment is estimated at \$724 million — about one-fourth of this year’s budget.

The Legislature approved the special election because the state constitution required an amendment for Manchin’s plan to devote bond proceeds to the state’s pension plans.

Chapter 201, Acts of 2005 (HB 2984) repeals a statutory provision that limited total annual public employer contributions to the Public Employee Retirement System to 10.5% of payroll.

The act provides that new benefits or benefit increases in PERS or the Trooper A plan will be limited to no more than 1% of the accrued actuarial liability of the plan and that any benefit changes that increase the UAAL shall be fully amortized over the following six fiscal years. No benefits will be increased unless the plan is at least 85% funded. Any UAAL resulting from changes in actuarial assumptions or actual experience must be amortized over 10 years.

Wisconsin

Language in the budget bill that would have required non-union state employees to pay 1.5 percent of earnings to the Wisconsin Retirement System was line-item vetoed by Governor Jim Doyle.

Wyoming. Chapter 27 of the Session Laws of Wyoming 2005 (SF 27) increases the employer contribution to the judicial retirement plan from 5.68% to 8.78% of salary.

DEFERRED COMPENSATION PLANS/OPTIONAL RETIREMENT PLANS

Indiana. HB 1394 allows a political subdivision to offer to its employees both the state employees' deferred compensation plan (state plan) and a deferred compensation plan that is

adopted by the political subdivision and uses one or more private vendors;

Requires the Public Employees Retirement Fund's Board of Trustees to establish a retirement medical benefits account (account) within the PERF under Section 401(h) or as a separate fund under another applicable section of the Internal Revenue Code, for the purpose of converting unused excess accrued leave to a monetary contribution for state employees to fund on a pretax basis benefits for postretirement sickness, accident, hospitalization, and medical expenses of the state employees, their spouses, and their dependents; and requires that state employees be able to convert unused accrued excess leave to either the state plan or the account.

Requires that the deferred compensation committee adopt, and the state auditor administer, a pilot program that allows the employees of at least one branch of state government to convert unused accrued excess leave to a monetary contribution to the state plan not later than December 31, 2005.

Oregon. Chapter 611, 2005 Laws (HB 2104), requires the State Board of Higher Education to create an Optional Retirement Plan (ORP) for administrative and academic employees. New employees may choose the ORP or the existing Public Employee Retirement System (PERS) plan within six months of hiring; the election is irrevocable. A failure to choose will place the employee in PERS as the default system. Both non-vested and vested members of PERS may elect to transfer to the ORP. Nonvested members' accounts will be transferred to the ORP. Vested members accounts may choose to transfer their accounts to the ORP or may leave them in PERS.

Chapter 728, 2005 Laws (HB 2060), allows community colleges to offer optional retirement plans as an alternative to the Public Employees Retirement Plan for presidents, vice presidents and deans.

Texas. §18 of SB 1691 requires a member to elect participation in the Deferred Retirement Option Program (DROP) program by December 31, 2005. §19 would allow a DROP participant participating on September 1, 2005, who has not retired before that date to revoke participation before December 31, 2005.

DEFINED BENEFIT PLAN CHANGES

Delaware. SB 189 removes the integration of Social Security benefits from the calculation of pension benefits under the County and Municipal General Employees' pension plan and adjusts the pensions for those employees that have previously retired and are still in payment status. SB 191 does the same for the County and Municipal Police/Firefighters pension plan.

Illinois. P.L. 94-0004 (SB 27) eliminates the money purchase formula for people who become members of the State Universities Retirement Plan or the Teachers' Retirement System after July 1, 2005.

Missouri. SB 202 terminates the Administrative Law Judges and Legal Advisors' Plan (ALJLAP) for new hires. Effective April 26, 2005, new administrative law judges and legal advisors will participate in the Missouri State Employees' Plan (MSEP) or Missouri State Employees' Plan 2000 (MSEP 2000), whichever is applicable.

The ALJLAP will no longer be available to those employees who are hired for the first time as an administrative law judge or legal advisor on or after April 26, 2005 or who have not previously participated in the ALJLAP. Any administrative law judge or legal advisor employed prior to April 26, 2005 will continue to participate in the ALJLAP. The act will not affect the past, present, or future benefits of members who participated in the ALJLAP before the effective date of the bill.

Missouri. HB 443 officially changed the name of the Non-Teacher School Employee Retirement System (NTRS) to the Public Education Employee Retirement System (PEERS) effective August 28, 2005. The name change was designed to better represent members of the non-teacher system with a positive name that identifies who they are, rather than who they are not.

New Mexico. House Bill 205 amends the Public Employees Retirement Association Act to create a new retirement benefit structure for judges (district court, metropolitan court or court of appeals) and justices (supreme court) who first become members on or after July 1, 2005. The new plan provides for a moderate decrease in normal retirement eligibility by providing a minimum age (55) and years of service (16), and provides a straight 3.75% pension factor for all years of service.

North Dakota. HB 1069 added the option of a partial lump sum distribution (PLSO) to the state public employee retirement plan. The PLSO may be equal to 12 monthly payments of a single life/normal retirement benefit. Subsequent monthly benefits will be actuarially reduced.

West Virginia. Chapter 201, Acts of 2005 (HB 2984) re-opens the Teachers Retirement System, a defined benefit plan, to new employees as of July 1, 2005. The act closes the Teachers' Defined Contribution Plan (TDC) to new employees as of July 1, 2005 and requires new employees to join the Teachers' Retirement System, which had been closed to new members since 1991.

The law also requires a vote of existing members of TDC on merging it with the TRS. For the merger to occur, at least 50% of the TDC members must vote, and at least 50% of those voting must approve the proposed merger. The election will be held in March 2006 after an educational program conducted by the WV Consolidated Retirement Board. All TDC members will be bound by the results of the election. If the merger is approved, TDC will cease to exist on July 1, 2006. If the merger is not approved, current members will continue in TDC and it will be closed to new members. The law makes no provision for individual choice.

If members approve the merger, TDC assets will be transferred to TRS. Transferred members will be given an opportunity to increase their TRS assets by making payments to the TRS fund. The payments will be determined by individual members' salary history and accumulated service in TDC. The law provides for loans to TRS members to assist them in making such payments, through June 30, 2007.

TRS employee contribution rates are set at 6% of gross salary rather than of earnable compensation as in previous law. Gross salary is defined to exclude any lump-sum payments. Employer contribution rates are set at 7.5% for employees who become members for the first time on or after July 1, 2005 and for any person who becomes a member of TRS as a result of the merger proposed for 2006.

DEFINED BENEFIT PLAN – NEW

Arkansas. Act 2084 created a new contributory defined benefit plan effective for members of the Arkansas Public Employee Retirement System (APERS) hired on or after 7/1/05 and members of the existing non-contributory plan who choose to transfer. Noncontributory plan members cannot convert noncontributory service into contributory service, and cannot purchase contributory service. Deadline for election is 12/31/05. Members will contribute 5% of salary. Benefits are based on the three highest years of earnings with a multiplier of 2.0 (as opposed to the multipliers of 1.72 or 1.75 for the noncontributory plan).

Washington. The 2004 Legislature created a new defined benefit plan, the Public Safety Officers Retirement System (PSERS) effective in 2006, for members of the Public Employees Retirement System (PERS) whose jobs contain a high degree of physical risk to their own personal safety. The new system will cover various state and local government law enforcement, public safety and correctional employees who are not eligible to join the Law Enforcement Officers and Firefighters Retirement System (LEOFF).

The major difference between PERS and PSERS is that PSERS will provide full retirement benefits at age 65 with at least five years of service credit or at age 60 with 10 years of PSERS service. For those with at least 20 years of service, early retirement will be available at age 53, with a benefit reduction of three percent per year from age sixty.

Current members of PERS 2 and 3 (but not PERS 1) in the covered classes of state and local employees will have the option to move to PSERS after July 1, 2006. Contributions and service credit earned in PERS will remain with PERS; those who transfer will be members of both systems. New employees in the covered classes will become members of PSERS after that date. LEOFF members are not eligible to join PSERS.

DEFINED CONTRIBUTION PLANS FOR BROAD CATEGORIES OF EMPLOYEES

Alaska. SB 141 created a new defined contribution retirement plan for Alaska teachers hired after July 1, 2006. Non-vested DB plan members may elect to join. Vested DB members may not join the new DC plan. A comparable and separate plan was created for state and local public employees.

Members will make an 8% contribution and may make additional contributions as allowed by federal law, including rollovers. Employers will make a 7% contribution for teachers retirement, a 5% contribution for public employees' retirement, and an additional contribution, as annually determined, for retiree health insurance. The latter was set at 1.75% of salary for fiscal year 2007.

Provisions otherwise are the same for both new plans. Each eligible member who elects to participate in the defined contribution retirement plan shall have transferred to a new account the member contribution account balance held in trust for the member under the defined benefit retirement plan. A matching employer contribution shall be on behalf of that employee to the new account. The employer shall make the matching contribution from funds other than the trust funds of the defined benefit retirement plan.

Members are immediately vested in their contributions and those contributions' earnings, and are gradually vested in employer contributions will full vesting in the latter after five years' membership. The legislation provides that a variety of investment options shall be made available. It provides a variety of distribution options. It provides for retiree health insurance, disability benefits and death benefits. It provides service requirements for eligibility for retiree health benefits. The plan does not guarantee a return on investments.

West Virginia. Chapter 201, Acts of 2005 (HB 2984) closes the Teachers' Defined Contribution Plan (TDC) to new employees as of July 1, 2005 and requires new employees to join the Teachers' Retirement System, an existing defined benefit plan that has been closed to new members for some years.

The law also requires a vote of existing members of TDC on merging it with the TRS. For the merger to occur, at least 50% of the TDC members must vote, and at least 50% of those voting must approve the proposed merger. The election will be held in March 2006 after an educational program

conducted by the WV Consolidated Retirement Board. All TDC members will be bound by the results of the election. If the merger is approved, TDC will cease to exist on July 1, 2006. If the merger is not approved, current members will continue in TDC and it will be closed to new members. The law makes no provision for individual choice.

If members approve the merger, TDC assets will be transferred to TRS. Transferred members will be given an opportunity to increase their TRS assets by making payments to the TRS fund. The law provides for loans to TRS members to assist them in making such payments, through June 30, 2007.

DISABILITY

Arizona. HB 2077 tightened up rules for receipt of long-term disability from the Arizona State Retirement System (ASRS). Benefits will end if a member refuses to participate in a work rehabilitation program for which he member is reasonably qualified by education, training or experience; LTD benefits will be reduced by primary and dependent social security benefits a member receives; requires active pursuit of social security benefits; establishes criteria for total disability at receipt of benefits for 24 months with a 60 month period; limits LTD benefits for incarcerated members.

Georgia. Act No. 104 (HB 459) amends 47-2-125 to authorize the Board of Trustees to request relevant information from a disability retiree regarding post-retirement employment and related earnings limitations and provides authority to discontinue benefits if such is not provided.

Illinois. SB 1660 allows a member of the Teachers' Retirement System who has received a disability benefit for at least one year to return to teaching on a limited or part-time basis without forfeiting disability benefits. Earnings plus the disability benefit cannot exceed 100% of the salary rate on which the disability benefit is calculated.

Louisiana. Act 74 (SB 311) amended disability benefits for employees covered by the Louisiana State Employee Retirement System and hired after June 30, 2005. Old law remains in effect for those hired on or before June 30, 2005, and provides that a member shall receive a disability benefit equivalent to the regular retirement benefit formula without reduction for reason of age. New law (with exceptions for elected officials, legislative officers, judges, any member age 60 or older, and certain others) provides a disability benefit of 1.8% of FAS for each year of creditable service until the person reaches age 60, when the beneficiary will receive a regular retirement benefit.

New York. Act 104, Laws of 2005, amends the retirement and social security law and the administrative code of the city of New York, in relation to providing that any injury or illness, including future manifestations, even after retirement, for occurrences directly related to the terrorist attack on September eleventh, two thousand one be presumptively eligible for an accidental disability.

Act 93, Laws of 2005, amends the retirement and social security law and the administrative code of the city of New York, in relation to providing that any injury or illness, including future manifestations, even after retirement, for occurrences directly related to the terrorist attack on September eleventh, two thousand one be presumptively eligible for an accidental disability; and to amend a chapter of the laws of 2005 amending the retirement and social security law and the administrative code of the city of New York relating to presumptive eligibility for an accidental disability for injury or illness related to the terrorist attack on September eleventh, two thousand one and enacting the September 11th worker protection task force act.

EARLY RETIREMENT INCENTIVES

Arizona. HB 2052 sets guidelines for member agencies of the Arizona State Retirement System (ASRS) to create early retirement incentive programs and requires them to pay any resulting unfunded liability that ensues. ASRS will determine the amount of any unfunded liability.

Illinois. Public Act 94-0109 (SB 1442) provides an alternative retirement cancellation payment (ARCP) for state employees who terminated service between July 1 and October 31, 2005. The offer was limited to 500 employees under the governor's purview in specified job titles and to any other employees whose director or departmental head consented to the employee's acceptance of the offer (no limits as to number or job title for the latter). The ARCP allows active members who terminate service to receive a refund in exchange for waiving all rights to any type of benefit from the State Employee Retirement System. The ARCP would equal two times the employee's contributions plus annual interest at 6.5%. Various options for payment are available.

Public Act 94-0004 (SB 27) extended the current early retirement option for members of the Teachers' Retirement System. This option must be exercised by a decision in writing by July 1, 2005 with a retirement date no later than July 1, 2007. It is available to those who retire before age 60 with less than 34 years of service. It requires employer and employee contributions to avoid discounted benefits. The employee contribution is 7% of salary for each year less than age 60 or 35 years of service, whichever is less. The employer contribution is 20% of salary for each year less than age 60. The requirements do not apply to employees who retire with 34 years of service.

Public Act 94-0004 also created a new TRS early retirement option effective July 1, 2005. Contributions are required if an employee is to retire before age 60 without discounted benefits. The employee contribution is 11.5% of salary for each year less than age 60 or 35 years of service, whichever is less, and the employer contribution is 23.5% of salary for each year less than age 60. In addition, all active TRS members are required to contribute 0.4% of salary toward the cost of the option. This contribution will be refunded without interest if the member does not use the option, takes a refund from TRS, dies, or if the option is terminated. TRS is to review funding of the option in 2012 and every five years thereafter to see whether it is adequately funded. A mechanism is established to terminate the option if the General Assembly does not adjust contributions as needed in the future to provide adequate funding, should actuarial calculations call for an increase.

Texas. SB 1691 prohibits local school districts from offering early retirement incentives.

FORFEITURE OF BENEFITS/ATTACHMENT OF BENEFITS

California. Chapter 322, Statutes of 2005 (AB 1044) provides that any elected public officer, who takes office, or is reelected to office, on or after January 1, 2006, shall forfeit specified retirement benefits that accrue during his or her term of office if he or she is convicted of a felony arising from official duties, unless the governing body authorizes the public officer to receive benefits. The act provides that any contributions made by the elected public officer that arose directly from or accrued solely as a result of his or her forfeited service as an elected public officer shall be returned.

The act requires the officer's employer to notify the retirement system of the officer's conviction. The act also provides that a person ceases to be a member of the Public Employees' Retirement System, a county retirement system, or a city retirement system for the portion of his or her service as an elected public officer that is forfeited.

Colorado. SB 05-93 provides for attachment of a public pension participant's benefits if the participant is required to pay restitution for theft, embezzlement, misappropriation, wrongful conversion of public property, or to satisfy a judgment for a willful, intentional violation of fiduciary duties where the offender or a related party directly benefits.

Maine. The legislature considered but finally decided against submitting to the voters a major bond issue that would have included funding for a deposit of \$240 million toward the unfunded actuarial accrued liability of the Maine State Retirement System.

South Carolina. Act 153 (SB 618) capped equity investments of the S.C. Retirement System at 70% of the total portfolio, up from a previous 40%. The act created an investment commission to be appointed by the State Budget and Control Board. The commission may include the state treasurer. Fiduciary responsibility for the retirement system's investments is moved to the new commission.

FURLOUGHS AND VOLUNTARY WORK TIME REDUCTION

Minnesota. Laws 2005, Chapter 156, Article 3, Section 3 (The Omnibus State Government Finance Bill) created a Voluntary Hour Reduction Program. This provision is a voluntary hour reduction program for "state employees," although that term is not defined in the provision beyond indicating that to be eligible the individual must be covered by an Minnesota State Retirement Systems plan. The uncoded provision, applicable through June 30, 2007, allows individuals to make contributions to the retirement plan as though they had not reduced employment. A state employee who currently works at least half time in an MSRS-covered position, who enters into an agreement with an appointing authority to reduce hours to half time or less, will be authorized to make employee contributions to the applicable retirement plan or fund as though hours had not been reduced. The employer will make the applicable employer contribution. The work hours and work schedule must be agreed to be the employee and employer. The appointing authority has discretion to decide whether this program will be available to any given employee. All pension contributions are to be made in a time and manner prescribed by the MSRS Executive Director.

Section 4. Voluntary Unpaid Leave of Absence. This uncoded provision is a voluntary unpaid leave of absence provision, applicable to employees of "appointing authorities in state government," at the discretion of the employer. Individuals are able to obtain service credit for the leave period, which must occur between July 1, 2005, and June 30, 2007. The scope of the plans involved is unspecified. Appointing authorities in state government may allow employees to take leaves up to 1,040 hours (the equivalent of one-half year) between July 1, 2005, and June 30, 2007. While on leave, the employee retains health coverage and accrues sick and vacation leave as though the individual were not on leave. The individual may make contributions to the applicable pension plan or fund as though not on leave, and receive full service credit. If employee contributions are made, the employer must make applicable employer contributions. If the individual is covered by a defined contribution plan, the appointing authority, at its discretion, may make the employee contribution to the pension fund on behalf of the employee. All pension contributions are to be made in a time and manner prescribed by the pension plan executive director.

GOVERNANCE AND INVESTMENT POLICY

Alaska. SB 141 establishes the Alaska Retirement Management Board in the state Department of Revenue to supervise the state retirement systems and the new defined contribution retirement plan. Membership is listed in Section Sec. 37.10.210 of the bill. They include the commissioner of and the

commissioner of revenue and seven members appointed by the governor according to criteria set forth in that section. It replaces existing governing and investment boards.

Colorado. SB 5-171 authorizes the merger of the Denver Public Schools Retirement System with the Colorado Public Employees Retirement Association (PERA). DPS employees hired after 1/1/07, will receive benefits according to PERA rules. Active DPSRS members on the date of the merger may decide under which system;'s set of rules they will receive benefits; DPS may issue certificates of participation if needed to pay PERA for the cost of the merger on an actuarially neutral basis; either party may decide to terminate the merger before 1/1/07.

[The school board of Denver Public Schools voted to end merger talks on October 12, citing uncertain future costs.]

Georgia. HB 319 allows large retirement systems to invest in Exchange Traded Funds (ETF's). An ETF allows a system to buy and sell baskets of stocks representing an index just as it would an individual company stock. This provides the advantages of increased liquidity and efficient trading for these groups of stocks. This legislation would not change what the system could invest in, but allows a different way to accomplish it.

Illinois. Public Act 94-0079 (SB 23) prohibits investment in entities doing business in or with the government of Sudan.

Indiana. SB 149

Adds the director of the budget agency or the director's designee to the boards of trustees of the Public Employees Retirement Fund (PERF) and the Teachers Retirement Fund (TRF).

1. Sets limits of compensation for board members.
2. Provides that four trustees of the PERF board constitute a quorum.
3. Authorizes the boards of TRF and PERF to establish by rule: (a) how administrative costs of alternative investment programs may be paid; (b) certain valuation dates; (c) investment allocation increments; (d) the contribution allocations date; and (e) the annuity savings account distribution date during a month.
4. Grants the PERF board substantially increased administrative authority regarding members' Annuity Savings Accounts.

Louisiana. Act 427 extends into 2007 the requirement that state retirement systems direct 10% of certain trades and commissions through broker-dealers who have been incorporated and domiciled or who have had their principal trading operations in the state for at least two years and provides for commission recapture agreements. This is an existing requirement that otherwise would have expired in 2005.

Maryland. SB 270 requires any public pension system established by a local jurisdiction on or after July 1, 2005 to adhere to the principles incorporated in the Uniform Management of Public Employee Retirement Systems Act (UMPERSA). The bill also requires existing public pension systems, including the State Retirement and Pension System (SRPS), to certify to the Joint Committee on Pensions by July 1, 2006 that the plan provisions governing these plans adhere to the principles incorporated in UMPERSA addressing investment and management of funds for a public pension system. The bill requires that the pension system explain any deviations from the principles of UMPERSA in plan provisions. The bill further provides that it may not be construed to limit the

authority of the General Assembly or a legislative governing body over the budget of a preexisting public pension system.

Mississippi. HB 1233 allows the Board of Trustees of the Public Employees Retirement Systems to invest in types of investments not specifically authorized by statute if the investments are in the form of a limited partnership, commingled fund or separate account managed by a Securities and Exchange Commission registered investment advisory firm retained as an investment manager by the board; provided that the total book value of such investments shall at no time exceed ten percent (10%) of the total book value of all investments of the system.

New Mexico. HB 389 eliminates the current legal list of permissible investments and replace it with the guiding principles of the Uniform Prudent Investor Act (UPIA) for the Public Employees Retirement Association (PERA), Educational Retirement Board (ERB), and the State Investment Council (SIC). HB 389 also requires investing agencies to report quarterly to the Legislative Finance Committee and Department of Finance and Administration on investment performance and annually on any changes in written investment policies.

Under the UPIA, trustees shall invest and manage the trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements and other circumstances of the trust. To satisfy this higher standard, trustees shall exercise reasonable care, skill, and caution. As a result of the standard of care, trustees' investment and management decisions respecting individual assets must be evaluated in the context of the trust as a whole and part of an overall investment strategy with specific risk and reward objectives identified by the trust.

South Carolina. Act 153 (SB 618) capped equity investments of the S.C. Retirement System at 70% of the total portfolio, up from a previous 40%. The act created an investment commission to be appointed by the State Budget and Control Board. The commission may include the state treasurer. Fiduciary responsibility for the retirement system's investments is moved to the new commission.

Vermont. Act 50 of 2005 (H 117) creates a new joint investment committee, to be called the Vermont pension investment committee (VPIC), to oversee and constitute the trustees for the combined investment assets of the state teachers' retirement system of Vermont, the Vermont state employees' retirement system, and the Vermont municipal employees' retirement system. The VPIC would comprise the trustees of the three retirement systems. The three existing retirement boards would continue to oversee the operations of each system in areas such as actuarial valuation, medical disability, benefits revisions, contribution levels, and general administration as provided under current law.

Wyoming. Chapter 119, Session Laws of 2005 (HB 0155), adopts the Uniform Management of Public Employee Retirement Systems act as developed by the National Conference of Commissioners on Uniform State Laws. Wyoming became the first state to adopt the act.

HEALTH COVERAGE

Texas. § 40, SB 1691, increases the rate at which active public education employees contribute to TRS-Care to 0.65 percent. The bill also provides that service retirees who retire after September 1, 2005 must have at least 10 years of service credit in the system to be eligible for TRS-Care. This service credit may include up to five years of military service credit, but it may not include any other special or equivalent service credit purchased.

Additionally, the member must meet one of the following requirements:

- the sum of the retiree's age and years of service credit in the system equals or exceeds 80 at the time of retirement, regardless of whether the retiree had a reduction in the retirement annuity for early age (years of service credit can include all purchased service); or
- the retiree has 30 or more years of service credit in the retirement system at the time of retirement (years of service credit can include all purchased service). . This service credit may include up to five years of military service credit, but it may not include any other special or equivalent service credit purchased.

LEGISLATORS' RETIREMENT PLANS

Indiana. HB 1394 extends the pilot program for the defined contribution plan of the Legislators' Retirement System until July 1, 2006.

Kentucky. HB 299 provides that an active legislator who was entitled to elect membership in the Legislators Retirement Plan (LRP) but who failed to do so within 30 days of taking office may elect to participate in LRP no later than August 31, 2005. If the legislator elects membership in LRP, participation in the Kentucky Employees Retirement System (KERS) will stop. Service earned as a legislator and credited to KERS may be transferred to LRP if the member pays the difference, if any, between the contributions and interest transferred from KERS and the actuarial cost of the transferred service.

Legislators participating in KERS will also begin paying contributions and accruing benefits based upon wages reported on the federal W-2 form rather than an assumed salary of \$27,500 annually.

Nevada. Chapter 380, Laws of 2005 (SB 346), provides that a legislator may elect not to participate in the Legislators' Retirement System, apparently at any time. Such a choice is irrevocable.

MILITARY SERVICE

Colorado. HB 05-1083 allows a member of the military forces who is engaged in service for the state of Colorado may elect to have state employee benefits after he or she has served for 30 consecutive days, provided that they individual is not a salaried member of the armed forces, and that the state has appropriated a contribution for the purpose.

Nevada. Chapter 268, Laws of 2005 (SB 122), authorizes a member of the Public Employees' Retirement System who has 5 years of creditable service and who served on active military duty during Operation Desert Storm, Operation Enduring Freedom or Operation Iraqi Freedom to purchase a number of months of service equal to the number of full months served on active military duty during Operation Desert Storm, Operation Enduring Freedom or Operation Iraqi Freedom, but the purchase may not exceed 3 years of service. The purchase is in addition to any other purchase of service credit authorized by law and is in addition to any free credit received for military service. To qualify for the purchase, the member must have been honorably discharged or released from active duty. The member must pay the full actuarial cost of the service.

New York. Chapter 105 of the Laws of 2005 provides ordinary death benefits (Tiers I/II) and accidental death benefits (Tiers III/IV) to eligible survivors of public employees who are ordered to duty and then die while on active duty in any branch of the armed forces. Chapter 326 makes military service credit non-contributory for members of public retirement systems called to active military duty on or after September 11, 2001 and prior to January 1, 2006.

Washington. Chapter 64, Laws of 2005 (HB 1325), affects the Public Employees' Retirement System (PERS), the School Employees' Retirement System (SERS), the Teachers' Retirement System (TRS), the Law Enforcement Officers' and Firefighters' Retirement System Plan 2 (LEOFF 2), the Washington State Patrol Retirement System (WSPRS), and the Public Safety Employees' Retirement System (PSERS) by authorizing interruptive military service credit for employees who cannot return to public employment due to death or total disability while serving in the uniformed services. Service credit may be purchased by a disabled member or survivor(s) of a deceased member for interruptive military service credit up to the date of death or disability.

Chapter 247, Laws of 2005 (SHB 1938), allows members of PERS 1 who have completed 25 years of creditable service, who would have otherwise become eligible for retirement while serving honorably in the armed forces, to receive service credit for such honorable military service without returning to covered employment. The bill also updates the definition of "veteran" to include Operation Noble Eagle, Operation Enduring Freedom and Operation Iraqi Freedom.

Chapter 255, Laws of 2005 (SSB 5112), amends existing law for the purpose of determining PERS 1 military service credit. The amended definition adds the following persons within the definition: (a) persons who served in the Persian Gulf combat zone as part of Operation Iraqi Freedom, and (b) persons who served in southern or central Asia as part of Operation Enduring Freedom.

RE-EMPLOYMENT AFTER RETIREMENT

Arkansas. Act 911 clarifies that waivers of earning limits for Teachers Retirement System retirees who return to work are limited to those hired by a public school district due to a shortage of certified teachers in a critical subject area; requires that employer and employee contributions recommence at the time of such employment; and limits waivers to three years.

Colorado. SB 05-73 closed a loophole that had allowed some retired employees to circumvent the state's 110-day limit on reemployment without loss of benefits after retirement.

Georgia. HB 495 allows a member who retired on a service retirement to return to work and continue receiving retirement benefits. The retiree must have been retired prior to 12/31/2003. Local school systems would be allowed to employ a retiree as a full-time classroom teacher, principal, superintendent, counselor, librarian or improvement specialist. A member who retired as a principal cannot be re-employed as a principal at the same school where he or she was employed prior to retirement. Also, a member who retired as a superintendent cannot be re-employed as a superintendent for the school system in which he or she was employed prior to retirement. An employer employing a retiree must pay all employer contributions to TRS as if the retiree was an active member of TRS. These working-after-retirement provisions shall not be contractual and shall be subject to future legislation. Current law allows local school systems to employ a retiree as a full-time classroom teacher, principal, superintendent, counselor or librarian. All other provisions are the same.

Indiana. SB 149 increases from \$25,000 to \$35,000 the annual amount a retired member of the Public Employees Retirement Fund or the Teachers Retirement Fund who has not attained the Social Security normal retirement age may earn in a covered position before the member's retirement benefit stops and the member must again make contributions to the member's retirement fund.

Minnesota. Laws 2005, Chapter 156, Article 3, Section 3 (The Omnibus State Government Finance Bill) allows employees who meet the definition of full retirement (Rule of 90 or age 65, or up to age 66 for employees hired after July 1, 1989), to receive their monthly retirement annuity and work half time or less.

To use this provision, employees must terminate service. Employees who use this provision would no longer contribute to a MSRS retirement plan. In addition, they would not be subject to the reemployed annuitant earnings limit of \$12,000 for 2005 (the same amount used by Social Security).

Employees using this provision would not be included in the active employee health insurance pool, but would have money deposited into a Health Reimbursement Account (HRA) based on a calculation depending on the percentage of time worked and the amount of full employer contribution for "employee only" health and dental coverage. The funds in the HRA could be used for health insurance premiums or other medical expenses.

Employees would participate in the retiree health insurance pool. Employees would receive any applicable severance pay at the time they retire from their regular position. Post retirement employment would be offered to the employee on an annual basis, and the offer could be renewed for up to five years.

North Carolina. Language in the budget bill extends an expiring provision that allows retired members of the state retirement system to return to the classroom with no diminution of retirement benefits. The language requires a six-month break from covered service from covered employment.

Nevada. SB 369 allows judges who have retired and are receiving benefits from the Judicial Retirement System to re-enroll in the retirement system, under certain circumstances, and to continue receiving benefits from the retirement system, under certain circumstances.

North Dakota. HB 1266 allows retired members of the ND Public Employees Retirement System who retired at or after the full retirement age to return to covered employment with a different employer and waive future participation in the retirement system and retiree health system, while retaining their benefits. The "different employer" provision means that a state employee cannot take advantage of this provision if returning to state employment, but may take employment in a political subdivision. Former employees of a political subdivision may move to state employment or employment in a political subdivision different from the one from which the employee retired.

South Carolina. Act 153 (SB 618) provides that retired members who return to covered employment will make active member contributions for the duration of their covered employment.

South Dakota. HB 1016 provides that the annual improvement factor will not be used to increase benefits for the time during which a retired member has reentered covered service.

Tennessee. Chapter 203, Acts of 2005 reduces the number of situations in a retired member of the Consolidated Retirement System may continue to receive benefits after returning to covered employment. It extends the number of days a retired member may temporarily work in covered employment without loss of benefits from 100 to 120 days, and increased the credit hours such a member may teach in higher education without loss of benefits from 15 credit hours to 18.

Texas. §29, SB 1691, requires a district that employs a Teachers Retirement System (TRS) retiree to remit a contribution to TRS equal to the amount that would have been contributed by the retiree and by the state if the retiree were an active member. If the retiree is enrolled in the Texas Public School Employees Group Insurance Program (TRS-Care), the employer must pay the difference between

any amount the retiree is required to pay for the retiree and dependents and the full cost of the retiree's and dependents' participation. These provisions apply to retirees rehired after January 1, 2005, by that reporting employer or by another employer, if both employers are school districts that consolidated into a consolidated school district on or before September 1, 2005.

Wyoming. Chapter 113 of the Session Laws of Wyoming 2005 (SF 0147) requires a state retiree who is rehired in any capacity by a participating employer to notify the retirement board and elect participation as specified. Under previous law, a state retiree who was rehired on a permanent, full-time capacity by an employer who participates in the state retirement system was required to notify the retirement board of his election either to be reinstated as a contributing member of the system and cease retirement benefits, or to continue to receive his retirement benefit and not be reinstated as a contributing member.

This bill requires a retired member who is rehired in any capacity by an employer who participates in the state retirement system to notify the retirement board of his election to be reinstated as a contributing member to the retirement system or to continue receiving his retirement benefits.

The intent of the new language is to reach contractual employees, according to the Wyoming Retirement System.

SERVICE CREDIT/ PURCHASE OF SERVICE/ TRANSFER OF CREDIT

Arizona. HB 2029 revised the Arizona State Retirement System method of calculating the cost of the purchase of service credit from normal cost to actuarial present value; prohibits purchase of credited service for time employed in a prison while the member was incarcerated; increases the credited service an active member may receive for active military duty from 48 to 60 months; allows a member to purchase service credit for accrued vacation and sick leave at termination; permits purchase of credited service using 401(a) or 403(a) plans through a trustee-to-trustee rollover.

Arkansas. Act 1021 allows vested members of the Public Employee Retirement System to purchase up to five years out-of-state governmental service provided that the service to be purchased does not entitle the person to a retirement benefit from an out-of-state plan. Purchase cost will take actuarial considerations into account.

Act 1027 allows vested members to purchase one year of service credit for every five years of compensated service in the Ark. National Guard or the Armed Forces Reserve.

Act 2091 requires the boards of trustees of the Ark. Teachers and Public Employees plans to establish rules to recognize service credit members have earned in the retirement systems of federal government agencies.

Delaware. SB 178 allows sick leave accrued as of the date of retirement, beyond the 90 days paid at retirement, to be used to purchase additional pension creditable service in the Stat Employees Pension Plan at the rate of 21 days per month for a maximum of 12 months.

Louisiana. Act 75 (SB 311) changed provisions for purchase of service credit. Previous law allowed any member of the Louisiana State Employee Retirement System who had one year of service credit to purchase up to five years of service credit at its actuarial cost. New law retains old law for persons who purchase such credit before June 30, 2005, and who pay for it by June 30, 2006. For all others, the new law requires five years of service credit (old law, one) before the purchase, and specifies that the purchase may count only toward calculation of benefits and not toward eligibility for benefits.

Massachusetts. Chapter 90, Laws of 2005 (SB 2057) allows members of the Massachusetts Teachers Retirement System or the State-Boston retirement system who are or were employed as a teacher in a vocational-technical school or in a public school's vocational-technical program approved by the department of education, to purchase service credit for any period or periods of prior work experience in the occupational field in which the member became a vocational-technical teacher and which was required as a condition of the member's employment and licensure under regulations of the department of education. No credit shall be allowed and no payment shall be accepted under this paragraph until the member has completed 10 or more years of membership service. The creditable service allowable under this paragraph for any member shall not exceed 3 years.

Minnesota. Laws 2005, First Special Session, Chapter 8, Article 2, Sections 1, 5, 6, 7, and 8 provide for service credit purchases for strike periods. This provision applies to members of any plan included under the Combined Service Annuity provision. Individuals who were on a public employee strike without pay may purchase service credit in the applicable plan for the strike period if payment is received within five years of the end of the strike. The purchase may be made within the first year by paying the employee and employer contributions that would have been made if there were no strike, plus interest. The employer may pay the employer share on behalf of the employee. During years two to five, a purchase can be made by paying full actuarial value. The employer is not permitted to pay any portion of a full actuarial value purchase. Service credit purchases are prohibited later than five years from the end of the strike.

Missouri. HB 443 concerns the Public School Retirement System and the Public Education Employee Retirement System (PSRS/PEERS). It modifies the rule regarding allowing the purchase of qualified non-federal public employment to include such service in any state, and to include service that is covered by a retirement plan. Currently, only non-federal Missouri employment that is not covered by a retirement plan may be purchased. Effective August 28, 2005.

- Members must be vested (have five years of credit with PSRS/PEERS) before they can apply, and may not purchase more credit than they earn with PSRS/PEERS prior to retirement.
- In addition, members cannot purchase Social Security-covered service if that service is also being used to receive a benefit from another public retirement system (other than Social Security or military service).

PEERS was formerly known as the Non-Teacher School Employee Retirement System (NTRS).

Montana. HB 104 provides that any retired member may be employed in a part-time position eligible to participate in the Teachers Retirement System (TRS) including part-time positions with the university system, and earn without loss of their retirement benefits, an amount not to exceed the greater of: (1) one-third of the sum of the member's average final compensation (AFC), plus annual increases equal to the increase in the consumer price index (CPI); or (2) one-third of the median AFC for members retired during the preceding fiscal year as determined by the TRS board.

These earnings are determined on a fiscal year basis, July 1 through June 30. A "retired member" is defined as a TRS member who has terminated all positions eligible to participate in the TRS, and who has received at least one monthly retirement benefit.

Should a TRS retiree sign a full-time contract, retirement benefits will cease on the effective date of the signed, full-time contract. In addition, the member will be reinstated to active membership status. If a TRS retiree is employed part-time and exceeds the maximum permissible earnings, the monthly

retirement benefit will be reduced dollar-for-dollar for each dollar above the maximum allowable. The TRS retiree's monthly benefit will be reduced beginning as soon as practical after the employer has reported the excess earnings. The TRS retiree's retirement benefit will be cancelled if their accumulated earnings over the maximum allowed exceed the gross monthly benefit amount. The TRS retiree will be reinstated to active membership status and contributions will be due on all earnings that exceed the gross monthly benefit amount.

South Dakota. HB 1017 clarifies that a member's noncontributory service counts toward vesting and disability benefit eligibility.

Texas. HB 3169 repeals Section 823.405 of the Government Code, which allows members of the Teacher Retirement System (TRS) with seven years of actual membership service to purchase up to three years of "air time" service. The service is not required to be related to any actual employment history with a public employer. Unless the agreement is terminated before all payments are made, members of TRS would be eligible to purchase service credit before January 1, 2006.

SB 1176 applied a similar provision to the Employee Retirement Plan, reducing the maximum possible purchase of air time to 36 months after 2006, down from 60 months. The bill also provided substantial restrictions on the ability of Optional Retirement Plan members to purchase state service credit.

SB 1691 requires members, hired on or after January 1, 2007, making out-of-state service purchases to pay the full actuarial cost of such purchases.

Washington. Chapters 21 and 65, Laws of 2005 (HB 1269 and 1327), allow members of most state retirement systems who qualify based on membership service to purchase as much as five years additional service credit, effective July 2006. Members (or survivors) may purchase the additional service credit regardless of retirement type or membership status (active or inactive) as long as eligibility requirements are met.

- PERS Plan 2 and Plan 3
- SERS Plan 2 and Plan 3
- TRS Plan 2 and Plan 3
- LEOFF Plan 2

PERS, SERS and TRS members may purchase additional service credit only if they are applying for early or alternate early retirement. LEOFF members may purchase additional service credit if they are applying for regular, early or alternate early retirement.

To purchase additional service credit, the member must pay, in a lump sum, the actuarial equivalent value of the increased monthly retirement benefit provided by the additional service credit. Payment may be made in with an eligible rollover, a direct rollover or a trustee-to-trustee transfer from an eligible retirement plan. A purchaser may also use after-tax dollars, such as those from a personal savings account, subject to IRS limitations.

Chapter 363, Laws of 2005 (SB 5522), affects all plans in the Public Employee Retirement System by allowing members who are injured while acting in the course of employment to receive up to two years of lost service credit. A member seeking lost service credit must apply for reemployment within ninety days of when the member is able to return to work and benefits under Title 51 (Industrial Insurance) have ceased. The member must also make the required employee contributions within five years of resumption of service or prior to retirement, whichever comes sooner. If the

member does not restore contributions within that time frame, the member must pay the actuarial value of the resulting increase in the benefit.

STUDIES

Illinois. Public Act 94-0004 (SB 27) creates an Advisory Task Force on Pension Benefits for New Employees, consisting of 15 members, eight of whom the governor will appoint and who must include primary teachers and state employees. Each legislative leader will appoint one member. The directors of the Teachers' Retirement System, the State Employees Retirement System, and the State Universities Retirement System will be members. The task force is to submit recommendations on changing age and service requirements, automatic annual increases and employee contribution rates for future members of the retirement systems to the governor and the general assembly by November 1, 2005.

Louisiana. HR 3 created the Special Subcommittee on State Employee Compensation and Benefits with members from several House standing committees to review all matters related to salary and benefits for state employees, and to recommend needed legislation to the House. SR 175 asked the Senate Committee on Retirement to conduct a comprehensive investigation and study of state retirement systems.

Maryland. Chapter 298, Laws of 2005, establishes a legislative-executive task force to commission an actuarial valuation of the liabilities associated with the State's retiree health insurance subsidy in accordance with the standards established in the Government Accounting Standards Board Statement 45, develop options for addressing the unfunded liability, and evaluate the costs associated with each option.

Montana. HJR 42 requests that an interim committee be assigned to study how the retirement funds are invested, and how investment performance, retirement plan benefits, actuarial assumptions, and legislative policy decisions interact to affect the actuarial soundness of the public retirement systems and the employer's funding obligations. The interim committee is charged to identify legislative policy issues and concerns, consider options, and develop recommendations.

New Hampshire. Chapter 8, laws of 2005 (HB 181) creates a joint legislative study committee to develop the most appropriate method for increasing special account balances in order to provide COLAs for retirees in the future. The committee may consider increasing employee contributions as an appropriate method and shall determine how much employee contributions would have to be increased in order to fund member special accounts at a level that would allow for 5 percent cost of living adjustments for each of 3 years. The committee is also directed to develop strategies for increasing special account balances in order to extend health insurance subsidies for future retirees.

New Jersey. Acting Governor Richard J. Codey created the Benefits Review Task Force on May 25, 2005, and charged it with

"Examining the current laws, regulations, procedures and agreements governing the provision of employee benefits to State and local government workers; analyzing the current and future costs of the benefits; comparing the level of benefits provided to government employees in this State to the benefits provided to other workers; recommending changes to the laws, regulations, procedures and agreements designed to control the costs of such benefits to the State's taxpayers, while ensuring the State's public employees a fair and equitable benefit system."

The task force report, released on December 1, 2005, is available at http://www.state.nj.us/benefitsreview/final_report.pdf.

New Mexico. House Joint Memorial 9 & SJM 17 require the Educational Retirement Board to study the implications of changing the Educational Retirement System from a Defined Benefit Plan to a Defined Contribution plan for new education employees.

SJM 13 requests the Legislative Council to appoint members of the Legislature to a State Investment Funds Task Force, to continue the work of the State Permanent Fund Task Force created by SJM 14 in 2004. The DFA, PERA, Educational Retirement Board and State Investment Council are also requested to appoint members. The task force is to examine the controls and safeguards applicable to investments of the state.

New York. Act 522, Laws of 2005, directed the state comptroller to study deferred retirement option plans and partial lump sum options for members of the state and local retirement plans and state police and fire retirement plans who are eligible to retire regardless of age.

Rhode Island. Chapter 117, Laws of 2005, Article 7, creates a special joint legislative oversight commission to study state employee retirement benefits.

Texas. HB 2772 requires the Employee Retirement System to conduct a study on the long-term impact of implementing a health reimbursement account or a health savings account with a high-deductible health plan; a report to be issued no later than 12/31/06.

Vermont. §34b, Act 71 of 2005 (H.516) establishes a commission of 13 members, chaired by the state treasurer, with two members of each House, state government officials, and representatives of education associations to make recommendations to the legislature by November 15, 2005, for funding an adequate, sustainable, and actuarially sound retirement benefit plan for the state teachers' retirement system of Vermont.

Act 48 of 2005 (H.133) requires the Board of Trustees of the Vermont State Retirement System and the Board of Trustees of the State Teachers' Retirement System of Vermont to submit its recommendation for achieving and preserving the financial integrity of the respective retirement funds to the House and Senate committees on Government Operations and Appropriations by November 1 of each year. This act also requires the State Treasurer and the Commissioner of Finance and Management to present the recommendations to a joint meeting of the House and Senate committees on Government Operations and Appropriations within 30 days of submitting the recommendations.

Washington. Chapter 370, Laws of 2005 (HB 1044) requires the Select Committee on Pension Policy to study the options available to the legislature for addressing future gain-sharing liability, including repealing, delaying or suspending the gain-sharing provisions, making gain-sharing discretionary, or replacing gain-sharing with other benefits. The committee is to report no later than December 15, 2005.

TAXATION OF RETIREMENT BENEFITS

Kentucky. HB 272 fixes the state income tax pension exclusion at \$41,110 for tax year 2006 and thereafter. The exemption will no longer be subject to an annual adjustment based on the consumer price index. It applies to benefits earned after January 1, 1998.

Oklahoma. SB 435 increased the amount of the retirement income exemption from \$7,500 to \$10,000 for public and private sector retirees. HB 1476 increased the amount of the military pension exemption to \$10,000 or 50% of the individual's retirement benefits, whichever is greater.

Wisconsin. AB 100, the budget bill, as passed by the Legislature, would have phased in a full income tax exclusion for social security benefits over three years, starting with tax year 2007. The phase-in would have been implemented by reducing the currently taxable share of social security benefits by 30% in tax year 2007, 60% in tax year 2008, and 100% in tax year 2009 and thereafter.

The Governor's partial veto deletes the three-year phase-in of a full exclusion for social security benefits, which would have started in 2007, and provides, instead, a full exclusion for social security benefits starting in tax year 2008. Compared to AB 100, as passed by the Legislature, the partial veto is estimated to increase individual income tax revenues by \$12,000,000 in 2006-07, and to reduce income tax revenues by \$4,100,000 in 2007-08 and \$24,100,000 in 2008-09.