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PENSIONS AND RETIREMENT PLAN ENACTMENTS IN 2009 STATE LEGISLATURES

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MAJOR ISSUES IN 2009

The principal theme in pensions legislation in 2009 was the need to make future pension costs manageable in the light of states' straitened fiscal circumstances and the enormous losses most retirement trust funds have experienced. Few benefit increases were enacted, and reductions in various forms appeared in a number of states. Some states enacted early retirement incentives with the goals of reducing the size of the state workforce. Some states protected employees who will be subject to mandatory furlough days (required days off without pay) from loss of retirement benefits for those days.

A number of states revised benefit packages for future employees to require longer service or higher ages for retirement, discourage early retirement even with reduced benefits, limit future cost-of-living adjustments, and tighten standards for disability retirement. Some states increased employer and employee contribution rates.

Such actions were taken within the framework of existing defined-benefit (traditional) pension plans; no state created a new defined contribution plan as its primary retirement package for public employees or as an option for existing or new employees. Several states created commissions or called for legislative interim committees to study the future of their retirement systems.

All the legislation mentioned below is reported in greater detail in this report. A list of the topics the report covers is at the end of this introduction.

REDUCTIONS IN NEW EMPLOYEES' BENEFIT PACKAGES

State law generally prohibits reductions in the benefits package promised existing employees. Although variations exist between states, as a rule significant benefit reductions can affect only those hired after the reductions are legislated. Examples from 2009 are

- Georgia—prohibition of post-retirement benefit increases for newly-hired public employees.

- Louisiana—reduced its commitment for post-retirement benefit increases for state employees, and provided a new arrangement by which employees may at their discretion provide for future annual cost-of-living increases.
- Nevada—increased age and service requirements for retirement for new employees, provided a somewhat smaller benefit as a percent of final salary, further reduced benefits for those taking early retirement and reduced its commitment to post-retirement benefit increases.
- New Mexico—created new retirement plans for state and municipal employees with higher age and service requirements for benefits, and disincentives to retire before the age of 60.
- New York—created new retirement tiers for state and local government employees and teachers that generally provide higher vesting, age and service requirements for retirement benefits, increase employee contribution requirements, and cap spiking.
- Rhode Island—raised the age of retirement from 60 to 62, provided a somewhat smaller benefit as a percent of final salary, reduced future annual benefit increases, and tightened eligibility for disability benefits.
- Texas—increased the age and service requirements for retirement in the state Employee Retirement System, provided a smaller benefit as a percent of final salary, and reduced the benefit available to those who take early retirement.

CONTRIBUTIONS AND FUNDING ISSUES

In this constellation of issues, states variously took actions to increase employee contributions (employer contributions in most states float up and down automatically as the funding status of retirement plans requires or allows); protect local governments from drastic increases in their required contributions to state-wide plans, or protect state budgets from such increases.

- Nebraska and New Mexico increased contribution rates for a number of state-sponsored retirement plans for both employers and existing employees.
- New Hampshire and Texas increased the contribution rates that new employees will pay and Texas initiated an employee contribution in the previously non-contributory plan for law enforcement personnel.
- Illinois provided for the issue of almost \$3.5 billion in bonds to cover state contributions to retirement plans in fiscal year 2010; Colorado suspended some state contributions for fiscal years 2009 through fiscal year 2011.
- New Jersey enabled local governments to reduce employer contributions to state retirement plans in the short run.

EARLY RETIREMENT INCENTIVES

Connecticut, Maine and Vermont enacted early retirement incentive plans intended to reduce the size of the state workforce. The incentives were directed to employees relatively close to retirement (for example, aged 50 or 55 or already eligible for retirement) and provided incentives either in the form of reduced retirement requirements, increased retirement benefits; increased health insurance benefits before reaching the age for Medicare (Vermont); or in Maine, and unusually for state early retirement incentives, cash. The Louisiana legislature enacted an early retirement incentive that Governor Jindal vetoed, citing concerns that positions affecting public health and safety were not exempted from its provisions.

PROTECTIONS FOR FURLOUGHED EMPLOYEES

An issue few states have ever had to address was the potential loss of retirement credit because of mandatory furloughs without pay, which in 2009 became a widely-employed technique to reduce state personnel costs. At least seven states—Iowa, Louisiana, North Carolina, Tennessee, Vermont, Washington and Wisconsin acted to protect the retirement benefits of employees in these circumstances (this report may have overlooked other states that did so). The Iowa legislation requires employees to make the employee and employer contributions that would otherwise have made. The North Carolina legislation requires employers to make the employee and employer contributions during a furlough. Some of the other states require employer contributions, and others are silent on the issue.

ABOUT THIS REPORT

This report summarizes selected state pensions and retirement legislation enacted from January through the end of 2009. Its goal 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, the report excludes 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 2009, listed at the end of this introduction.

Bills summarized below have been enacted into law unless there is a specific indication to the contrary. Not all legislation had been chaptered at the time this report was compiled. Some legislatures remain in session at the time of publication. The report also includes a few items of 2008 legislation that were not included in the 2008 version of this report.

The sources of this report are StateNet searches of current and enacted legislation, retirement systems' websites, state legislatures' reports of enacted legislation, and information provided by 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.

LIST OF TOPICS

Benefit Calculation and Eligibility	Ethics, Forfeiture of Benefits, Privacy
Contribution Rates and Funding Issues	Furloughs & Reductions-in-force
Cost of Living Adjustments	Governance and Investment Policy
Deferred Compensation Plans	Health Coverage
Defined Benefit Plan Changes	Military Service
Defined Contribution & Hybrid Plans	Re-employment after Retirement
Disability	Service Credit/ Purchase of Service
Divestment	Social Security
Early Retirement Incentives	Legislative Policy Studies
Elected Officials Retirement Programs	Tax Policy on Retirement Benefits

BENEFIT CALCULATION AND ELIGIBILITY

ARKANSAS. Act 1200 of 2009 (SB 164) amends the calculations for benefits and for straight life annuity under the Public Employees' Retirement System -- provides for additional multiplier of 0.5% for each year of service in excess of 28, effective July 1, 2009.

Act 1325 of 2009 (SB 231) provides that the calculations in the final average salary for members of the Teachers Retirement System are to be limited to 120% of the next highest salary used in the calculation of final average salary or an additional \$5,000, whichever is greater. [Arkansas TRS notes that this is the replacement provision to correct recurring problems with 110% rule on limiting the amount that a member's salary can increase from year to year for the purposes of calculating final average.]

Act 1326 of 2009 (SB 240) provides that all National Board Certification bonuses will now be included in the salary of all recipients for earnings and final average salary purposes. The bonus will be treated like all other salary earned by the member.

GEORGIA. Act 82 of 2009 (HB 452) prohibits post-retirement benefit increases to anyone who becomes a member of the Employees' Retirement System, Public School Employees Retirement System, the Legislative Retirement System and the Judicial Retirement System after July 1, 2009.

The legislature provided this explanatory preface to the Act: "The General Assembly is desirous of providing an established annual cost-of-living adjustment to all current active and retired members of the Employees' Retirement System of Georgia, the Georgia Legislative Retirement System, and the Georgia Judicial Retirement System. In order to do so, limiting future liability of the systems by adjusting the retirement expectations of persons who are newly employed is a regrettable but necessary step toward fiscal soundness."

GEORGIA. Act 83 of 2009 (HB 476) addresses spiking. It provides that an employing unit shall pay the retirement system the actuarial cost of granting an employee a salary increase in excess of 5 percent during the 12 months before an employee's retirement and that the computation of a retirement benefit for persons who become members on or after July 1, 2009, shall not include a compensation increase in the last 12 months of employment which exceeds 5 percent.

ILLINOIS. Act 95-1043 of 2009 (SB 1985) removes a Social Security offset to benefits provided to a widow or survivor of a State Employee Retirement System benefit when the survivor becomes eligible for Social Security benefits. All SERS retirees who began receiving benefits before January 1, 1998 will have the offset removed from future benefits for their survivor at no cost to the retiree. SERS retirees who began receiving benefits after January 1, 1998 but before July 1, 2009 will have a one-time election period (April 16–May 31) to reduce their retirement benefit by 3.825% monthly, in exchange for removing the offset from future benefits for their survivor. Any member who retires after July 1, 2009 will have the option at the time of retirement to remove the offset provision. In exchange for the removal, SERS will reduce the member's retirement annuity by 3.825% monthly.

MAINE. Chapter 433, Laws of 2009 (LD 1496) amends existing law, which allows a reduction in the consumer price index to be reflected in a reduction in the benefit to state employees, to provide that any reduction in the CPI be reset to 0% so far as it affects benefits.

MASSACHUSETTS. Chapter 21, Laws of 2009 (SB 2079) provides numerous reforms in eligibility requirements for public retirement benefits, addressing widely-publicized issues. The following summary of principal provisions is based upon a report from the Worcester (Mass.) Regional Research Bureau: <http://www.wrrb.org/documents/PensionUpdate09-03.pdf>

The act:

- Eliminates the ability of elected officials to get a full year's credit for as little as one day of service. The Boston *Globe* has reported that since 1991, 52 retired legislators have gained a full year for only one day of service, an average annual increase of \$16,350 each. Since departing legislators' terms do not officially end until their successor is sworn in at the beginning of the new legislative session in January, this loophole essentially provided an automatic pension boost for most legislators when leaving office.
- Eliminates the ability of elected officials with 20 years of public service to collect early, enhanced pensions if they lose an election or leave office voluntarily. This so-called "termination allowance" was intended when it was enacted in 1945 to protect civil servants against politically motivated firings. It was later expanded to apply to elected officials who had been voted out of office. Since 1991, the state Retirement Board has also allowed elected officials who step down voluntarily to increase their pension and collect it early. According to the *Globe*, 14 legislators have taken advantage of this loophole, 10 of whom departed office voluntarily.
- It eliminates "out-of-grade" accidental disability pensions. Normal, superannuation pensions are based on an employee's highest three years' average salary. Accidental disability pensions are based on the most recent salary which the employee was receiving at the time of a permanently disabling job-related injury. In January 2008, the *Globe* reported that 102 Boston firefighters had claimed such injuries while temporarily filling in for a superior at a higher pay grade, thereby managing to increase their pensions by an average of \$10,300 a year. This legislation ensures that in cases in which an employee suffers a job-related injury while elevated to a higher pay grade, most recent compensation will be calculated based on the prior 12 months' salary the employee received, not the salary on the day of the injury.
- Revised the definition of regular compensation upon which a benefit is calculated.
- Service in unpaid positions such as a local library board or moderator of a town meeting can no longer be claimed as creditable service for benefit calculation. An employee must be paid at least \$5,000 a year in order for the position to count as creditable service.
- Post retirement earnings limits are applied to retirees rehired by the government as independent contractors.

NEBRASKA. LB 403 of the 2009 session provides that members of any Nebraska retirement system who are not in the United States lawfully would not be eligible to receive a retirement benefit. (Currently, the School Employees plan requires lawful presence before an employee can join the plan.) The bill does not address what would be done with the benefits owed a current member who was in the United States illegally.

NEVADA. Chapter 426, Laws of 2009 (SB 427) changes eligibility for retiring with unreduced benefits for employee who join the Public Employees Retirement System (PERS) after 1/1/2010. For those who are not public safety members, eligibility for current members is 65/5, 60/10 or 30 years of service. This bill changes 60/10 to 62/10. For new police and firefighter members, the eligible age for retirement after ten years of service is raised from age 55 to age 60 and the option to retire at any age after 25 years of service is eliminated.

For current members the actuarial reduction for early retirement is 4% per year, prorated for months short of a year; for those joining systems on or after 1/1/2010 it will be 6% per year likewise prorated.

For current members the benefits formula is 2.5% of average final compensation (36 highest consecutive months) times years of service before July 1, 2001, plus 2.67% for years of service earned

thereafter. This bill removes the higher benefit factor for years of service after 7/1/2001 for those who join PERS after 1/1/2010.

For those who join PERS after 1/1/2010, the calculation of average final compensation will exclude increases in compensation to 10% per year for the 60-month period that begins 24 months before the 36 months used in the calculation of final average compensation. Employees so limited are entitled to a prorated refund of their contributions to PERS for the appropriate period.

OREGON. Chapter 691, Laws of 2009 (SB 767) provides that a public charter school shall be considered a public employer and as such shall participate in the Public Employees Retirement System.

RHODE ISLAND. Article 7, Chapter 68, Laws of 2009 (HB 5983 substitute as amended) made substantial changes in provisions for eligibility for retirement and benefits for many categories of public employees. The revisions are estimated to save in the neighborhood of \$50 million in general fund expenditures in FY 2010 (House and Senate estimates differ).

For State employees and teachers who are NOT eligible to retire as of September 30, 2009:

- Establishes a retirement age of 62 for all employees regardless of plan, with a methodology that proportionally changes age requirement based on years of service so the closer one is to retirement, the less the impact:
 - Plan A members – proportional to 28 years or age 60 with 10 years (retain 80% cap);
 - Plan B members – proportional to 59 and 29 years (retain 75% cap)
- NOTE: Plan B is the tier of pension provisions Rhode Island created in 2005 that provided a reduced package of benefits for members who had not at that time vested in the system and for all new members of the system. Plan A includes members who were vested (with 10 years of service credit) at that time.

For Corrections and Nurses proportional to age 55 and 25 years.

- Bases average final compensation for pension calculation on 5 years rather than 3 years (as under previous law) for members who become eligible to retire on or after October 1, 2009.
- Freezes service credits earned as of September 30, 2009 - but requires that all future accruals are earned at the Plan B schedule.
- Allows purchased credit to count toward total service time but not towards vesting (as in current law), and provides that credit must be purchased at full actuarial cost after June 16, 2009.
- Limits cost-of-living adjustments to the provisions in Plan B--3.0% or the change in CPI, whichever is lower.
- Must annually document disability status to Retirement Board;
 - Permanently disabled - continue current benefit of 66 2/3 of salary;
 - Disabled from service - benefit reduced from 66 2/3 to 50% of salary.
- Judges – Salary basis is 5 consecutive highest years and the maximum benefit would be 80% for judges retiring under full pay and 65% under reduced pay – Applies only to judges engaged after July 1, 2009.

TEXAS. Chapter 1308, Laws of 2009 (HB 2559), changes eligibility for retirement for members of the employee class of the Employee Retirement System hired after September 1, 2009. Under the new requirement, regular eligibility will be at 65/10 or the Rule of 80 with five years of service credit rather than 60/5 or the Rule of 80 with five years of service credit. For those employees, the act ends the ability to use accumulated annual leave or sick leave to help establish eligibility for retirement, but allows its use in determining the retiree's annuity amount. The base for calculating final average salary will change from the highest 36 to the highest 48 months. A member's annuity

will be reduced by 5% for each year the member lacks of reaching age 60, with a maximum reduction of 25%.

Similar provisions apply to newly-hired law enforcement and custodial officers. FAS will be based on the highest 48 months and the standard annuity will be reduced by 5% for each year the member retires before age 55 with a maximum reduction of 25%.

WASHINGTON. Chapter 522, Laws of 2009 (HB 1445) provides benefits to domestic partners under the Washington state patrol retirement system.

WISCONSIN. Act 29 of 2009 (Assembly Bill 75, the budget bill, *passim*) establishes that a domestic partner is treated like a spouse for purposes of public employee benefits including Wisconsin Retirement System benefits, health insurance (state and local), deferred compensation and other related benefits. Domestic partners must meet all of the following conditions:

- Be at least 18 years of age and otherwise competent to enter into a contract
- Neither individual is married to or in a domestic partnership with another person
- Neither individual is related by blood in any way that would prohibit marriage under Wisconsin law
- The two individuals consider themselves to be members of each other's immediate family
- The two individuals agree to be responsible for each other's basic living expenses
- The two individuals share a common residence.

CONTRIBUTION RATES AND FUNDING ISSUES

CALIFORNIA. Office of Public Affairs, CalPERS, June 17, 2009. 'The California Public Employees' Retirement System Board of Administration today decided to add an employer rate smoothing methodology for local governments and school employer rates. Specifically, the technical changes include:

- Expanding the current rate smoothing corridor from 80% to 120% of market value of assets (MVA) to 60% to 140% of MVA in the first year, to 70% to 130% in the second year, then back to 80% to 120% of MVA in the third year.
- Isolating and amortizing investment gains and losses in the next three years using a fixed and declining 30-year period as opposed to the current rolling 30-year amortization period.

"The Board took this action in recognition that the economic recession and likely investment losses could add unnecessary stress to already strained government budgets," said CalPERS Board President Rob Feckner. "The rate-setting modification isolates an extraordinary one-year event, spreads the need to pay additional contributions over a fixed 30-year period. It also allows local employers to pay a little less during the next three years than they otherwise would, while ensuring that the funded status of the CalPERS plan is not compromised."

COLORADO. Chapter 125, Laws of 2009 (SB 227); eliminates for the 2008-09, 2009-10, and 2010-11 state fiscal years, the state's annual contribution to the fire and police pension association (FPPA) to assist in amortizing the unfunded accrued liability of old hire pension plans; resumes the state's annual contribution to the FPPA beginning in the 2011-12 state fiscal year, and extends the contribution through the 2014-15 fiscal year.

ILLINOIS. Public Act 096-0043 of 2009 (SB 1292) authorized the issuance of \$3.466 billion in bonds for the purpose of making a portion of the state's FY2010 required contribution to statewide retirement systems. The bonds are to be payable within five years of their date of issue. An equal amount of general revenue is to be spent upon human services programs in the state.

KANSAS. Chapter 137, Laws of 2009 (HB 2072) requires the Kansas Public Employee Retirement System (KPERs) contribution rate for both the state group and the school group to be equal to the statutory rate in FY 2010 and subsequent fiscal years. Any additional contributions for the state group in excess of those required by the actuarial rate that are a result of using the statutory rate and that are remitted to KPERs will be credited to the school group. The fiscal note indicates that State General Fund savings of approximately \$2.6 million will result in FY 2010. For FY 2010 and FY 2011, the state group would have paid the lower actuarial rate rather than the statutory rate, based on the December 31, 2007 actuarial valuation if the law had not been changed.

KENTUCKY. Chapter 65, Laws of 2009 (HB 117) establishes a ten year phase-in of the actuarially required employer contributions to the County Employees Retirement System for the funding of retiree health benefits; requires the systems' board of trustees to amend employer rate.

LOUISIANA. Act 497 of 2009 (SB 296) refinances the unfunded accrued liability (UAL) of the State Employee Retirement System and the Teachers Retirement System. The existing UALs will be amortized over the period extending to 2040. Amends existing provisions that govern the amount of trust fund earnings in excess of actuarial projections that are transferred to an account to provide for cost-of-living adjustments. This act increases the amount of such earnings that will be retained in the trust fund to amortize the UAL. The act provides a schedule of increased employer contributions to the two systems' trust funds through FY 2029. The act places limits on the granting of COLAs and changes the terminology from "cost-of-living" adjustment to "permanent benefit increase." It provides that after July 1, 2009, such increases will be limited to those who have been retired for at least one year and who are at least 60 years old.

NEBRASKA. LB 187, LB 188, LB 315 and LB 414 of 2009 included provisions to strengthen funding for several Nebraska retirement plans. LB 187 provides that, beginning September 1, 2009, school employees' contribution rate increases from 7.28 percent to 8.28 percent. Employees will contribute at the increased rate until September 1, 2014, at which time the rate will revert to 7.28 percent. In the same period, employers' contribution rate will increase from 7.35 percent to 8.36 percent. Beginning July 1, 2009, the state contribution to the School Retirement Fund will increase from 0.7 percent to 1 percent. The state will contribute at the increased rate until July 1, 2014, at which time the rate will revert to 0.7 percent.

The state will also appropriate \$20 million from the General Fund to the School Retirement Fund in fiscal year 2010-2011 and \$40 million in fiscal year 2011-2012 (LB 315). Total increased funding will about to \$237.5 million over the five-year period.

LB 188 increases the employee contribution for State Patrol members from 13 percent to 15 percent of salary beginning July 1, 2009 to match the existing employer rate of 15 percent. The bill prescribes an additional, permanent increase for both employee and employer to 16 percent of salary on July 1, 2010. The contribution increases will yield \$1.3 million in additional revenue for the State Patrol fund in fiscal year 2010-2011. The state also will make General Fund payments of \$1.15 million in fiscal year 2010-2011 and fiscal year 2011-2012 to the troopers' fund (LB 315).

LB 414 raises judges' contribution rates one percent for five years beginning July 1, 2009. The increase means that judges will contribute one percent, five percent, seven percent, or nine percent of salary, depending on factors such as hiring date, length of service, and type of benefit chosen. The contribution increase will raise \$1 million over five years for the judges' retirement fund. The act also raises court fees from \$5 to \$6 for the same five-year period, yielding \$2 million over that time. Fees are, in effect, the state matching contribution for the judges' retirement plan.

LB 187 also permanently increased required employer and employee contributions to the Omaha School Employees Retirement System: for employees from 7.3% of salary to 8.3%; for employers from 7.37% to 8.38%.

NEVADA. Chapter 426, Laws of 2009 (SB 427) changes current law that requires a reduction in the employee contribution rate for the Public Employee Retirement System (PERS) to affect those who join the system on 1/1/2010 or after. PERS may retain contributions that exceed the actuarially-required rate by no more than 2% to reduce its accrued unfunded liability.

NEW HAMPSHIRE. §§144.5ff of Chapter 144, Acts of 2009 (HB 2, the general appropriation act), increases the employee contribution rate for the New Hampshire Retirement System for members hired after June 30, 2009, from 5% of salary to 7% of salary. The employer contribution rate for non-state government employers will increase from 65% of the actuarially-required contribution in FY 2009 to 70% in FY2010 and to 75% in FY 2011 [state government contributes the remainder]. The non-state employer contribution will revert to 65% for FY2012.

NEW JERSEY. Chapter 19, Laws of 2009 (SB 21), provides for a reduction in the contributions that local employers must make to the Public Employee Retirement system (PERS) and the Police and Firefighters Retirement System during fiscal year 2009. The state treasurer will reduce the normal and accrued liability contributions of local employers to 50 percent of the amount certified annually by the PERS and PFRS for payments due in fiscal year 2009.

NEW MEXICO. Chapter 127, Laws of 2009 (HB 854), amends the Public Employees Retirement Act and the Educational Retirement Act to increase temporarily the employee contribution rates and decrease the employer contribution rates for employees with an annual salary greater than \$20,000. The increase in the employee contribution rate is 1.5% of salary and will be effective from July 1, 2009 through June 30, 2011. The decreased employer contribution rate is expected to save the state general fund approximately \$42 million during fiscal year 2010.

The Santa Fe *New Mexican* reported on June 15, 2009, that employee unions had sued to overturn the law requiring an increase in the employee contribution rate as unconstitutional.

OKLAHOMA. Chapter 88, Laws of 2009 (SB 397), allows total employer and employee contribution for retirement benefits for county employees, employees of courts and employees of the Law Library to rise to 16.5% in fiscal year 2011 and subsequent fiscal years, from the present cap of 10%.

TEXAS. Chapter 1308, Laws of 2009 (HB 2559), increases the contribution requirement for employee members of the Employee Retirement System from 6.0% to 6.45% of payroll. For law enforcement and custodial members, a new contribution rate of 0.5% was established. Their plan previously was noncontributory.

VERMONT. Act 24, Law of 2009 (HB 431) alters the terminal date of the 30-year period for funding the unfunded accrued actuarial liability of the Vermont Retirement System from 2018 to 2039 and repeals a statutory requirement that the annual contribution (as required by the actuarial funding schedule) increase by least 5% annually.

WASHINGTON. Chapter 561, Laws of 2009 (SB 6161) provides that the total salary growth assumption used in the PERS, SERS, TRS, PSERS, WSPRS, and the LEOFF Plan 1 is reduced from the 4.25 % per year adopted by the Pension Funding Council to 4% per year. The adoption of revised mortality tables and minimum contribution rates for the same plans is delayed until after the 2009-11 fiscal biennium, except that WSPRS minimum rate reduced to 50% of the entry age normal cost rather than suspended for the biennium.

Between July 1, 2009, and June 30, 2011, the contributions collected for the amortization of the PERS Plan 1 UAAL are made at 1.13% of pay in PERS and PSERS. Between September 1, 2009, and August 31, 2011, the PERS 1 UAAL amortization rate for SERS is 1.13%. Between September 1, 2009, and August 31, 2011, contributions collected for the amortization of the TRS Plan 1 UAAL are made at 1.85% of pay in TRS. After these rates expire, the funding method used to pay off the Plan 1 UAAL is revised so that contributions are set at the level required to amortize the UAALs over a rolling 10-year period, subject to minimum contribution rates of 5.25% of pay in PERS, SERS, and PSERS and 8% of pay in TRS.

A Washington State Senate report on the enacted 2009-2011 budget reports that the measures described above save \$449 million by modifying the actuarial assumptions and methods used for determining public employee retirement contributions. The changes include: (1) phasing in the adoption of a new funding method for the Plan 1 unfunded liabilities; (2) changes to assumed salary growth assumptions; (3) temporarily suspending the minimum contribution rates; and (4) delaying the adoption of new mortality tables until the 2011-13 biennium. (Washington State Senate, "Final 2009-2011 Operating and Capital Budget Overview," p. 4.)

COST OF LIVING ADJUSTMENTS

GEORGIA. Act 82 of 2009 (HB 452) prohibits post-retirement benefit increases to anyone who becomes a member of the Employees' Retirement System, Public School Employees Retirement System, the Legislative Retirement System and the Judicial Retirement System after July 1, 2009.

The legislature provided this explanatory preface to the Act: "The General Assembly is desirous of providing an established annual cost-of-living adjustment to all current active and retired members of the Employees' Retirement System of Georgia, the Georgia Legislative Retirement System, and the Georgia Judicial Retirement System. In order to do so, limiting future liability of the systems by adjusting the retirement expectations of persons who are newly employed is a regrettable but necessary step toward fiscal soundness."

LOUISIANA. Act 144 of 2009 (House Bill 586) provides retirees, beneficiaries, and survivors with a benefit below \$1,200 a month a minimum benefit increase with several requirements including having 30 or more years of service credit, being at least 60 years of age, and having been retired for at least 15 years. None of them is to receive an increase of more than \$300 a month.

LOUISIANA. Act 270 of 2009 (House Bill 96) allows a member of any state-wide retirement system who retires after July 1, 2009, to self-fund a guaranteed 2.5% annual cost of living adjustment through an actuarial reduction of benefits. Any COLA provided by the retirement system will be in addition to the self-funded annual 2.5%.

LOUISIANA. Act 497 of 2009 (SB 296) places limits on the granting of COLAs and changes the terminology from "cost-of-living" adjustment to "permanent benefit increase." It provides that after July 1, 2009, such increases will be limited to those who have been retired for at least one year and who are at least 60 years old (current law: 55 years old). The law adds controls to permanent benefit increases given by the State Employee Retirement System (LASERS). Under existing law, the Experience Fund, which receives revenue under certain conditions when investment return exceeds the actuarial assumption (8.25% a year) must hold funds sufficient to amortize the full cost of such an increase. Additional controls now applied to LASERS are that if the actuarial return for a year is below the assumption and the fund is below 80% funded, no increase can be granted. If the investment return is below the assumption but the fund is 80% or more funded, an increase up to

CPI capped at 2% can be given. If the investment return exceeds the actuarial assumption, the cap on an increased will be 3%.

NEVADA. Chapter 426, Laws of 2009 (SB 427), reduces postretirement increases for those who become members of the Public Employee Retirement System on or after 1/1/2010. Current law provides for a gradually increasing percentage in the COLA until the retiree has reached a 14th anniversary of retirement when it reaches 5% annually. This bill provides that the 12th anniversary amount of 4% annually will be in effect thereafter.

DEFERRED COMPENSATION PLANS

TEXAS. Chapter 444, Laws of 2009 (HB 2283) authorizes the automatic enrollment of all state employees in TexaSaver, a deferred compensation plan, at one percent of their salary. The bill also authorizes the state to match employee savings, but does not authorize any funds. It authorizes the Employee Retirement System to make a contribution under this section if the trust fund receives amounts sufficient to cover normal cost, and maintains a funded ratio equal to or greater than 90 percent.

Chapter 1177, Laws of 2009 (HB 3480) is intended to protect teachers' investments in 403(b) plans by requiring firms that offer investment products to register with, be licensed by, or be regulated by the Texas Department of Insurance (TDI), the State Securities Board (SSB), and the Texas Department of Banking (TDB), respectively, and to require that their products are approved by the Teacher Retirement System of Texas (TRS). This would ensure that all service providers and their products were appropriately vetted before a company could enter a contract with a school district. The bill would also allow TDI, SSB, and TDB to investigate any complaint received from TRS regarding this issue. This, in addition to fines ranging up to \$1 million, would be an effective deterrent to fraudulent activity. The bill also would increase teacher 403(b) investment options by allowing TRS to certify other non-annuity investment programs, known as mutual fund platforms. This would provide teachers with access to multiple mutual fund families at potentially lower costs than current offerings. H.B. 3480 amends current law relating to certain investment products made available to certain public school employees and the companies authorized to provide those products and provides penalties. (from authors' statement of intent).

DEFINED BENEFIT PLAN CHANGES

ARKANSAS. Act 657 of 2009 (SB140) provides that for retirement purposes in the Public Employee Retirement System (PERS), a member must be terminated from employment for a period of 180 days. However, if a member was participating in the PERS DROP on January 1, 2009 and/or retired between the period of January 2009 and June 2009, this is waived and they may return to employment otherwise covered by PERS no sooner than 30 days.

Act 742 (SB163) allows current non-contributory members a six-month window to elect coverage under the new contributory plan (effective July 1, 2005) that will be effective on January 1, 2010.

Act 1242 of 2009 (SB 138) combines the State Police Retirement System (SPRS) with the Public Employees Retirement System (PERS) to the extent that the funds of the SPRS are to be commingled with those of PERS for investment purposes. The act reduced the size of the SPRS Board of Trustees from 12 to seven members, and repealed its authority to direct investment of its trust fund. The Board is prohibited from making any recommendations for benefit enhancements

that would prolong the actuarial funding of the unfunded liability beyond 30 years. The act also created a new DROP for SPRS members.

COLORADO. Chapter 288, Laws of 2009 (SB 282) provides for merger of the Denver Public Schools Retirement System (DPS) with the Public Employees' Retirement Association (PERA); creates a separate Denver public schools division and trust fund within PERA; incorporates the provisions of the existing DPS plan into statute; requires the PERA board to administer the provisions of the plan for DPS members; allows benefits to be portable between the Denver public schools division and the other divisions of PERA; allows for disability benefits. The employer contribution rate for the DPS division of PERA will be 13.75% from 1/1/2010 until 12/31/2012 and 14.15% thereafter. The employee contribution rate will be 8%.

http://www.state.co.us/gov_dir/leg_dir/olls/sl2009a/sl_288.htm.

MINNESOTA. Legislation to authorize the consolidation of the Minneapolis Employees Retirement Fund general employees' retirement plan with the Minnesota Public Employees Retirement Association died in committee in 2009.

MINNESOTA. Chapter 169, Laws of 2009 (S 191) creates a phased retirement plan for members of the Public Employee Retirement Association (PERA), which includes local-government sponsors of retirement plans as well as state employees.

Employers have full discretion over granting phased retirement to any PERA member. The initial offer must not exceed one year, but it can be renewed for periods of up to a year for a total of five years. An employer is under no obligation to renew a Phased Retirement agreement. If mutually agreeable between the member and his or her employer, the member may begin collecting a PERA benefit without the normally required 30-day break in service and prohibition against having any agreement to return to work with the current employer. Participants are also exempt from PERA's earnings limits that apply prior to full Social Security retirement age. In addition, neither the member nor the employer is required to make any further contributions to PERA. Since the member is now receiving a pension, he or she will cease to earn service credits and there will be no future adjustment to the high-five average salary.

Upon the completion of the phased retirement, a member must meet the requirements normally applied to someone who is terminating public service, including the prohibition of any future employment agreement, and the minimum 30-day break in public service. If the retiree later returns to PERA-covered employment, the earnings limits would apply.

A current retiree cannot participate in the program. The option is set to sunset June 30, 2011. To qualify, a member must meet all other requirements for a pension from PERA; be at least 62 years of age; have worked at least half time in a PERA-covered position for a minimum of five years immediately prior to beginning Phased Retirement; and not be eligible for the State Employee Postretirement Option program (for PERA members who are state employees). In addition, the member must also agree to a reduction of hours worked of at least 25 percent, not to exceed 1,044 hours per year--essentially half time or less. To participate, the member and employer must file a Phased Retirement Agreement form with PERA.

NEW MEXICO. Chapter 288, Laws of 2009 (HB 573), creates new retirement plans for state and municipal general members of the Public Employee Retirement Association (PERA) other than peace officers. Retirement eligibility under the new plans is any age and 30 or more years of service credit, age 67 or older and five or more years of service credit or the "rule of 80". The bill also contains a new retirement plan for members of the Education Retirement Board (ERB). Retirement

eligibility under the new ERB plan is the same as under the new PERA plans, except benefits are reduced for a member retiring under the rule of 80 if the member is under 60 years old. The new retirement plans are effective July 1, 2011 and will apply to employees hired on or after July 1, 2010. The bill extends the period during which a retired member under the ERB may return to work; changes the provisions for acquiring service credit for military time under the ERB; and requires annual training for PERA and ERB board members.

NEW YORK. Assembly Bill 40026 and Senate Bill 66026, enacted December 2, 2009, created new tiers for state and local government public safety employees (outside New York City), general employees and teachers.

The measure provides a new tier of pension benefits for all new employees who are members of the New York State and Local Retirement/Police and Fire Retirement System. This will not affect new New York City police and fire retirement system members. The new tier will:

- Require a 3% member contribution for the length of service (same as previous Tier 3);
- Require 10 years of creditable service in order to vest with the retirement system (up from five years); and
- Limit the amount of overtime that can be used in the calculation for final average salary to 15 percent of regular annual wages.

In addition, the legislation establishes a Tier V plan for members of the New York State and Local Retirement System/Employees Retirement System for employees whose start date is on or after January 1, 2010. The plan will:

- Limit the amount of overtime that can be used in the calculation for final average salary. The overtime ceiling would be \$15,000 annually starting January 1, 2010, and would increase by three percent annually;
- Require ten years of creditable service in order to vest with the retirement system;
- Increase the penalty for retirement before age 62 to a maximum of 38 percent; and
- Raise the minimum retirement age to 62.

The Tier V plan for the New York State Teachers' Retirement System for employees whose start date is on or after January 1, 2010, will:

- Require ten years of creditable service in order to vest with the retirement system;
- Raise the minimum retirement age to 57 with thirty years of service;
- Make permanent retiree health insurance protections; and
- Allow for an early retirement incentive.

The bill also changes benefits for new employees of the New York City Teachers' Retirement System and the New York City Board of Education Retirement System who are represented by United Federation of Teachers. This plan will:

- Require ten years of creditable service in order to vest with the retirement system;
- Require 4.85 percent annual member contributions to the retirement system for the first 27 years of credited service and 1.85 percent annual member contributions for service beyond 27 years (an increased contribution rate from existing law which is no higher than 3%); and
- Fix a seven percent interest rate on the tax-deferred account in the annuity savings fund of participants.

DEFINED CONTRIBUTION AND HYBRID PLANS

COLORADO. Chapter 73, Laws of 2009 (SB 66), transfers the administration of the State Public Officials' and the Employees 457 Plan to the Public Employee Retirement Association as of July 2009, and allows certain members of the DC plan as of 2006 to transfer to the PERA DB plan. The separate PERA DC plan will continue, and all new DC plan participants will become members of it, though the provisions of the existing Public Officials' Plan will continue for its existing members.

NEBRASKA. LB 188 of 2009 waives the 2009 minimum distribution requirement for members of the defined contribution plans for state and county employee retirement programs, reflecting a recently-enacted federal temporary moratorium. The intent is to allow time for investments to recover before mandating withdrawals from DC plans.

DISABILITY

RHODE ISLAND. Article 7, Chapter 68, Laws of 2009 (HB 5983 substitute as amended) requires that recipients of disability benefits must annually document disability status to Retirement Board;

- Permanently disabled - continue current benefit of 66 2/3 of salary;
- Disabled from service - benefit reduced from 66 2/3 to 50% of salary.

DIVESTMENT

FLORIDA. Chapter 97, Laws of 2009 (SB 97) requires the FRS Investment Plan to offer at least one terror-free investment fund by March 1, 2010, if the fund is determined by the SBA to be consistent with prudent investor standards. A terror-free fund excludes any companies doing business in Iran or Sudan (under certain conditions).

INDIANA. HB 1547 requires the Public Employee Retirement Fund (PERF) to contact companies with which PERF has investments if those companies have business operations in countries that sponsor terror. Requires PERF to request that those companies discontinue business operations in those countries and to divest from companies that are unresponsive to the requests.

MINNESOTA. Chapter 90, Laws of 2009 (HF 211) specifies conditions under which the State Board of Investment (SBI) must divest equity and debt holdings (and not make new investments) in companies subject to federal sanctions because of their active business operations in Iran. SBI invests pension funds in Minnesota.

UTAH. Chapter 54, Laws of 2009 (HB 211) requires the Utah State Retirement Office to identify companies with business operations in Iran in which the public fund has direct holdings. In making the determination, the board shall review and rely on publicly available information regarding companies with business operations in Iran, including information provided by nonprofit organizations, research firms, international organizations, and government entities. Such companies are to be listed and reported to state officials annually.

DROP

FLORIDA. Chapter 2009-209, Laws of Florida (House Bill 479) affects DROP for elected officials. It provides that the DROP account will no longer earn interest after DROP participation ends if DROP participation begins on or after July 1, 2010; the participant holds an elective office covered by the Elected Officers' Class at the end of DROP; and the elected officer chooses to delay

termination to the end of the term or successively held term after his/her DROP participation has ended.

EARLY RETIREMENT INCENTIVES

CONNECTICUT. Special Act 6 of 2009 (HB 6718) creates a retirement incentive program (RIP) for nonunion state employees who are at least age 55 by June 30, 2009 and (1) have at least 10 years of actual state service not including purchased service credits or credits transferred from another employer or, (2) for hazardous duty employees, have at least 20 years of actual hazardous duty state service regardless of age. It also creates a retirement incentive for members of the Teachers' Retirement System (TRS) and the Alternate Retirement Program (ARP), who must be at least age 55 by June 30, 2009.

In general, eligible employees must retire effective June 1, 2009 or July 1, 2009, although there are exceptions for certain groups of employees.

Eligible employees will receive up to three years of service added to their state service for purposes of calculating their retirement benefit under the State Employee Retirement System (SERS) or the Teachers Retirement System (TRS), as appropriate. Eligible members of the Alternate Retirement Program (ARP) will be paid a \$ 6,000 in three equal installments of \$ 2,000 each. The payment dates are: July 2012, July 2013 and July 2014. Eligible part-time ARP members will receive a prorated amount.

The act requires the administrative services commissioner, in consultation with the comptroller to make two reports on the savings realized from the retirement incentive program. The reports are due by October 15, 2009 and June 15, 2011. They must include (1) the numbers of union and nonunion employees who participated, (2) each agency's savings from the program, and (3) how much of the savings are offset by refilling positions vacated by participating retirees (Source: Conn. Office of Legislative Research bill analysis at <http://www.cga.ct.gov/2009/BA/2009HB-06718-R01-BA.htm>).

LOUISIANA. House Bill 513 of 2009 (vetoed) provides an early retirement option for members of the State Employee Retirement System (LASERS). It allows a member to retire at age 50 with 10 years of service credit (not including purchased military credit) with an actuarial reduction in benefits. Those choosing the option would not be eligible for reemployment for two years and their position would be abolished pending further review. The legislation includes a number of controls and reporting requirements intended to further the purpose of reducing the total number of state employees for reasons of economy. Governor Jindal vetoed the bill from concern that the bill "does not include current law's exceptions for critical positions that have a direct impact on patient care or for critical positions that have a direct impact on public safety, such as State Troopers," according to his veto message of July 10, 2009.

MAINE. Chapter 213, Laws of 2009 (LD 353), Part Y, authorized an early retirement incentive program for state employees who reached their normal retirement age on or before July 1, 2009. Additional criteria are (1) employees in the regular plan must have had 10 years of service by July 1, 1993 and had to be either age 60 with 10 years of service by the date, or age 59 ½ with 25 years of service by date. Employees in the regular plan who had less than 10 years of creditable service on July 1, 1993, were eligible if they were at least age 62 on July 1, 2009 and had at least 10 years of creditable service. Employees in special plans had to meet age and service requirements of those plans.

Eligible employees who agree to retire on July 1 or August 1 or September 1, at their discretion, will receive a cash payment of \$10,000, which will be prorated for part-time or seasonal employees. The payment will be made from departmental funds in January 2010, is subject to income tax, and will not be included in the calculation of final average compensation.

Positions vacated will be frozen through June 30, 2011; critical positions can be refilled only if a department can find comparable savings from other sources.

VERMONT. HB 441 (the general appropriations act), §E.135.2, created an early retirement incentive program for state employees who are eligible for normal retirement as of July 1, 2009, provided they do not purchase service credit in order to become eligible and provided they are among the first 300 people to apply for the incentive. Those who submit applications by June 30 for July 1, 2009, retirement are entitled to a state commitment to pay at least 80% of the cost of the premium for primary or secondary health insurance for the retiree and the retiree's dependants for 10 years; \$500 per year of service if the employee has fewer than five years of creditable service; \$750 per year for those with five to 15 years; and \$1,000 per year for those with 15 years of service or more. Those who apply after June 30 but before August 31 are eligible for the same bonuses but not the continued health insurance subsidies. Employers may arrange staggered retirement dates for the purpose of workload management. Employees who receive a retirement incentive may not return to state employment for one fiscal year, with allowance for approved exceptions. No employee may receive more than \$15,000 in bonuses. The money will be paid in two installments in FY 2010 and FY 2011. The Joint Fiscal Committee may increase the number of people eligible for the payments.

News accounts indicate that about 1,000 state employees are eligible for the incentive and that the state treasurer thinks it will produce savings in the state starting about a year after the retirements occur.

ELECTED OFFICIALS' RETIREMENT PROGRAMS

NEW MEXICO. Chapter 285, Laws of 2009 (HB 683) allows retired members of the Public Employee Retirement Association to return to employment with an affiliated public employer as elected officials without a break in retirement benefits. Such elected officials may collect both their pensions and a salary without making contributions to the retirement fund for their term of office.

WEST VIRGINIA. Chapter 76, Laws of 2009 (SB Bill 244) prohibits double dipping by unopposed politicians who retire before an election and resume office ultimately collecting both a salary and a pension from taxpayers, by limiting the ability of an elected or appointed public official to retire from his or her position, and begin to receive or continue to receive an annuity if he or she is reelected or reappointed to the same position within twelve months of retirement. A retiree may accept temporary full-time or temporary part-time employment from a participating employer without suspending his or her retirement annuity, so long as he or she does not receive annual compensation in excess of \$15,000. A retiree may be employed by the Legislature on a per diem basis without suspension of the retirement annuity, if the retiree's annual compensation from the Legislature does not exceed \$20,000.

ETHICS, FORFEITURE OF BENEFITS AND PRIVACY ISSUES

ARKANSAS. Act 260 of 2009 (SB 188) clarifies that members of the boards of trustees of the local police and firefighter pension funds must report gifts whose value totals \$100 or more.

NEW MEXICO. Chapter 248, Laws of 2009 (HB 722) and its duplicate, Chapter 240 (SB 490), prohibit the Legislative Council Service, the Education Retirement Board (ERB) or any employee or contractor of the board from allowing public inspection or disclosure of certain private information about members or retired members under the ERB. The bill provides a criminal penalty for violations.

OKLAHOMA. SB 899 removes a violation of oath of office as the basis for forfeiture of retirement benefits by any elected or appointed state or county officer or employees. The act specifies that conviction of a felony for bribery, corruption forgery or perjury or any other crime related to the duties of his or her office or employment, or related to campaign contributions or campaign financing for that or any other office shall result in the forfeiture of retirement benefits. Requires the retirement system to immediately suspend all benefits of the officer or employee upon notice of forfeiture. Provides procedures for the retirement system to follow in order to determine whether the conviction or pleas subjects the benefits of the officer or employee to forfeiture if the conviction or plea occurs in federal courts or the notice of forfeiture is not forthcoming from the local prosecutor. Provides that the officer or employee is entitled to a hearing to determine whether a conviction falls within the provisions requiring forfeiture of benefits.

OREGON. Chapter 68, Laws of 2009 (SB 30) adds the Director of the Public Employees Retirement System to the list of officials required to file statements of economic interest.

FURLOUGHS AND REDUCTIONS IN FORCE

IOWA. House File 414 of 2009 (signed by governor), § 51, allows a furloughed employee to make up employee and employer contributions to keep IPERS-reported wages at an unreduced level. The legislation applies only to employees for whom the year in which the furlough occurs is one of the three used to determine the employee's final average salary for the benefit calculation.

LOUISIANA. Act 301 of 2009 (House Bill 673) provides a mechanism for institutions of higher education to continue employer and employee contributions for a worker who has been furloughed for no more than 30 days a year. This legislation addresses anticipated cost cutting at the state's public colleges and universities

NORTH CAROLINA. Chapter 26, Laws of 2009 (HB 917 and SB 1093) provides that any public employees whose pay is reduced because of a furlough will not suffer any diminution of retirement average final compensation; provides that the reduction in pay and flexible leave does not apply to justices, judges, and officers whose salaries are protected from reduction; provides that employees of the legislative branch, the judicial branch, and local boards of education are subject to reductions.

Chapter 451, Laws of 2009 (SB 202, the budget bill) §26.14E.(b), provides that no member of a state-sponsored retirement plan will suffer diminution of benefits because of a furlough and that the employer will pay employer and employee contributions during a furlough.

TENNESSEE. Chapter 142, Laws of 2009 (SB 1359), provides that if the regularly scheduled hours of work for any full-time state officer or employee are temporarily reduced by 30 percent or less, then the amount of service and salary credit under the retirement system that the officer or employee would have received had the scheduled hours not been reduced would continue to be included for purposes of computing retirement, death, and disability benefits. The director of the division of retirement must prescribe procedures for the reporting of the additional service and salary, and for the payment and remittance of the contributions to the retirement system by the employer of the employee or officer. These provisions would have retroactive application to January 1, 2009.

Any employer participating in the retirement system as a local government unit that reduces on a non-permanent basis the regularly scheduled hours of work by no more than 30 percent per month for its full-time officers, employees or teachers pursuant to a resolution or ordinance of its chief governing body, which was enacted by reason of shortage of funds, may authorize the above provisions for all its affected full-time officers, employees and teachers upon the adoption of a resolution by its chief governing body authorizing and accepting the liability thereof. The effective date of these provisions may be made retroactive to January 1, 2009, or on the first day of any month thereafter.

VERMONT. HB 441, § E135.3, of 2009, provides that a permanent state employee who is laid off between May 1, 2009 and January 1, 2011 and who is within one year of eligibility for normal retirement may retire without any actuarial reduction in benefits as if the employee met the eligibility requirements of his or her retirement plan.

WASHINGTON. Chapter 430, Laws of 2009 (SB 6157) requires the Department of Retirement Systems, in calculating average final compensation for a member of plan 1, 2, or 3, to include any compensation forgone by the member during the 2009-11 fiscal biennium as a result of reduced work hours, voluntary leave without pay, or temporary furloughs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer.

WISCONSIN. Act 29 of 2009 (Assembly Bill 75, the budget bill) requires that Wisconsin public employers, including the University of Wisconsin, make contributions for retirement benefits for employees furloughed in the period July 1, 2009, through June 30, 2011 as if they had not been furloughed. Furlough time will be included in the definition of creditable service as though the participant had not been furloughed.

Executive Order #285, issued by the Governor on June 23, 2009, requires employees of state agencies and the University of Wisconsin System, including faculty and academic staff, to take eight days or their equivalent (64 hours) of unpaid leave (furlough days) during each fiscal year of the 2009–2011 fiscal biennium, for a total of sixteen furlough days (128 hours) over the two-year period.

GOVERNANCE AND INVESTMENT POLICY

ARKANSAS. Act 1211 of 2009 (SB 812) creates a consistent review process for a contract by a state agency that results in an agreement with a legal entity including a partnership, a limited partnership, a limited liability company, or similar legal entity that includes a state retirement system as a partner, a limited partner, or a partial owner, creates an equity interest or ownership position for the state retirement system and utilizes retirement trust funds that are not appropriated by the General Assembly.

CALIFORNIA. Chapter 369, Statutes of 2008 (AB 1844) requires public agencies to report electronically the most current actuarial valuation within 9 months of end of fiscal year to the State Controller. Also requires the State Controller to develop cost-effective procedure to collect and report this information and post on Controller's web site. (4) Requires State Controller to publish its annual report on financial condition of all state and local public retirement systems within 12 months of receiving information from systems and agencies, but no more than 18 months after the end of the fiscal year.

Chapter 371, States of 2008, (SB 1123) requires state and local legislative bodies, including community college districts, to review the impact of future annual costs associated with OPEB

increases before their approval. These actuarial impact statements must include normal cost and any additional accrued liability, produced by an actuary, signed by the agency chief executive officer, and made public at a meeting of the legislative body at least two weeks prior to its adoption. It also requires an actuary to attend the meeting where the adoption of a new pension benefit or OPEB is considered, and prohibits the legislative body from approving new benefits or benefit increases by means of a consent calendar. In addition, the bill creates a California Actuarial Advisory Panel (Panel) to provide impartial and independent information on pensions, OPEB's, and best practices to the public agencies.

GEORGIA. Act 44 of 2009 (HB 371) allows retirement funds in the state with more than \$200 million in assets and smaller retirement funds that meet specified criteria on actuarial funding to expand their investments in equities to as much as 75% of assets on or after July 1, 2011 (with provisions for moving gradually to that apportionment.) Previous cap was 60% for large funds (then defined as \$50 million in assets) and 55% for other funds. The bill also removes the 15% restriction on investments in corporations or obligations of corporations in countries other than the U.S. and Canada.

ILLINOIS. The Government Ethics Act of 2009, Act 96-006 (SB 364), requires the state treasurer to convene a working group of members from the retirement systems and investment boards of the state to review the performance of investment managers and consultants and set standards for comparing the costs of investment service, working with the Commission on Government Forecasting and Accountability (a legislative agency). Requires pension systems and investment boards of the state to adopt policies setting forth criteria for utilizing emerging fund managers in three categories: minority-owned businesses, businesses owned by women, and businesses owned by people with disabilities. They are also to adopt policies to increase the racial, gender and ethnic diversity of fiduciaries. The legislation tightens ethical standards and prohibitions against insider dealing or transactions which could personally benefit a board member, employee or consultant. Requires new policies for competitive process in the acquisition of consulting and investment services. Specifies disclosure and contractual provisions. Requires extensive, detailed on-line publication of information about assets, returns, financial managers, all consultants, RFPs, and investment performance measured against benchmarks. Requires at least eight hours of ethics training a year for board members. Tightens numerous ethics standards for board members and employees.

The act terminated the terms of trustees of various state retirement systems and the employment of the executive director of the teachers' retirement system, and reconstituted the boards to increase the number of board members appointed by the governor.

MAINE. Chapter 322, Laws of 2009 (LD 1292) provides details of information about the Maine Public Employees Retirement System that the system is to report annually to the legislature, and specifies educational and outreach services that the system is to provide to members. It specifies that an employer's error in enrolling an employee in the correct retirement system is not to cost the employee any benefits, and that employers are responsible for and must submit employer contributions to the system. The act specifies procedures to be followed in the system's consideration of an employee request for disability retirement.

MARYLAND. Chapter 393, Laws of 2009 (HB 448/SB 178) authorizes the Chief Investment Officer for the State Retirement and Pension System to select and invest in certain investment vehicles on behalf of the System; provides that certain external investment managers for the State Retirement System shall be selected by the Chief Investment Officer; increases the current fee cap for externally managed investment assets to a specified percentage of a specified determination of market value for the State Retirement and Pension System.

MARYLAND. Chapter 561, Laws of 2009 (HB 977/SB 592) prohibits the Board of Trustees for the State Retirement and Pension System from using forfeitures of benefits by a member or former member of the systems to pay for benefit increases; requires use of the forfeitures to reduce employer contributions.

MISSOURI. HB 265 (approved by governor) allows the boards of the retirement systems to establish and maintain an investment fund account to combine moneys from both systems for investment purposes only. The funds of each system must be accounted for separately and for all other reporting purposes. Source: <http://house.mo.gov/content.aspx?info=/bills091/bilsum/truly/sHB265T.htm>.

NEW MEXICO. Chapter 288, Laws of 2009 (HB 573), requires annual training for Public Employee Retirement Association Education Retirement Board trustees

NEW MEXICO. Chapter 125, Laws of 2009 (HB 876), prohibits the State Investment Council, the State Investment Officer, the Public Employees Retirement Board and the Educational Retirement Board from making any investment other than in publicly traded equities or fixed-income securities unless the recipient of the investment discloses the identity and the fee paid to any third-party marketer who provided services on behalf of the recipient

HEALTH COVERAGE

CONNECTICUT. SB 6582. Public Act 147 of 2009 (Substitute for HB 6582) Under the Connecticut Healthcare Partnership, the comptroller must convert the state employee health insurance plan, excluding dental, to a self-insured arrangement for benefit periods beginning July 1, 2009. She must then offer employee and retiree coverage under the self-insured state plan to (1) municipalities and other nonstate public employers beginning January 1, 2010; (2) municipal-related and nonprofit employers beginning July 1, 2010; and (3) small employers beginning January 1, 2011. The state must charge employers participating in the state plan the same premium rates it pays, but can adjust a small employer's rate to reflect its group characteristics. Full summary at <http://www.cga.ct.gov/2009/BA/2009HB-06582-R010995-BA.htm>.

NEW HAMPSHIRE. §144.54ff of Chapter 144, Acts of 2009 (HB 2, the general appropriations act), provides for withholding from retirement benefits a charge of \$65 per month for retired state employees under the age of 65 who are covered by retired employee health insurance (\$130 for covered retiree and spouse) which is to be collected directly from the retiree if the retiree's monthly benefit does not amount to that much.

GEORGIA. Act 19 of 2009 (SB 122) creates the State Employees Post-employment Health Benefit Fund for teachers and other public employees.

KENTUCKY. Chapter 65, Acts of 2009 Regular Session (HB 117) requires the Kentucky Retirement System to establish employer contribution rates for the County Employees Retirement System that will phase in the full actuarially required contribution for the health insurance fund over 10 years, using the FY 2008 employer contribution for health insurance fund as a base and incrementally increasing the employer rate from FY 2009 through FY 2018. The KRS Board re-established the CERS employer rates for 2009-2010 as follows: For CERS non-hazardous employees for 2009-10, 16.16%; for hazardous employees, 32.97%. KRS estimates that the smoothing will cost county governments \$120 million more over time than if the original schedule had been maintained.

NEW MEXICO. Chapter 287, Laws of 2009 (HB 351), and Chapter 288 (HB 573) are intended to increase the actuarial soundness of the retiree health care fund. They remove the sunset date for the monthly distribution of tax revenues to the fund and increase both the employer and employee contributions to the fund. The increased contributions will begin on July 1, 2010 and will increase annually through July 1, 2012. In addition, the legislation provides for higher employer and employee contributions for employees in "enhanced retirement plans", which are those plans that allow members to retire at any age with less than 25 years of service credit, and require additional contributions to the fund from Education Retirement Board and Public Employee Retirement Association members who purchase service credit.

MILITARY SERVICE

ARKANSAS. Act 295 of 2009 (SB128) allows members of the Public Employees Retirement System to purchase up to a maximum of five years active duty military service and removes the provision regarding "not receiving federal military service retirement pay". National guard and armed forces reserve service can be purchased on a one-for-one basis instead of five years for one year.

DELAWARE. Chapter 167, Laws of 2009 (SB 135) protects the retirement benefits of state troopers who take military leave before retirement. The bill assures that the employee will not realize a reduction in pension benefits because of a reduction in state salary during a period that might fall in the trooper's highest three years of earnings.

MARYLAND. Chapter 703, Laws of 2009 (HB 975/SB 591) Alters the definition of military service as it relates to service credit for members of state or local retirement or pension systems to include active and inactive duty for training that interrupts a member's employment with the state or a political subdivision of the state.

WASHINGTON. Chapter 205, Laws of 2009 (HB 1548) provides a total of five years of no-cost interruptive military service for members, who provide proof to the Director of the Department of Retirement Services that their interruptive military service was during a "period of war," and that they initiated the process for re-employment with the same employer no later than 90 days from the date of their honorable discharge. The bill applies to members of the Public Employees' Retirement System (PERS) Plans 2 and 3, School Employees' Retirement System (SERS) Plans 2 and 3, Teachers' Retirement System (TRS) Plans 2 and 3, Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF) Plan 2, Washington State Patrol Retirement System (WSPRS) Plan 2, and the Public Safety Employees' Retirement System (PSERS). Survivors of eligible members, and eligible members incapacitated as a result of their interruptive military service, may also apply for the no-cost service credit. Members, who paid for interruptive military service credit, can receive a refund of the contributions paid.

Chapter 226, Laws of 2009 (HB 1551) extends eligibility for an un-reduced survivor benefit to members, who leave the employ of an employer and die during a period of war, while honorably serving in the National Guard or military reserves. This bill applies to PERS, TRS, SERS, LEOFF, WSPRS, and PSERS.

WYOMING. Chapter 109, Laws of 2009 (SB 111) authorizes the Wyoming Adjutant General to pay employer and employee retirement contributions up to \$5,000.00 per person per year to a public or private retirement system for employees who are called up to serve in the United States military as a first responder, if permitted by the Internal Revenue Code. Applies to those who are serving in a

Wyoming National Guard unit, or who are Wyoming residents who serve in a National Guard unit in any state and who are called into federal service as a first responder.

RE-EMPLOYMENT AFTER RETIREMENT

ARKANSAS. Act 743 of 2009 (SB 165) provides that a member of the Teachers Retirement System is not considered separated from covered employment if the retiree returns to covered employment within 180 days (30 days under former law). Does not apply to members over age 65; to members with 38 years or more of covered service, or to members who retire on or before July 1, 2009, until when the 30-day rule remained in effect.

The act repeals the earnings limitation for retirees who return to covered service. It requires employer contributions to be paid on behalf of all ATRS retirees who return to covered service regardless of age, at the employer contribution rate in effect for other employees at the time of employment.

FLORIDA. Chapter 2009-209, Laws of 2009 (HB 479), revises reemployment limitations as follows.

Investment Plan members:

- From July 1, 2009 – June 30, 2010, if a retiree is reemployed by an FRS-covered employer within the 6 calendar months after meeting the 6-month termination requirement, the current Investment Plan reemployment exceptions apply, as follows:
 - If the member returns in an excepted position, there is no impact on receiving additional Investment Plan distributions.
 - If the member returns in a non-excepted position, no additional Investment Plan distributions are permitted until the member terminates employment or completes 12 months of retirement. Note: An employee is eligible for FRS membership in the above scenario providing they were initially reemployed prior to July 1, 2010.
- On or after July 1, 2010, if a retiree is reemployed by an FRS-covered employer within the 6 calendar months after meeting the 6 month termination requirement, there are no reemployment exceptions. No additional Investment Plan distributions are permitted until the member terminates employment or completes 12 months of retirement. When 1 year has passed after retirement, a member can receive additional Investment Plan distributions, even if they become reemployed by an FRS-covered employer. However, employees in this instance are not eligible for FRS membership.

Pension Plan members:

- On or after July 1, 2010, if a retiree is reemployed by an FRS-covered employer within the 6 calendar months after meeting the 6 month termination requirement, there are no reemployment exceptions; the member must suspend further monthly Pension Plan benefits for every month they are employed during this period. When 1 year has passed after retirement, a member can receive monthly Pension Plan benefits, even if they become reemployed by an FRS-covered employer. However, employees in this instance are not eligible for FRS membership.

Firefighters or paramedics:

- Effective July 1, 2009, the reemployment exception for retirees reemployed as firefighters or paramedics is repealed.

Renewed Membership

- A retiree¹ who initially returns to FRS-covered employment prior to July 1, 2010 will remain covered for FRS membership until they retire.
- A retiree¹ who initially returns to FRS-covered employment on or after July 1, 2010 will not be eligible for FRS membership.
- Employers will be required to pay retirement contributions for any retiree who initially returns to employment on or after July 1, 2010. These contributions will include a retirement contribution equal to the unfunded actuarial liability portion of the employer contribution rate required for active FRS members, a PEORP administrative fee, the Retiree Health Insurance Subsidy contribution, and Social Security contributions.

GEORGIA. Act 275 of 2009 (HB 202) provides that any retired member of the Teachers Retirement System who has not yet reached normal retirement age returns to service as a public school employee in any position which normally requires membership in this retirement system, such member's retirement benefit shall cease and the retired member shall reestablish active membership in the retirement system. The member shall have the same creditable service which the member possessed at the time of retirement and shall accumulate additional creditable service so long as such active membership continues. Upon cessation of such service, the retired member, after proper notification to the board, shall receive a retirement benefit based on the member's total accrued service.

INDIANA. HB 1546 terminates, temporarily, retirement benefits for any member of the Public Employee Retirement Fund who has a formal or informal agreement with an employer to become reemployed in a covered position after the member's retirement made before applying for retirement. The following apply to the member's continued employment:

- 1) If a member has received a retirement benefit:
 - a) the member's retirement benefit shall stop; and
 - b) the member shall repay the amount of the retirement benefit received.
- 2) The member shall make contributions as required by law throughout the period of the member's continued employment.
- 3) Employer contributions shall be made throughout the period of the member's continued employment.
- 4) The member shall earn creditable service for the member's continued employment.
- 5) When the period of the member's continued employment terminates, the member may again file an application for retirement benefits under this chapter.

KANSAS. Chapter 137, Laws of 2009 (HB 2072) increases the break-in-service requirement from 30 to 60 days after retirement for all new Public Employee Retirement System (KPERs) retirees before they can return to work for any KPERs participating employer, and includes all members of the KPERs plan, including state, school and local employees. This amendment does not affect members of the Retirement System for Judges or the KP&F Retirement System.

The act clarifies that statutory provisions pertaining to retirees of KPERs who return to work after retirement as contractual employees will be subjected after April 1, 2009, to the same state policies as other KPERs retirees who return to work as individuals. The bill requires the third-party companies to provide information about the salaries of its contract employees in order for KPERs and participating employers to apply statutory provisions regarding salary caps and special additional employer contributions.

The act eliminates for three years, beginning July 1, 2009, the statutory \$20,000 earnings limitation for licensed public school employees (teachers and administrators) of the KPERs school group who return to work for the same KPERs participating employer from which they retired and who chose a normal retirement option. In addition, the bill requires special payments from all public school

employers who employ licensed KPERS school group retirees whether they retired from the same district or a different district. The special payments will be based on a contribution rate equal to the employer actuarial rate plus an additional 8.00 percent. For FY 2010, this rate is 20.07 percent. The provisions will sunset on July 1, 2012. After that date, a report from KPERS and its actuary about this three-year program is required to be submitted to the Joint Committee on Pensions, Investments and Benefits. Substitute teachers are not addressed by the changes in law related to the three-year salary cap exemption.

NEBRASKA. LB 449 of 2009 allows members of the School Retirement System who are drawing disability retirement benefits to return to service and continue to receive the benefit. It would apply to members who are under age 65 who have been certified as permanently disabled. Upon return to service, their employment would be capped at 15 hours per week. The reason for that specific cap is that additional retirement credit begins to accrue for employees who work more than 15 hours per week.

TEXAS. Chapter 1308, Laws of 2009 (HB 2559), established a 90-day waiting for period for members of the Employee Retirement System who retired on or after May 31, 2009, who seek reemployment in a covered position. The agency that rehires a retiree must make a contribution to the retirement system equal to the amount it would contribution for a covered active employee.

SERVICE CREDIT/PURCHASE OF SERVICE

NORTH DAKOTA. SB 2153 broadens eligibility for purchases of service credit in the State Retirement System. In addition to existing law providing for the purchases of up to four years' credit for military service, this law adds eligibility to purchase service credit for employment as a permanent employee of a public employer within or outside the state, permanent employment by the federal government, service credit not previously granted for employer-approved leaves of absence, and months away from work while participating as a seasonal employee.

SOCIAL SECURITY

CALIFORNIA. Resolution Chapter 103, Statutes of 2009 (Assembly Joint Resolution 10) requests the President and the United States Congress to enact the Social Security Fairness Act of 2009, which would repeal the WEP and the GPO of the Social Security Act.

LEGISLATIVE POLICY STUDIES

ARKANSAS. Act 1242 of 2009 (SB 138) creates a board to conduct a comprehensive study of the intermediate and long-term funding issues of the State Police Retirement System and report to the state by October 1, 2010, the study results and recommendations to address the issues.

ILLINOIS. HJR 65 of 2009 creates the Pension System Modernization Task Force to recommend pension benefit changes to modernize the Teachers' Retirement System, the State Universities Retirement System, and the State Employees' Retirement System.

ILLINOIS. SR 54 of 2009 instructs the Commission on Government Forecasting and Accountability to study the economic impact on central Illinois of the number of jobs that would be eliminated due to the consolidation of investment authority in the State Universities Retirement System and the Teachers' Retirement System of State of Illinois.

INDIANA. SR 18 of 2009 urges the Legislative Council to assign to the Commission on State Tax and Financing Policy the topic of the state taxation of retirement benefits and military pay and benefits.

LOUISIANA. HCR 1 of 2009 requests that the House and Senate committees on retirement study the issue of converting state retirement plans for new hires from a defined benefit plan to a defined contribution plan.

HR 82 of 2009 requests that the House Committees on Retirement and Commerce jointly study issues regarding the possible requirement that every state public retirement or pension system, plan, or fund direct a certain percentage of its equity and fixed income trades to Louisiana broker/dealers.

MAINE. Chapter 111, Laws of 2009 (LD 1431, SB 515) establishes a task force to study the creation of a new unified retirement plan that would require all new employees to be enrolled in Social Security and Medicare, would coordinate retiree health benefits with the new plan, and would provide a defined benefit pension plan. The combined actuarial costs of the new plans are to be divided equally between employers and employees. The task force is to report no later than March 1, 2010.

MONTANA. Chapter 420, Laws of 2009 (HB 659), requires the state administration and veterans' affairs interim committee to examine and recommend funding and benefit changes in the statewide public employees' and teachers' retirement systems.

NORTH DAKOTA. SR 2061 of 2009 directs the Human Resources Management Services to study how to retain state workers who are nearing retirement; relates to workforce recruitment and retention.

NEW MEXICO. House Memorial 27 of 2009 requests that the New Mexico legislative council study the feasibility of including long-time seasonal legislative employees in the public employee's retirement system

NEW MEXICO. Chapter 288 §19, Laws of 2009 (HB 573) created the retirement systems solvency task force and calls for the task force to study the actuarial soundness and solvency of the retirement plans of the public employees retirement association and the educational retirement association and the health care plan of the retiree health care authority, and to prepare a solvency plan for each entity. The solvency plans are to include analyses and recommendations that address: (1) employer and employee contributions; (2) retirement eligibility; (3) the number of retirement plans; (4) retirement benefits; (5) investment policy and asset allocation; (6) disability retirement and benefits; (7) actuarial assumptions; (8) health insurance plan benefits and eligibility; (9) the costs of health insurance plans; and (10) member services.

NEVADA. Chapter 482, Laws of 2009 (AB 493) requires the Public Employees' Retirement Board to identify and report concerning investments of money from the Public Employees' Retirement System in certain scrutinized companies with business activities or connections to Iran's petroleum sector.

NEW YORK. Executive Order 15 of 2009 establishes the Task Force on Public Employee Retirement Health Care Benefits.

PUERTO RICO. HR 184 of 2009 orders the Committee on Retirement Systems Public Service to conduct a study on the budgetary and administrative feasibility of providing an additional annual bonus to retired or disabled persons who receive income only from Social Security or the minimum

pension of a government system.

PUERTO RICO. SR 53 of 2009 orders the Senate to conduct research on the economic and structural changes that the implementation of an early retirement and incentives in the Department of Education.

VERMONT. HB 441, the general appropriations bill, § E.135.1 of 2009, created a commission to review and report on the design and funding of retirement and retiree health benefit plans for the state employees and teachers retirement systems. The commission is charged with making recommendations about plan design, benefit provisions, and appropriate funding sources, along with other recommendations it deems appropriate for consideration, consistent with actuarial and governmental accounting standards, as well as demographic and workforce trends and the long-term sustainability of the benefit programs. The joint fiscal committee may provide benchmark targets reducing the rate of expenditure growth for retirement and retiree health benefits to the commission to guide the development of recommendations.

TAX POLICY AFFECTING RETIREES AND RETIREMENT BENEFITS

MONTANA. Chapter 382, Laws of 2009 (HB 315) increases the maximum pension and annuity income tax exclusion. Current law provides for an exemption of \$3,600, reduced gradually for AGI in excess of \$30,000. This act provides for an annual inflationary adjustment to the exclusion amount and the income cap, using 2009 as the base year.

VESTING

NEW YORK. Assembly Bill 40026 and Senate Bill 66026, enacted December 2, 2009, created new tiers for state and local government public safety employees (outside New York City), general employees and teachers.

The measure provides a new tier of pension benefits for all new employees who are members of the New York State and Local Retirement/Police and Fire Retirement System. This will not affect new New York City police and fire retirement system members. The new tier will:

- Require 10 years of creditable service in order to vest with the retirement system (up from five years).