

# LEGISLATIVE RESEARCH REPORT

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## STATES REVERTING FROM DEFINED CONTRIBUTION RETIREMENT PLANS

PREPARED FOR REPRESENTATIVE CATHY MUÑOZ

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You asked about states that have changed the design of their public pension plans. Specifically, you wanted to know which states have switched their retirement plan model from “defined contribution” to “defined benefit,” and why those actions were taken.<sup>1</sup>

Two states—West Virginia and Nebraska—have changed their retirement system plan designs for a significant portion of public employees from defined contribution (DC) to defined benefit (DB). Most recently, West Virginia reverted from a DC plan to a DB plan for its teachers’ retirement system.<sup>2</sup> Nebraska has changed to a unique form of DB plan and requires all newly hired general employees to participate.<sup>3</sup> We provide details on the changes in these states’ retirement systems below.

### WEST VIRGINIA TEACHERS’ RETIREMENT SYSTEM

The West Virginia Teacher’s Retirement System (TRS) began in 1941 as a DC system but, like other states, changed over the years to offer its retirees a more reliable pension. By the early

<sup>1</sup> As you know, “defined benefit” plans are typically funded by contributions from a combination of a percentage of employees’ wages and an employer “match” component. Those funds are managed by investment professionals and the retirement benefits are guaranteed regardless of the returns of the investments. As such, the financial “risks” associated with the plans are borne by the employer. “Defined contribution” plans are generally also funded by employee and employer contributions; however, the investments are typically managed by the employees or financial managers in their employ. Benefits are not guaranteed but, instead, subject completely to the rates of return earned on the money invested. The risk, therefore, lies with the employees. A great deal of variation exists in the specifics of each states’ retirement plans. Background information on these retirement plan designs is available from the National Conference of State Legislatures at <http://www.ncsl.org/programs/fiscal/defineretire.htm#notefive>.

<sup>2</sup> National Association of State Retirement Administrators (NASRA), “Overview of Plan Types and Their Use among Statewide Retirement Systems,” November 2008; available online at [http://www.nasra.org/resources/plan\\_design\\_summary.pdf](http://www.nasra.org/resources/plan_design_summary.pdf).

<sup>3</sup> Barbara D. Bovbjerg, “State and Local Government Pension Plans: Current Structure and Funded Status,” testimony provided before the U.S. Congress, Joint Economic Committee, U.S. Government Accountability Office, GAO-08-983T, July 10, 2008, p. 8; available online at <http://www.ncsl.org/programs/fiscal/defineretire.htm#notefive>.

1970s, the system operated as a modern DB plan, with benefits calculated by taking into account an employee's average annual compensation and years of service.<sup>4</sup> In subsequent years, increases in benefits combined with insufficient contributions by the state left the TRS with an unfunded liability of approximately \$5 billion by 1990.<sup>5</sup>

Following substantial debate, the West Virginia state legislature closed the TRS DB plan to new members effective July 1, 1991, instead placing new employees in a DC plan. Supporters of the move believed that the new system would protect the state from adding to the pension's unfunded liability while opponents complained that the DC plan would do nothing to reduce the existing liability.

By 2003, the unfunded liability of the retirement plan remained and a previously unforeseen threat had emerged that, according to an actuary for the retirement board, left the state in a precarious position. Following the change in retirement plans in 1991, as much as 70 percent of participating teachers had earned returns from their self-directed DC investments that were insufficient to fund their retirements. In fact, for the seven-year period ending 2007, the average annual returns for teachers in the DC plan trailed those in the state's DB plan by about 69 percent.<sup>6</sup> This was apparently the result of a combination of factors including poor investment education and advice from the firm contracted to guide the teachers in their DC plan choices, and weak performance of financial markets in the early 2000s. The combination left West Virginia taxpayers facing the prospect of having thousands of retiring employees move straight to the roles of Medicaid and public assistance, and left policymakers facing panicked teachers whose expected pensions had all but disappeared.

Upon determining that the DC plan had "failed in every instance," the state's newly formed Consolidated Retirement Board, determined that drastic action needed to be taken. Actuarial analyses demonstrated that closing the DC plan to new enrollees and reverting back to the DB plan could save the state in excess of \$1.4 billion by 2034. Legislation to that effect was enacted and the DC plan was closed to new employees on July 1, 2005.<sup>7</sup>

West Virginia has since made aggressive efforts to reduce the unfunded liability in the DB system including the following:

The state has shown discipline to achieve this proper funding, with extra contributions of \$290.1 million in fiscal year 2006 and \$313.8 million in fiscal year 2007. In addition, West Virginia completed a tobacco bond securitization in fiscal year 2007 and deposited \$807.5 million of those proceeds into TRS as another special appropriation.<sup>8</sup>

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<sup>4</sup> "Choose Your Retirement: Individual Voluntary Option for Members of the Teachers' Defined Contribution (TDC) Retirement System to Transfer to the Teachers' Retirement System (TRS)," *West Virginia Consolidated Public Retirement Board and Buck Consultants*, April 2008. We include a copy of this publication, which contains detailed information on the specific plan provisions of the TDC and the TRS, as Attachment A.

<sup>5</sup> Theresa Smith Cox, "Merging Teachers' Systems Debated: Some Say Defined Benefit Plan is Limiting—Other Say it Offers Security," *Charleston Daily Mail*, April 20, 2005, p. 8A.

<sup>6</sup> Mark Olleman, "Public Plan DB/DC Choices," PERIScope: Public Employee Retirement Systems, Milliman, Table 4, p. 6, January 2009. We include a copy of this document as Attachment B.

<sup>7</sup> Justin D. Anderson, "State: Reviving Teacher Benefit Plan Will Save Money," *Wheeling News Register Intelligencer*, June 21, 2005.

<sup>8</sup> Mark Olleman, p. 3.

The mechanisms by which the DC and DB plans were respectively closed and reopened and the options provided to teachers in switching between the plans, have been the subjects of lawsuits and political battles. Finally, in 2008, 78 percent of West Virginia teachers voted to move to the DB plan.

## NEBRASKA

In 1964, Nebraska switched from a defined benefit to a defined contribution plan for state and county government employees but kept its judges, state patrol officers, and education personnel in defined benefit plans.<sup>9</sup> Studies of the DC program initiated by the legislature and others in the 1990s found the following:

- ◆ Over time, when compared to its defined benefit plan, the new defined contribution plan cost the state of Nebraska significantly more in investment management fees, record-keeping fees, educational programs and other administrative line items.
- ◆ In 1999, administrative expenses for the state's defined contribution plans were double the costs of its defined benefit plans.
- ◆ Additionally, the state of Nebraska found that when employees managed their own investments under that state's defined contribution plan, investment returns were lower than under the state's defined benefit system. During the period from 1983 to 1999, Nebraska state and county workers averaged a 6 percent return when investing their individual retirement accounts in that state's defined contribution plan, versus the 11 percent return for teachers and judges under Nebraska's defined benefit plan. The actual investment differential in favor of the defined benefit system becomes even greater once the lower administrative costs of the defined benefit system are factored in.
- ◆ Despite state education programs on the importance of proper asset allocation and eleven different investment options, 90 percent of Nebraska's employees invested all their individual plan deposits in just three funds. This suggests employees lack the proper skills to diversify their assets and make sound investments.
- ◆ Nebraska found that ten years after retirement, a retiree in that state's defined contribution plan with 30 years of service and an average annual salary of \$30,000, had about \$11,230 annually in retirement benefits, which is below the poverty level for a family of two.<sup>10</sup>

In response to the higher cost and lower investment returns provided by the DC plan, the Nebraska legislature created a DB "cash-balance" plan with the passage of LB 687 in 2002.<sup>11</sup> All new eligible state and county employees are placed in that plan and former employees in the DC

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<sup>9</sup> Additional information on Nebraska's retirement plans is available from the state's Public Employees Retirement system website at <http://www.npers.ne.gov/home.jsp>.

<sup>10</sup> Bulleted information is summarized primarily from "Myths and Realities: Defined Benefit vs. Defined Contribution Systems Debate," *Center for Tax and Budget Accountability Fact Sheet*, 2007. We include a copy of this document as Attachment C.

<sup>11</sup> We include a copy of this bill as attachment D.

plan were given the option to switch to the new plan. The new state “cash-balance” plan is structured as follows:

Plan members contribute 4.33 percent of compensation until contributions reach \$864.00, in aggregate, and 4.8 percent on contributions made on compensation after that point; the state’s matching contribution equals 156 percent of the member contributions.

Daily, the accounts are also accruing a statutorily-set rate of return (called the interest credit rate). That rate is the “applicable federal midterm rate” published by the IRS plus an additional 1.5 percent. It also includes a floor rate of 5 percent, below which the rate may not fall. This means the interest credit rate can rise with the mid-term rate, but will never fall below 5 percent. (From 1985-2002, the state estimated the average annual rate under this mechanism would have been 8.4 percent.)

Both the member and state contributions and the interest credit rate constitute legal promises to pay money to the member when the member ceases employment or retires.

At retirement or termination, the cash balance benefit will allow the member to:

- (1) use the money to purchase an annuity from the plan that is funded and guaranteed by the plan,
- (2) leave the money in the Nebraska Public Employees’ Retirement System,
- (3) roll the money over into another tax-deferred account, or
- (4) “cash in” the entire amount of his or her account (although, if not vested, they may only take the employee cash balance account).

While the accounts are accruing the interest credit rate, the Investment Council will be investing the plan’s assets, including all new contributions flowing into the plan, so the plan will have sufficient assets to pay the account balances to plan members, and the annuities at retirement. The risk of bad investment returns falls on the plan as a whole (as with a DB plan). On the other hand, any excess returns will also flow into the plan as a whole. By federal law, however, any excess returns must be used for the exclusive benefit of the members. The Board decides whether to use any excess to pay a little extra into the members’ accounts (above the interest credit rate) or – alternatively – the excess could be used to make benefit improvements to the plan (with the Legislature deciding what benefit enhancements may be made).<sup>12</sup>

I hope you find this information to be useful. Please do not hesitate to contact us if you have questions or need additional information.

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<sup>12</sup> The above section is from “Governor Signs LB 687: Change will Affect State and County Employees,” Nebraska Public Employees Retirement System, *Retirement Roundup*, Vol. 17, No. 5, Summer 2002. We include a copy of this document as Attachment E.

## **Attachment A**

“Choose Your Retirement: Individual Voluntary Option for Members of the Teachers’ Defined Contribution (TDC) Retirement System to Transfer to the Teachers’ Retirement System (TRS),” *West Virginia Consolidated Public Retirement Board and Buck Consultants*, April 2008



# Choose your retirement

## **INDIVIDUAL VOLUNTARY OPTION FOR MEMBERS OF THE TEACHERS' DEFINED CONTRIBUTION (TDC) RETIREMENT SYSTEM TO TRANSFER TO THE TEACHERS' RETIREMENT SYSTEM (TRS)**

*April 1 – May 12, 2008*

### Retirement Choice Decision Guide







## CHOOSE YOUR RETIREMENT

As a current participant in the West Virginia Teachers' Defined Contribution Retirement System (TDC), you will be allowed a one-time voluntary option to transfer your TDC account into the State Teachers Retirement System (TRS). The one-time voluntary option is authorized by a bill passed by the West Virginia Legislature (House Bill 101) during the First Special Session of the 2008 Legislature.

This decision guide provides detailed information about TDC and TRS, as well as other resources you can use to help you with your decision. If you are an actively contributing member, you will also receive a detailed statement projecting your personal benefits under TDC and TRS systems should you elect to transfer participation into TRS.

Please review these materials and consider your benefits under each plan carefully before making your decision. For additional information, you may:

- Visit the Web site at **<https://www.benefitmodeling.com/wv/chooseyourplan>** which includes a modeling tool that allows you to make benefit projections under the two plans using your own assumptions, Your 8 number generic password to enter the Web site will be the last 4 numbers of your social security number followed by your year of birth.
- Contact your work site supervisor, who is your school principal or human resource administrator, for scheduled meetings at your school or central office,
- Call 1-866-413-3985 any time from 8 a.m. to 5 p.m. Monday through Friday to speak with a representative.

*These materials were prepared by the Consolidated Public Retirement Board and by Buck Consultants, LLC, an ACS company (Buck) to provide neutral, unbiased information and education about TDC and TRS to help prepare TDC members to make an informed decision on the voluntary transfer option from TDC to TRS.*

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## IMPORTANT PROVISIONS IN HOUSE BILL 101

The West Virginia Legislature passed House Bill 101, effective March 16, 2008, during the First Special Session of 2008. This legislation allows each member of the TDC system to voluntarily transfer his or her TDC account to TRS if at least 65% of actively contributing TDC members as of December 31, 2007, elect to do so.

### IMPORTANT

The results of the voluntary individual election will apply only to TDC members who so elect to transfer and only if a minimum of 65% of actively contributing TDC members elect to do so.

If you are a TDC participant (active or non-contributing), you are eligible to voluntarily elect to transfer your TDC account to TRS. The election period will take place April 1 – May 12, 2008, and at least 65% of actively contributing TDC members must elect to transfer for the transfer to go into effect. If the legally mandated percentage of participants is achieved, the voluntary transfer will be effective July 1, 2008. If the legally mandated percentage of participants is NOT achieved, all TDC members will continue in the TDC plan.

### FACTS TO NOTE:

- All TDC members, whether currently contributing or not, who had an account balance of \$1 or more on December 31, 2007 may elect to transfer their TDC account balance to TRS.
- If at least 65% of actively contributing TDC members as of December 31, 2007, elect to transfer their TDC account to TRS, then the accounts of those TDC members who affirmatively elected to transfer to TRS will be transferred on July 1, 2008. The employee contribution rate will be 6% beginning July 1, 2008, for those transferring TDC members.
- If the transfer occurs, those transferring TDC members will receive 75% of their TDC service credit, e.g., Jane Doe who has 10 years of TDC service credit will receive 7.5 years of service credit under TRS. TDC Service previously withdrawn by a member or separated by a qualified domestic relations order will only be credited if repaid.
- If the percentage of those transferring is 65%, but less than 75% of all actively contributing TDC members, the transferring member may purchase the additional 25% of TDC service credit by paying the Actuarial Reserve no later than June 30, 2009. (See personalized statement for estimated cost.)
- If the percentage of those transferring is 75% or greater of all actively contributing TDC members, the transferring member may purchase the additional 25% of TDC service credit by paying 1.5% of the member's estimated total earnings for the years being purchased, plus 4% interest compounded per annum. Payment must be received no later than June 30, 2009. (See personalized statement for estimated cost.)
- A one-time loan to pay for the additional TDC service credit may be taken from TRS. The loan must commence no later than June 30, 2009, and the loan period may not exceed 5 years. The loan may be taken solely for the purpose of purchasing this additional 25% of service and may not exceed \$40,000. Interest will accrue on this loan at a rate of 7.5% compounded per annum.
- In order for a transferring TDC member to be eligible for TRS benefits and a TRS annuity, the transferring member must work a minimum of 1 hour after July 1, 2008 and make a contribution into the TRS.
- A transferring TDC member, after working at least 1 hour after July 1, 2008, making a contribution to TRS and meeting other eligibility requirements, may retire at the earliest on September 1, 2008. In order to retire September 1, 2008, the transferring TDC member must notify his or her county board of education by written notice of his or her intent to retire by July 1, 2008.

To read House Bill 101, go to the "News" section of: [www.wvretirement.com](http://www.wvretirement.com).

## BACKGROUND

The State Teachers Retirement System (TRS) was established effective July 1, 1941, to provide retirement benefits for teachers. It was originally a defined contribution plan, but over time changed to provide more definite benefits to more employees. By the early 1970s, TRS was a true defined benefit system, with benefits calculated according to a formula taking compensation and years of service into account. TRS was closed to new members as of June 30, 1991.

On July 1, 1991, the Teachers' Defined Contribution Retirement System (TDC) became the sole retirement system for all regularly employed education and service personnel hired on or after that date. At the same time, active TRS members were given an opportunity to make an optional, irrevocable election to transfer into TDC. In making this election, non-vested TRS members could transfer all of their employee contributions and service into TDC; if vested, they could freeze their TRS service and begin contributing to TDC.

Consequently, current TDC participants include the following:

- Active participants whose total service and contributions fall under TDC (which includes former non-vested TRS participants who fully transferred their employee contributions and service into TDC and employees hired on or after July 1, 1991),
- Active participants who also have frozen TRS service, and
- Non-contributing terminated employees who still have a balance in their TDC account (who may or may not also have a frozen benefit under the TRS).

TDC was closed to new participants as of June 30, 2005, and TRS once again became the sole retirement system for employees hired on or after July 1, 2005.

## TDC AND TRS: A COMPARISON

TDC and TRS are different types of plans, each with its own advantages and disadvantages. Before you can make an informed decision on whether or not to voluntarily transfer your TDC account to TRS, you should understand the differences between the two plans. This side-by-side comparison describes the basic features of each plan.

| Feature                      | Teachers' Defined Contribution Retirement System (TDC)   | Teachers Retirement System (TRS)   |                   |             |       |                   |        |                    |        |            |         |  |
|------------------------------|--|--|-------------------|-------------|-------|-------------------|--------|--------------------|--------|------------|---------|--|
| Type of plan                 | TDC is a <i>defined contribution</i> plan. You and your employer contribute to the plan, and your ultimate benefits are dependent on the investment performance of your account. The amount of your benefit at retirement fluctuates with the returns of your investments.   | TRS is a <i>defined benefit</i> plan. You and your employer contribute to the plan. Your benefits are calculated based on a formula taking your compensation and years of service into account. Your benefit at retirement is guaranteed by the State.   |                   |             |       |                   |        |                    |        |            |         |  |
| Your contribution            | Mandatory 4.5% of gross salary, tax-deferred   | Mandatory 6.0% of gross salary, tax-deferred   |                   |             |       |                   |        |                    |        |            |         |  |
| Your employer's contribution | 7.5% of gross salary   | 15% of gross salary for members beginning prior to July 1, 2005; 7.5% of gross salary for new TRS members beginning on or after July 1, 2005. (Note this is a funding commitment, not a matching contribution; it does not affect the amount of your benefit at retirement.)   |                   |             |       |                   |        |                    |        |            |         |  |
| Investments                  | You direct the investment of your employee and employer contributions by selecting among the plan's investment options, and you bear the risks and rewards of your investment choices. Increases and decreases in the value of your TDC account affect the benefits you receive at retirement.   | The State, through the WV Consolidated Public Retirement Board and the WV Investment Management Board, manages the plan's assets, and the State bears the risks and rewards of the investments. Increases and decreases in the value of the plan's assets do not directly affect the benefit amounts you will receive.   |                   |             |       |                   |        |                    |        |            |         |  |
| Vesting                      | <p>Your own contributions and their earnings are always 100% vested. Your employer's contributions vest according to the following schedule:</p> <table><tr><th>Years of Service</th><th>Vested Percentage</th></tr><tr><td>Less than 6</td><td>0.00%</td></tr><tr><td>6 but less than 9</td><td>33.33%</td></tr><tr><td>9 but less than 12</td><td>66.67%</td></tr><tr><td>12 or more</td><td>100.00%</td></tr></table> <p>Employer contributions become fully vested upon your death or total disability, regardless of your years of service.</p> | Years of Service   | Vested Percentage | Less than 6 | 0.00% | 6 but less than 9 | 33.33% | 9 but less than 12 | 66.67% | 12 or more | 100.00% | <p>Your own contributions are always 100% vested and earn an annual interest rate of 4%. You are vested in plan benefits after five years of contributory service and eligible for an annuity benefit upon meeting certain age requirements. Should you choose a refund of contributions upon termination of employment, you will receive only your employee contributions and interest. The employer contributions remain with the plan, regardless of your years of service.</p> |
| Years of Service             | Vested Percentage  |  |                   |             |       |                   |        |                    |        |            |         |  |
| Less than 6                  | 0.00%  |  |                   |             |       |                   |        |                    |        |            |         |  |
| 6 but less than 9            | 33.33%   |  |                   |             |       |                   |        |                    |        |            |         |  |
| 9 but less than 12           | 66.67%   |  |                   |             |       |                   |        |                    |        |            |         |  |
| 12 or more                   | 100.00%  |  |                   |             |       |                   |        |                    |        |            |         |  |
| Retirement eligibility       | <p>You may receive a distribution from the plan of the vested portion of your account balance upon severance of employment at any age. The vested portion of your account balance includes all employee contributions plus earnings, as well as vested employer contributions plus earnings.</p> <p>Normal retirement age is 55.</p>   | <p>You may retire with full pension benefits if you retire and immediately commence retirement benefits:</p> <ul style="list-style-type: none"><li>• At age 60 with five or more years of service,</li><li>• At age 55 with 30 or more years of service, or</li><li>• At any age with 35 or more years of service.</li></ul> <p>You may retire with reduced benefits before age 55 after completing 30 years of service.</p> |                   |             |       |                   |        |                    |        |            |         |  |

| Feature                                 | Teachers' Defined Contribution Retirement System (TDC)  | Teachers Retirement System (TRS)  |
|---|---|---|
| Benefit amount and distribution options | You may take distributions from the plan as a lump sum or through periodic payments (you decide the amount and frequency). You also may use the distributions to purchase an annuity that will provide payments over your lifetime and/or the lifetime of your beneficiary. Lump-sum distributions may be rolled over to an Individual Retirement Account (IRA) or other tax-qualified retirement plan.                   | <p>The normal form of benefit is a straight life annuity paid monthly, in an amount equal to 2% of your Final Average Salary* times your years of credited service. Other forms of payment may be elected, including:</p> <ul style="list-style-type: none"> <li>• 50% or 100% joint and survivor annuities or</li> <li>• 10-year certain and life annuity.</li> </ul> <p>*Your Final Average Salary is the average of your five highest fiscal years of total earnings from covered employment during your last 15 years of service. The five highest years do not have to be consecutive.</p> |
| Deferred vested benefits                | If you leave employment, you may leave the vested portion of your account in TDC and take a distribution at a later date. Your account continues to experience investment gains and losses as long as it remains in the plan.   | If you leave employment after contributing to the plan for five years and do not take a refund of your contributions or an immediate retirement benefit, you may receive an unreduced deferred pension commencing at age 62 (or age 60 if you have contributed to the plan for at least 20 years).  |
| Disability                              | Permanent and total disability means a physical or mental incapacity requiring you to be absent from employment for at least six months, confirmed by a board-selected physician. If determined permanently and totally disabled, you are 100% vested in your employer contributions and earnings. Therefore, you would receive 100% of your account balance including employee and employer contributions plus earnings. | Permanent and total disability means the inability to perform current job duties. You qualify for disability with 10 years of service credit. You must have left employment because of disability and must have been unable to work for six months. If a board-selected physician approves the disability, you are immediately eligible for full monthly annuity benefits.  |
| Military service credit                 | <p>If you have a break in participation in the TDC as a result of active military service, you are entitled to purchase military service credit in accordance with the federal guidelines of Uniformed Services Employment and Reemployment Rights Act (USERRA).</p> <p>Military service credit at no cost to the member is not available.</p>  | <ul style="list-style-type: none"> <li>• If you have a break in employment as a result of active military service, you are entitled to purchase military service credit in accordance with the federal guidelines of USERRA.</li> <li>• Non-contributory military service up to 10 years or 25% of total service will be granted for service during the Federal Selective Service Act (draft) at no cost to the member.</li> </ul>  |
| Purchase of out-of-state school service | You may not purchase out-of-state school service.   | You may purchase out-of-state school service using the following formula: 2 times the employee contribution for the first full year of current employment, times the number of years for which credit is granted, plus interest.  |



| Feature   | Teachers' Defined Contribution Retirement System (TDC)   | Teachers Retirement System (TRS)  |
|---|--|---|
| Options for unused annual and/or sick leave upon retirement | <ul style="list-style-type: none"> <li>You may not use unused annual and/or sick leave for additional retirement benefits.</li> <li>You may use unused annual and/or sick leave to purchase PEIA health insurance premiums if you have been a continuous participant of PEIA prior to July 1, 2001.</li> </ul>   | <ul style="list-style-type: none"> <li>Immediate retirement: Upon immediate retirement from active employment, you may convert unused annual and/or sick leave standing to your credit with your last employer. You receive 2 days of retirement service credit for each day of unused annual and/or sick leave. (The additional credited service will not be used in meeting initial eligibility.) Alternatively, you may use unused annual and/or sick leave to purchase PEIA health insurance premiums if you have been a continuous participant of PEIA prior to July 1, 2001.</li> <li>Deferred retirement: Upon deferred retirement you may convert unused annual and/or sick leave as stated above, but only if you have been continuously covered by PEIA health insurance during the deferral period.</li> </ul> |
| Pre-retirement death benefits                               | Upon death, your entire account balance becomes 100% vested, including the employer contribution portion. The account balance and earnings will be paid to your designated beneficiary.  | If you die prior to retirement but after attaining age 50 and completing 25 years of credited service, your surviving spouse (if named as sole beneficiary) will receive an annuity as if you had retired on the date of your death with a 100% joint and survivor pension. If you die prior to meeting the above requirements or have a non-spouse beneficiary, your beneficiary will receive a lump sum equal to your employee contributions with interest compounded annually at 4% and an equal amount to your employee contribution.   |
| Post-retirement death benefits                              | If you select a periodic payment option at retirement and die before receiving the full value of your account, 100% of your remaining vested account balance will be paid to your surviving spouse or beneficiary.   | If you die after you retire, benefits will be paid to a surviving spouse or beneficiary if you selected a distribution option at retirement that provides for such a benefit.<br><br>Cash refund feature: If you die soon after you retire while receiving benefits as a straight life annuity, your beneficiary will receive at least a refund of your undistributed employee contributions plus interest.   |
| Termination prior to full vesting                           | If you leave employment prior to completing 12 years of service, the non-vested portion of your employer contribution account balance is forfeited. The vested portion of your employer contributions and 100% of your employee contributions remain in your TDC account until you take a distribution, and will continue to experience investment gains/losses. | If you leave employment prior to completing five years of service and are not eligible for any other benefit, you may receive a refund of your employee contributions as a lump sum with interest compounded annually at 4%.  |
| Post-retirement cost-of-living adjustments                  | There are no cost-of-living adjustments to your account or to your benefits under the plan. However, if you select a periodic payment option, you may change the amount and frequency of your payments at any time.  | Cost-of-living increases have been occasionally granted to retirees by the Legislature. However, cost-of-living increases are neither automatic nor guaranteed.   |

| Feature  | Teachers' Defined Contribution Retirement System (TDC)  | Teachers Retirement System (TRS)   |
|--|---|--|
| Taxes  | Your employee and employer contributions are tax-deferred until you withdraw money from the plan. Distributions are taxable as ordinary income in the year of distribution. A 10% federal tax penalty also may apply to distributions taken before age 59½. | Your plan benefits are taxable as ordinary income in the year in which they are received. A 10% federal tax penalty also may apply to lump-sum refunds of your contributions taken before age 59½.   |
| Rollovers  | Lump-sum distributions from your account can be rolled over to an IRA or any other tax-qualified retirement plan. (You cannot roll over retirement benefits taken as periodic payments over 10 or more years or over your life expectancy.)                 | Lump-sum refunds of your employee contributions only plus interest can be rolled over to an IRA or any other tax-qualified retirement plan. If the transfer occurs and you work past July 1, 2008, you also can choose at retirement to receive a lump sum distribution equal to your vested TDC account balance as of June 30, 2008 (with no interest) in lieu of other TRS benefits and roll over those funds. (You cannot roll over retirement benefits taken as an annuity over your and/or your beneficiary's lifetimes.) |
| Loans  | No loans are available.   | No loans are available to participants joining the plan for the first time on or after July 1, 2005. However, if the transfer occurs, a one-time loan to purchase 25% of TDC service will be allowed. Interest will accrue at 7.5% per annum and shall not exceed \$40,000.  |
| Divorce; qualified domestic relations orders (QDROs) | Your TDC retirement account is marital property and can be subject to QDROs.  | Your TRS retirement account is marital property and can be subject to QDROs.   |

This is a comparative summary of some of the features of TDC and TRS. For more details, refer to the West Virginia Consolidated Public Retirement Board's Web sites at [www.wvretirement.com](http://www.wvretirement.com) and [www.wvteachersdcp.com](http://www.wvteachersdcp.com).



## IF THE MINIMUM REQUIRED TRANSFER PERCENTAGE IS MET

All TDC members may elect between April 1, 2008 and May 12, 2008 to voluntarily transfer their TDC accounts to TRS on July 1, 2008. For the voluntary transfer to occur, at least 65% of all actively contributing TDC members must elect to transfer to TRS. If that occurs, only those who choose to transfer by May 12, 2008 will do so.

If the transfer occurs, here is an overview of what will happen next.

- Effective July 1, 2008, all assets currently held in TDC accounts of those members who voluntarily elected to transfer to TRS will be transferred into the TRS trust.
- Those who affirmatively elected to transfer to TRS will no longer have an individual account in TDC and will no longer make investment decisions regarding contributions made to the TDC plan. As a result, these transferring TDC members will no longer receive quarterly statements TDC account balance and investment performance. However, these transferring TDC members will receive annual TRS statements showing your cumulative contributions and service under TRS.
- Those affirmatively electing to transfer to TRS will begin contributing 6% of their gross salary to TRS instead of the 4.5% of gross salary currently contributed to the TDC.
- When your TRS benefits are calculated at retirement, the years of service you earned while a participant in TDC will be reduced by 25% to reflect the lower employee contribution under TDC (4.5%, compared to 6% under the TRS).
- If 65% of actively contributing TDC members affirmatively elect to transfer to TRS, but less than 75% elect to transfer, those members so electing have the option to pay into TRS the Actuarial Reserve to receive full TDC service credit under TRS. (See your personalized statement for estimated cost.) If not

## IMPORTANT

You should continue to monitor the performance of your TDC investments. You can do this by reviewing your quarterly statement and monitoring your account online at [www.wvteachersdcp.com](http://www.wvteachersdcp.com), or via KeyTalk at (888) 988-3224.

purchased, the transferring TDC member will receive 75% of his or her TDC service credit under TRS.

Payment must be made no later than **June 30, 2009** in order to purchase the additional 25% additional TDC service credit under TRS. Partial purchases of service credit are not permitted.

- If 75% or more actively contributing TDC members affirmatively elect to transfer to TRS, those members so electing have the option to pay into TRS 1.5% of the member's estimated total earnings for the years being purchased, plus 4% interest compounded per annum, to receive full TDC service credit under TRS. (See your personalized statement for the estimated cost.). If not purchased, the transferring TDC member will receive 75% of his or her TDC service credit under TRS. Payment must be made no later than **June 30, 2009** in order to purchase the additional 25% additional TDC service credit under TRS. Partial purchases of service credit are not permitted.

## EXAMPLE

### *Effect of paying Actuarial Reserve or 1.5% contribution, if applicable*

Jane retires at age 55 with 30 years of service, of which 18 years were frozen in TRS and 12 years were earned while a participant in the TDC. If she pays the additional contribution into the TRS, her benefits will be calculated using her full 30 years of service. If she does not, her benefits will be calculated as if she had 27 years of service ( $12 \times 25\% = 3$  years of service, deducted from the total).

Several options are available for paying the Actuarial Reserve or the one and one-half percent contribution, depending on how many actively contributing TDC members elect to transfer:

- You may roll over amounts from a tax-deferred Individual Retirement Account (IRA) or another tax-qualified plan (preserving the tax-deferred quality of those amounts).
- You may take advantage of a one-time loan offered to participants by the Consolidated Public Retirement Board. The loan option must commence no later than June 30, 2009. You may borrow up to \$40,000 and will be charged an interest rate not to exceed 7.5%. Loan payments will be made over a period not to exceed 60 months (five years) from your loan commencement date by payroll deduction with after-tax dollars.
- You may use personal savings or borrow from a financial institution to fund the contribution.
- Any frozen service you may have previously accrued under TRS will be added to your total service for purposes of calculating your retirement benefits (no make-up contribution applies to years of frozen TRS service).
- Your benefits under TRS will not include any benefit service forfeited under TDC as a result of amounts you have previously withdrawn from your TDC account if they have not been repaid in full. If you repay the amount withdrawn, along with interest, you will receive benefits and 75% of TDC service as if the withdrawal never occurred (If the repayment is five or more years following the withdrawal, you must also repay any forfeited employer contributions along with interest in addition to the withdrawn amount.) However, in order to receive full TDC service credit under TRS, the Actuarial Reserve or the 1.5% additional contribution with 4% interest must be paid no later than June 30, 2009.
- If you are divorced and have a qualified domestic relations order (QDRO) against your TDC account, your benefits under TRS will be reduced if you do not repay the amount previously distributed to the alternate payee(s) along with interest. Repayment must be made by June 30, 2014.

## IF THE MINIMUM REQUIRED TRANSFER PERCENTAGE IS NOT MET

The transfer will not take place if fewer than 65% of all actively contributing TDC members elect to voluntarily transfer.

If the statutorily required percentage of 65% of actively contributing TDC members do not elect to transfer to TRS, all current TDC participants will remain in TDC. In addition, you will continue to make investment decisions regarding contributions made to the plan on your behalf, and you will continue to receive quarterly TDC statements.

## DECIDING WHETHER OR NOT TO TRANSFER

The decision tree that follows is designed to highlight important factors to consider as you make your selection. You may wish to review the entire list so you have a good understanding of all the factors that affect your choice. Consider each factor and mark the choice that seems best for you in the right-hand column. You should disregard any factors that do not apply to you.

As you review the decision tree, you will see that there are situations in which there may be no obvious choice. In those instances, review your personalized statement, use the online modeling tool at <https://www.benefitmodeling.com/wv/chooseyourplan>, attend a presentation at your work site, and/or call 1-866-413-3985 to speak with a representative, if you need help. Remember your password to use the online modeling tool is the last 4 numbers of your social security number followed by your year of birth.

| Service   |   |   |   |
|---|---|---|---|
| If you...   | TDC   | TRS   | Best choice for you   |
| ...plan to leave before you complete five or six years of service, you should consider...           | You are always vested in your contributions to the plan, but your vesting in employer contributions does not start until you have six years of service (you are fully vested after 12 years). If you leave the plan before completing six years of service, you would only receive 100% of your employee contributions and investment returns.  | You are always vested in your contributions to the plan, but you will not receive any other benefit from this plan if you leave before you complete five years of service. If you leave the plan before completing five years of service, you would receive 100% of your employee contributions with 4% interest compounded annually. | <input type="checkbox"/> TDC<br><input type="checkbox"/> TRS<br><input type="checkbox"/> No clear advantage |
| ...plan to leave after completing five years of service but before 12 years, you should consider... | Complete vesting in your employer contributions does not occur until you have 12 years of service. If you leave with at least six years of service, you would receive 100% of your employee contributions and a portion of your employer contributions, as follows: <ul style="list-style-type: none"> <li>• 6 but less than 9 years of service: 33.33%</li> <li>• 9 but less than 12 years of service: 66.67%</li> <li>• 12 years of service: 100%.</li> </ul> | After five years of service, you will have earned a full right to a benefit under the plan. Your benefit would equal 2% of your Final Average Salary multiplied by your years of credited service.  | <input type="checkbox"/> TDC<br><input type="checkbox"/> TRS<br><input type="checkbox"/> No clear advantage |

## Age and Service

| If you...   | TDC  | TRS   | Best choice for you  |
|---|--|---|--|
| ...terminate as a long-service employee but are not yet retirement eligible, you should consider... | Your benefit will be your total account balance, including all employee and their earnings, if you leave after 12 years of service.  | If you do not take a refund of your employee contributions, you will receive an unreduced annuity payable at age 62 (age 60 if you have at least 20 years of service), based on your Final Average Salary and years of service.   | <input type="checkbox"/> TDC<br><input type="checkbox"/> TRS<br><input type="checkbox"/> No clear advantage<br><i>The benefit comparisons on your statement provide a good idea of the relative value of your benefits under both plans.</i> |
| ...are currently retirement eligible, you should consider...  | You can receive your vested account balance upon termination or anytime thereafter. If you were insured under PEIA prior to July 1, 2001, and are age 55 with 12 years of service, you are eligible for post-retirement medical insurance and conversion of unused annual and/or sick leave. | TRS full retirement eligibility (with immediate commencement of benefits) is: <ul style="list-style-type: none"> <li>• Age 60 with five or more years of service (must be working),</li> <li>• Age 55 with 30 or more years of service, or</li> <li>• Any age with 35 or more years of service.</li> </ul> Reduced benefits are available if you retire before age 55 with 30 years of service. | <input type="checkbox"/> TDC<br><input type="checkbox"/> TRS<br><input type="checkbox"/> No clear advantage  |

## Spendable Income

| If you...   | TDC   | TRS                                      | Best choice for you   |
|---|---|--|---|
| ...are concerned about your take-home pay, you should consider... | TDC requires a 4.5% employee contribution. Your take-home pay would not change. | TRS requires a 6% employee contribution. | <input type="checkbox"/> TDC<br><input type="checkbox"/> TRS<br><input type="checkbox"/> No clear advantage<br><i>Employee contributions in both plans are pre-tax. See your estimated retirement projections on your statement and the online modeling tool.</i> |

## Transition to the TRS

| If you...  | TDC  | TRS  | Best choice for you   |
|--|--|--|---|
| ...can afford the make-up contribution to obtain full TRS benefits, you should consider... | You could invest an amount equal to the make-up contribution anywhere on your own. | Your benefits under TRS will be greater if you pay the optional make-up contribution covering your years of service under TDC. | <input type="checkbox"/> TDC<br><input type="checkbox"/> TRS<br><input type="checkbox"/> No clear advantage |

## Distribution Options

| If you...   | TDC   | TRS  | Best choice for you   |
|---|---|--|---|
| ...want your retirement benefits paid as an annuity, you should consider... | The normal form of payment under TDC is a lump sum. However, you may use that lump sum to purchase an annuity. (You also may take a distribution in the form of periodic payments.) | The normal form of payment under TRS is a straight life annuity. Optional forms of payment are available, including: <ul style="list-style-type: none"> <li>• 50% or 100% joint and survivor annuity (with spouse as sole beneficiary), or</li> <li>• 10-year certain and life annuity.</li> </ul> | <input type="checkbox"/> TDC<br><input type="checkbox"/> TRS<br><input type="checkbox"/> No clear advantage |

## Portability

| If you...  | TDC   | TRS  | Best choice for you  |
|--|---|--|--|
| ...want a benefit that you can take with you when you leave the system, you should consider... | You may take a lump-sum distribution from TDC, including 100% of your employee contributions and vested employer contributions plus earnings, when you terminate employment or at any point thereafter. | If you leave your job before you become eligible for a normal, early, or disability benefit, you may elect to receive a refund of your own contributions plus 4% interest in lieu of any other benefits from the plan. | <input type="checkbox"/> TDC<br><input type="checkbox"/> TRS<br><input type="checkbox"/> No clear advantage<br><br><i>You must complete 12 years of service before you are fully vested in employer contributions to your TDC account. See the TDC vesting schedule.</i> |



## Your Work Habits

| If you...   | TDC   | TRS  | Best choice for you   |
|---|---|--|---|
| ...have a significant amount of unused annual and/or sick leave, you should consider... | You may not use unused or annual and/or sick leave for retirement benefits, but you may use them to purchase PEIA health insurance premiums (if you have been a continuous participant in PEIA prior to before July 1, 2001). | Upon immediate retirement from active employment, you may convert unused annual and/or sick leave standing to credit with your last employer. Alternatively, you may use them to purchase PEIA health insurance premiums (if you have been a continuous participant in PEIA prior to July 1, 2001). You also may convert unused annual and/or sick leave if you defer your retirement, but only if you are covered continuously by PEIA health insurance during the deferral period. | <input type="checkbox"/> TDC<br><input type="checkbox"/> TRS<br><input type="checkbox"/> No clear advantage |

## Your Health

| If you...  | TDC  | TRS   | Best choice for you   |
|--|--|---|---|
| ...are uncertain about your future health, you should consider...                      | You become fully vested in employer contributions if you experience total and permanent disability while in service after completing six months of service. You would receive 100% of your employee and employer contributions and earnings as a lump sum. | If you experience total and permanent disability after completing 10 years of service, you are entitled to an immediate annuity based on current service and pay.   | <input type="checkbox"/> TDC<br><input type="checkbox"/> TRS<br><input type="checkbox"/> No clear advantage |
| ...are uncertain about your future health, you should consider...                      | You become fully vested in employer contributions if you die while in service. Your beneficiary would receive 100% of your employee and employer contributions and earnings.   | If you die in service after age 50 with 25 years of service, your surviving spouse, if named as sole beneficiary, can receive an immediate annuity (as if you had selected the 100% joint & survivor annuity option). Otherwise your beneficiary will receive a refund of your employee contributions with 4% interest, plus an equal amount of employer contributions. | <input type="checkbox"/> TDC<br><input type="checkbox"/> TRS<br><input type="checkbox"/> No clear advantage |
| ...are near retirement, single and uncertain about your health, you should consider... | If you die soon after retirement, your vested account balance would be available to your beneficiary.  | If you die soon after you retire and are receiving benefits as a straight life annuity, your benefits would stop. However, your beneficiary would receive at least a refund of your undistributed employee contributions plus interest.   | <input type="checkbox"/> TDC<br><input type="checkbox"/> TRS<br><input type="checkbox"/> No clear advantage |



## Investment Risk Tolerance

| If you...   | TDC  | TRS   | Best choice for you  |
|---|--|---|--|
| ...would choose security over investment uncertainty, you should consider...            | Your benefits at retirement will be affected by investment gains and losses in your account while in the plan. | Your benefits at retirement are guaranteed by the State and are not affected by investment returns. | <input type="checkbox"/> TDC<br><input type="checkbox"/> TRS<br><input type="checkbox"/> No clear advantage<br><i>The TRS is a defined benefit plan. Benefits under the plan do not fluctuate due to investment returns.</i> |
| ...would like control over the investment of your contributions, you should consider... | You decide how your employee and employer contributions are invested.  | Investments in TRS are managed by the WV Investment Management Board.                               | <input type="checkbox"/> TDC<br><input type="checkbox"/> TRS<br><input type="checkbox"/> No clear advantage  |

## Beliefs About Inflation

| If you...  | TDC  | TRS   | Best choice for you   |
|--|--|---|---|
| ...are concerned about the cost of living going up over time, you should consider... | You manage the investments in your TDC account. Your investment returns may or may not keep pace with inflation. | The West Virginia Legislature has occasionally granted cost-of-living increases to retirees under TRS. However, cost-of-living increases are not automatic or guaranteed. | <input type="checkbox"/> TDC<br><input type="checkbox"/> TRS<br><input type="checkbox"/> No clear advantage |

## Inactive Employees

| If you...  | TDC   | TRS   | Best choice for you   |
|--|---|---|---|
| ...have terminated employment and have a balance in your TDC account, you should consider... | Several investment options exist under TDC. Those options may or may not provide better return than the guaranteed 4% annual return offered by TRS. You decide how aggressively or conservatively you want to invest. You also may roll over your account balances to an IRA and continue to manage your investments. | All TDC balances transferred to TRS will earn 4% interest. No other investment options within TRS exist. In order to be eligible for a TRS annuity or other benefits, you must work at least 1 hour or more for a TRS participating employer and make a contribution to TRS | <input type="checkbox"/> TDC<br><input type="checkbox"/> TRS<br><input type="checkbox"/> No clear advantage |

After completing this exercise, look back over your selections to get a sense of whether staying in TDC or transferring to TRS might be your best overall choice. If you have questions, review your personalized statement, use the online modeling tool, attend a presentation at your work site or speak with a representative at 1-866-413-3985 for assistance.

## LOOK AT YOUR NUMBERS

As you can tell by reviewing the decision tree, not all factors lead to an obvious choice between TDC and TRS.

That's why you should review the estimates on your personalized statement and visit the online modeling tool at <https://www.benefitmodeling.com/wv/chooseyourplan>. By comparing your estimated benefits under TDC and TRS and understanding other variables of the two plans highlighted previously in this guide, you can decide which option would work best for you.

### Personalized Statement

Included in this decision kit is your personalized statement. The statement compares the benefits you would receive under TDC and TRS at retirement under various scenarios. The statement uses specific assumptions about salary increases, rates of return, and other variables to calculate your estimated benefits. If you want to change those assumptions, you can use the online modeling tool. Please keep in mind that:

- The dollar amounts illustrated on your personal statement and in the modeling tool are only estimates to be used for comparison purposes and are not guarantees of future benefits.
- Projected benefits are stated in current dollars, and are not inflation-adjusted.

### Online Modeling Tool

<https://www.benefitmodeling.com/wv/chooseyourplan>

To change the assumptions used to estimate your future benefits under TDC and TRS, visit the online modeling tool. By changing the assumptions to better reflect your personal retirement goals and investment risk tolerance, you can “model” your estimated benefits under different scenarios. The site allows you to view personalized comparisons of your estimated benefits to specific ages and over the course of your career. Remember your password to use the modeling tool is the last 4 numbers of your social security number followed by your year of birth.

The following historical information may help you as you enter assumptions about investment return into the modeling tool. Please note that this chart illustrates long-term returns, and that higher or lower returns may be experienced in the various asset categories over shorter periods of time. Higher rates of return are typically associated with increased investment risk.

| Market Factor<br><i>Jan. 1, 1947 – Dec. 31, 2007</i> | Average<br>Annual Rate<br>of Return |
|--|-------------------------------------|
| Cash (1-month Treasury bills)                        | 4.6%                                |
| Short-/medium-term government bonds*                 | 5.9%                                |
| Large-company stock (S&P 500)                        | 12.2%                               |
| Small-company stock                                  | 15.0%                               |
| International stock (EAFE)**                         | 12.3%                               |
| Inflation (Consumer Price Index)                     | 3.8%                                |

*The numbers shown in this chart show historical returns. Past performance is not a guarantee of future results.*

\* U.S. Intermediate-Term Government Bond Total Return Index

\*\* Returns available from 1970 (Source: Ibbotson)

### Manager vs Benchmark: Return through December 2007

|   | 1 year | 2 years | 3 years | 4 years | 5 years | 10 years | 15 years | Since Inception |
|---|--------|---------|---------|---------|---------|----------|----------|-----------------|
| S&P 500                                   | 5.49%  | 10.52%  | 8.62%   | 9.18%   | 12.83%  | 5.91%    | 10.49%   | 11.83%          |
| Lehman U.S. Corporate Investment Grade    | 4.56%  | 4.43%   | 3.50%   | 3.98%   | 4.81%   | 5.96%    | 6.78%    | 8.39%           |
| Lehman US Government/ Credit Intermediate | 7.40%  | 5.72%   | 4.32%   | 4.00%   | 4.06%   | 5.75%    | 6.06%    | 8.18%           |
| Vanguard Balanced Index                   | 6.16%  | 8.57%   | 7.24%   | 7.76%   | 10.08%  | 6.41%    | 8.94%    | 9.00%           |

### Calendar Year Return *As of December 2007*

|   | 2007  | 2006   | 2005  | 2004   | 2003   | 2002    | 2001   | 2000   | 1999   | 1998   |
|---|-------|--------|-------|--------|--------|---------|--------|--------|--------|--------|
| S&P 500                                   | 5.49% | 15.79% | 4.91% | 10.88% | 28.68% | -22.10% | -11.8% | -9.11% | 21.04% | 28.58% |
| Lehman U.S. Corporate Investment Grade    | 4.56% | 4.31%  | 1.67% | 5.40%  | 8.24%  | 10.12%  | 10.30% | 9.07%  | -1.94% | 8.59%  |
| Lehman US Government/ Credit Intermediate | 7.40% | 4.07%  | 1.57% | 3.04%  | 4.30%  | 9.82%   | 8.98%  | 10.10% | 0.39%  | 8.42%  |
| Vanguard Balanced Index                   | 6.16% | 11.02% | 4.65% | 9.33%  | 19.87% | -9.52%  | -3.02% | -2.04% | 13.61% | 17.85% |

## INDIVIDUAL ASSISTANCE

If you'd like assistance understanding the issues involved in this optional transfer selection, you may call and speak to a representative at 1-866-413-3985 any time from 8 a.m. to 5 p.m. Monday through Friday.

## THE SELECTION PROCESS

You should have received an official transfer form by mail in March 2008. All transfer forms must be returned postmarked no later than May 12, 2008, to be counted, unless you give your completed transfer form to your work site supervisor.

To obtain another transfer form, you may go to [www.wvretirement.com](http://www.wvretirement.com) and click on TDC-TRS Transfer Option under the News section or call 1-866-413-3985.

## KEY DATES

- **April 1, 2008 – May 12, 2008**  
Transfer forms may be signed and mailed to:  
CPRB  
c/o Arnett & Foster CPA's, P.L.L.C.  
P. O. Box 2501  
Charleston, WV 25329
- **April 2008 – May 2008**  
Educational meetings and informational booths will be offered at work sites and central offices across the state.
- **May 5, 2008**  
“Selection Day” in which each county board and superintendent shall provide an opportunity in each school for TDC members to affirmatively elect to transfer.
- **May 6, 2008 – May 9, 2008**  
Work site supervisors to make reasonable efforts to contact, verbally and in writing, actively contributing members of TDC of upcoming deadlines for submitting the TDC transfer form.
- **May 12, 2008**  
Last day for a TDC member to mail an acceptable transfer form to CPRB.
- **May 13, 2008**  
Last day for a work site supervisor to mail acceptable transfer forms dated and signed on or prior to May 9, 2008 by TDC members to CPRB.
- **June 5, 2008**  
The results of the number of actively contributing TDC members electing to transfer their TDC account to TRS will be certified and given to the Governor, the Legislature and the members.

## GLOSSARY OF KEY TERMS

**Accrued benefits** – These are the amounts earned to date under a plan.

**Actively contributing TDC member** – A member of the TDC retirement system who was actively contributing to the system on December 31, 2007.

**Actuarial Reserve** – Means the Actuarial Reserve Lump Sum Value of the additional service credit being purchased by a TDC member. Payment of the Actuarial Reserve is optional.

**Actuarial Reserve Adjusted Salary – Means either:**

- A) For a member with a full year service credit in the fiscal year ending June 30, 2007, the member's 2007 fiscal year salary increased by 7%;
- B) For a member with less than a full year service credit in the fiscal year ending June 30, 2007, the member's 2007 fiscal year salary annualized to a full year based on the partial year service credit increased by 7%; or
- C) For a member without service credit in the fiscal year ending June 30, 2007, the member's annualized contract salary in effect on December 31, 2007 increased by 7%, or the member's annual contract salary on the date of rehire if after December 31, 2007.

**Actuarial Reserve Benefit Date** – Means the first day of the month coincident with or next following the date at which the member attains the age of 60, or June 30, 2009, whichever is later.

**Actuarial Reserve Benefit Date Factors** – Means the actuarial lump sum value factors based on a life only annuity starting on the Actuarial Reserve Benefit Date applying the 1983 Group Annuity Mortality Tables on a 75% female and a 25% male blended Unisex basis and interest at 7.5%.

**Actuarial Reserve Discount Factor** – Means the annual discount factor applied for the period between June 30, 2009 and the Actuarial Reserve Benefit Date, if any. Such factor based on TRS actuarial valuation assumptions shall estimate the impact of mortality, disability, and economic factors for such discount period by application of a net 4% discount rate.

**Actuarial Reserve Lump Sum Value** – Means a single sum amount calculated as: A benefit of 2% multiplied by TDC service credit being purchased multiplied by the Actuarial Reserve Adjusted Salary; such benefit multiplied by the Actuarial Reserve Benefit Date Factors to determine the lump sum value multiplied by the Actuarial Reserve Discount Factor.

**Annuity** – An annuity is a form of payment for a retirement benefit in which an employee or beneficiary receives a regular, fixed payment during retirement, usually for life. An annuity can be for the life of the employee only, or the life of the employee and, after the employee's death, the life of the beneficiary ("joint and survivor annuity").

**CPRB** – The Consolidated Public Retirement administers both TRS and TDC retirement systems.

**Credited service** – The service you accrue while you are a participant in the plan.

**Defined benefit plan** – A retirement plan that pays benefits based on a formula, generally taking pay and years of service into account. Benefits under a defined benefit plan are not affected by investment returns.

**Defined contribution plan** – A retirement plan that pays benefits based on the accumulated value of employer and employee contributions to the plan and their investment returns. Benefits under a defined contribution plan fluctuate with investment returns.

**Employee contribution** – In a retirement plan, the amount deducted from an employee's pay and contributed to the retirement plan. The mandatory employee contribution in TDC is 4.5%; in TRS, 6%.

**Employer contribution** – In a retirement plan, the amount contributed to the plan by the employer on the employee's behalf, expressed as a percentage of the employee's pay. In TDC, the employer contribution is 7.5% of pay. In TRS, the employer contribution is 7.5% of pay for participants joining (or re-joining) the plan on or after July 1, 2005. Please note that under TRS, the employer contribution is a funding commitment, not a matching contribution; it does not affect the amount of your benefit at retirement.



**Final average salary** – In a retirement plan, the compensation used to calculate your benefits. Under TRS, your Final Average Salary is the average of your 5 highest fiscal years of total earnings from covered employment during your last 15 years of service. The 5 highest years do not have to be consecutive. This amount is used in conjunction with your years of credited service to determine your monthly benefit under the plan.

**Lump sum distribution/refund**– A lump sum distribution/refund is a form of payment for a retirement benefit in which an employee or beneficiary receives the value of the benefit as a single sum of money (as opposed to a stream of payments or annuity).

**Member** – Means any person who has an account balance in the system.

**Normal retirement date** – The age at which you may receive full benefits under a plan. Under TRS, normal retirement is available at age 60 with five or more years of service, age 55 with 30 or more years of service, or at any age with 35 or more years of service. Under TDC, normal retirement is available at age 55 with 12 years of service.

**One and one-half percent contribution** – If the individual voluntary transfer of TDC accounts to TRS occur, and if at least 75% of actively contributing TDC members elect to transfer, the one and one-half percent contribution is the additional contribution an employee can pay into TRS in order to purchase 25% of his or her TDC service credit and receive full TDC service credit under TRS. This contribution is based on the member's estimated total earnings for which assets are transferred, plus 4% interest per annum accumulated from the date of the member's initial participation in TDC. Payment of the one and one-half percent contribution is optional.

**Periodic payments** – Periodic payments are a form of retirement benefit in which the employee or beneficiary receives payments of a specific dollar amount at specific intervals (e.g., monthly, quarterly, or annually) until the retirement account is exhausted. Periodic payments are a distribution option under TDC.

**TDC** – The Teachers' Defined Contribution Retirement System, established as the sole retirement system for all regularly employed education and service personnel hired on or after July 1, 1991. The TDC was closed to new member as of June 30, 2005.

**TRS** – The State Teachers' Retirement System, a defined benefit retirement plan established in 1941, closed to new members June 30, 1991, and re-opened for all first-time hires as of July 1, 2005.

**Vesting** – Vesting refers to a nonforfeitable right to employer benefits under a retirement plan. Under both TDC and TRS, you are always 100% in your employee contributions and associated earnings or interest.

Under TDC, vesting in your employer contributions occurs incrementally as follows:

| Years of Service   | Vested Percentage |
|--------------------|-------------------|
| Less than 6        | 0%                |
| 6 but less than 9  | 33.33%            |
| 9 but less than 12 | 66.66%            |
| 12 or more         | 100%              |

Under TRS, you are 100% vested in your employer benefits under the plan after completing five years of service. Prior to that, you are 0% vested.

**Vesting service** – Vesting service is your years and months of service used to determine your right to receive benefits.



## ASSUMPTIONS

Projected benefits shown in personalized benefit statements are based on the following assumptions.

These assumptions are used only to help you compare the benefits possible under each of the plans. They represent both a “low inflation” and “high inflation” projection for future economic conditions including your annual salary increases and the average annual investment returns earned by the TDC accounts. **None of the information presented in the personalized benefit statements is guaranteed.**

1. One full year of service is earned for each future year up to the projected retirement ages shown.
2. You receive annual pay increases each future year. The low inflation pay increase percentage is 3% annually while the high inflation percentage is 6% annually. Future pay increases are not guaranteed and are for demonstration purposes only. Please go to the computer modeling site at [www.benefitmodeling.com/wv/chooseyourplan](http://www.benefitmodeling.com/wv/chooseyourplan) to model other annual pay increase levels.
3. For illustration purposes, projected TDC account balances were converted to a life annuity guaranteed through the purchase of an annuity contract with an insurance company. Actual annuity purchase rates offered by insurance companies will vary and usually reflect average interest rates at the time of purchase and current mortality assumptions. For projection purposes, the low inflation purchase rate is based on a 3.75% interest rate and the high inflation purchase rate is based on a 6% interest rate.
4. All projections, including the 1.5% make up contribution amount and the actuarial reserve as defined in HB101, is based on your pay for the year ending June 30, 2007. If you received less than a full year of service credit, your pay was annualized to a full year credit. If you did not receive any pay during the year ending June 30, 2007, your pay is based on your contract salary as of December 31, 2007.
5. Benefit amounts are shown payable as single life annuities. Go to the computer modeling site to estimate benefits under other available options in TRS, such as joint and survivor annuities.
6. If your TDC benefits are covered by a qualified domestic relations order, the amounts shown in your individual statement may not have been adjusted for the amount of TDC benefits transferred to your alternate payee under the order. Such transfer results in a reduction of your TDC service credits under TRS which may not have been made in the data provided.
7. If you have received a distribution of all or part of your TDC account balances in past years, the amounts shown in your individual statement may not have been adjusted for the amount of TDC benefits distributed to you. Such a distribution results in a reduction of your TDC service credits under TRS based on the amounts previously withdrawn. A reduction in credits does not occur if you repaid or repay such distribution.

*This brochure was prepared and distributed by Buck Consultants, LLC, an ACS company, at the request of the State of West Virginia Consolidated Public Retirement Board (CPRB). The information is not intended to serve as advice regarding the individual voluntary option to transfer your TDC account to TRS. You should review the provisions of the plans and consult with your personal financial advisor on these and other retirement planning matters.*

*Information contained in this brochure illustrates the CPRB's understanding of the current provisions of the potential TDC to TRS voluntary transfer. These provisions are contained in the current plan statutes, and are subject to modification by the West Virginia Legislature each year. This guide is for general purposes only. In the event there is a discrepancy between the information contained in this guide and the West Virginia State Code and Rules, the language in the West Virginia State Code and Rules shall prevail.*

*April 2008*







## **Attachment B**

Mark Olleman, "Public Plan DB/DC Choices," *PERiScope: Public Employee Retirement Systems*, Milliman, Inc., Table 4, p. 6, January 2009.

# PERiSCOPE

Public Employee Retirement Systems

## Public plan DB/DC choices

Mark Olleman, FSA, MAAA

This article is about choices: When given the choice, do public employees choose a defined benefit (DB) plan or a defined contribution (DC) plan? Do employers give employees the chance to choose a second time? What happens when employees choose their own investments? Can employers choose to offer meaningful death and disability benefits to DC members? What are the implications of an employer choosing to change from a DB to a DC plan? This article looks at the recent experience of statewide retirement systems to provide some answers.

### What do public employees choose?

Many people claim that DC plans are more attractive to new employees than DB plans. Is this true? As a test, note that in the last 10 years, the seven statewide systems listed in Table 1 have begun giving new hires the choice between participating in a DB or a DC plan. Their experience indicates that public employees prefer DB plans. The percentage of new employees electing DC plans ranges from 3% in the Ohio Public Employee Retirement System to 26% in Florida.

Table 1 shows that many of the members going into a DB plan never submit an election and are placed in the DB plan by default. However, based on survey data, Florida found that “up to 45% of the defaulters may be using this option as their active election in the belief that by defaulting there could be no mistakes made in their plan choice.” What is more, Table 2 shows that in Washington PERS—the only system where DB is not the default—63% of new members have actively chosen an all-DB plan (Plan 2) over the default of a combined DB and DC plan (Plan 3).

Most of these DB/DC choice plans have had relatively stable election percentages in the short time they have existed. However, we do not know how the choices members make will change in the future. The stock market decline of 2000 to 2002 has certainly influenced many members. No doubt factors such as the future of the stock market and the experiences of people retiring with only DC plans will influence future member choices. The financial market experience of late 2008 may have some influence as well.

TABLE 1

#### NEW HIRE ELECTIONS IN MOST RECENT COMPLETE YEAR

| SYSTEM         | DB BY DEFAULT | DB ACTIVE ENROLLMENTS | DC ACTIVE ENROLLMENTS | COMBINED PLAN ACTIVE ENROLLMENTS |
|----------------|---------------|-----------------------|-----------------------|----------------------------------|
| COLORADO       | 39%           | 43%                   | 18%                   | NOT OFFERED*                     |
| FLORIDA        | 55%           | 19%                   | 26%                   | NOT OFFERED*                     |
| MONTANA PERS   | 90%           | NOT SEPARATED*        | 10%                   | NOT OFFERED*                     |
| NORTH DAKOTA** | 88%           | NOT SEPARATED*        | 12%                   | NOT OFFERED*                     |
| OHIO PERS      | 82%           | 13%                   | 3%                    | 2%                               |
| OHIO TEACHERS  | 72%           | 14%                   | 11%                   | 4%                               |
| SOUTH CAROLINA | 80%           | NOT SEPARATED*        | 20%                   | NOT OFFERED*                     |

\* “NOT SEPARATED” MEANS ACTIVE DB ENROLLMENTS HAVE NOT BEEN SEPARATED FROM DEFAULT DB ENROLLMENTS.

“NOT OFFERED” MEANS THERE IS NOT AN OPTION TO ENROLL IN A COMBINED DB/DC PLAN.

\*\* NORTH DAKOTA STATISTICS ARE FOR JANUARY 2001 THROUGH JUNE 2008.

**TABLE 2**

**CUMULATIVE WASHINGTON PERS NEW HIRE ELECTIONS  
FROM MARCH 2002 TO SEPTEMBER 2008**

| <b>PLAN 3 COMBINED<br/>DB &amp; DC<br/>BY DEFAULT</b> | <b>PLAN 3 COMBINED<br/>DB &amp; DC ACTIVE<br/>ENROLLMENTS</b> | <b>PLAN 2 ALL DB<br/>ACTIVE<br/>ENROLLMENTS</b> |
|---|---|---|
| <b>19%</b>  | <b>18%</b>  | <b>63%</b>                                      |

Tables 1 and 2 summarize the experience of systems that allow their members to choose between a DB plan and a DC plan. Ohio and Washington state members also have the choice of a “combined” plan, where employer contributions fund a DB plan and employee contributions fund a DC plan. Washington state members do not have the option of an all-DC plan.

### What about do-overs?

One plan design choice employers face is whether to give employees a chance to change their mind. This chance for a do-over has been referred to by some as the pension mulligan. Although Montana PERS, North Dakota, Vermont, and Washington state require new hires to make a one-time irrevocable decision, other systems do not. Colorado allows members to change their election one time in years two through five after hire. Ohio Teachers and South Carolina also allow members to change their election once in the first five years, but only from DC to DB. Florida allows members to change once at any time before retirement or termination of employment. Last, Ohio PERS allows members to change up to three times: once in their first five years of employment, once in their second five years, and once more at any time after 10 years of service through retirement.

You might ask, “What do systems do when members change their mind?” Florida allows two choices when members switch from the DB to the DC plan. The members can either (1) freeze their current DB benefits based on service and salary to date and have future contributions accumulate in their DC accounts, or (2) convert their DB benefits into DC accounts based on the value of the normal retirement benefit.

If a Florida member wants to switch from DC to DB, the member must pay the full cost based on either the present value or the actuarial accrued value, depending upon where the member has previous DB service prior to joining the DC plan. The DC account is used first. If there is more money than needed in the DC account, the member keeps the extra in the DC account. If there is not enough money in the DC account, then the member must pay the difference or stay in the DC plan.

Ohio PERS, which allows up to three changes, takes a somewhat different approach. Changes are prospective only, but members transferring to the DB or combined plan have the option to purchase service in the new plan using their DC accounts. Frozen DB benefits are based on salary and service during DB membership only.

The do-over could be particularly valuable when a member's situation changes. As an example, the portability of a DC plan might be attractive to a teacher who does not expect to stay long in a position due to a military spouse who is frequently moved around the country. However, if the couple's plans change and they decide to settle down, the teacher might want to change to the DB plan.

### Can meaningful death and disability benefits be provided in a DC environment?

Yes, meaningful death and disability benefits can be provided in a DC environment, but it will require supplemental contributions. Consider the choices three states have made to respond to the criticism that DC accounts do not provide adequate death and disability benefits.

In Florida, where members choose between a DB and a DC plan, disabled members can choose to surrender their DC account balance and receive the same disability benefits as provided by the DB plan. This raises a question: Where does the money to finance this benefit come from? The answer is that the employer pays a separate charge ranging from 0.25% of pay for general members to 1.33% of pay for special risk members, and a side account is maintained to finance the difference between the cost of the disability benefits and the dollar amount of the DC accounts surrendered by the members. If DC members die in Florida, their death benefit is the DC account balance. Montana PERS has a similar provision where 0.30% of DC member pay is set aside to finance long-term disability benefits.

Alaska has a different approach. Alaska public employees hired after July 1, 2006, all go into a DC plan. Here the occupational death and disability benefit is 40% of salary until normal retirement (50% of salary for the occupational death of police and fire members). The employer continues both the employer and employee contributions into a special occupational death and disability trust account until the member reaches normal retirement, or until the date the member would have reached normal retirement in the case of occupational deaths. At normal retirement age, the 40% (or 50%) of salary benefit stops, and the member, or survivor, receives the DC account as well as the accumulated contributions from the occupational death and disability trust account with actual returns net of expenses. Employers make contributions into a separate fund to finance the extra benefit not provided by the DC account.



## What happens when employees choose their own investments?

Experience indicates the average employee directing his or her own investments earns lower investment returns than a statewide DB system. Here is the experience of two states.

Nebraska's state and county employees hired between 1964 and 2003 had only a DC plan. During the same period, Nebraska maintained separate DB plans for its school employees, state judges, and state patrol. Over the 20 years leading up to 2002, the average return in the DB plans was 11% and the average return in the DC plans was between 6% and 7%. Why the significant difference? One reason is that nearly 50% of DC member contributions were invested in the stable value fund. The stable value fund was the default for members not making a specific investment election. Although the stable value fund is very conservative and the investor's balance will not decrease, the investor also has a lower expected rate of return. Partially due to the lower returns, employees were receiving a replacement ratio of their pre-retirement income closer to 30% rather than the projected 50% to 60%. Nebraska has since decided that employees hired on or after Jan. 1, 2003, will go into a hybrid defined benefit plan.

West Virginia had a similar experience. Teachers hired between 1991 and 2005 had only a DC plan. Teachers hired after July 1, 2005, go into a DB plan instead. One of the reasons for this change is that average DC returns lagged DB returns. As an example, during the seven years from 2001 to 2007, the DB plan outperformed the DC plan in both the best and worst markets. The DC return was higher in only one of the seven years. Over the seven year period, the average DB return was 3.15% higher. Specific returns are shown in the appendix.

## Do DC members have to choose their own investments?

Employees directing their own investments tend to earn lower investment returns than statewide DB systems for a variety of reasons. DC members are part-time investors, whereas DB plans are managed by full-time highly trained professionals. DB plans have investment options that are generally not available to DC members, such as real estate, private equity, and hedge funds. DC members often lack discipline and chase returns. Does this mean that DC members cannot earn the same investment returns as DB plans? No, DC members can earn exactly the same returns. Members of Washington state Plan 3 have the option to invest in the Total Allocation Portfolio (TAP), which mirrors the investments in the state DB plan and therefore earns the same returns. Washington has made the TAP the default investment option for Plan 3, and approximately 61% of the members' DC assets are in the TAP option.

The employee contributions of members in the Oregon Public Service Retirement Plan go into the Individual Account Program (IAP). Like Washington's TAP, Oregon's IAP money is invested in the

same manner as the DB plan. However, unlike Washington's TAP, which is one of many investment choices, in Oregon's IAP there are no other investment choices, and so all DC money is invested to match the DB plan.

Both Washington and Oregon provide members with a professionally managed portfolio. Washington's approach leaves room for individual risk tolerance. For instance, members near retirement may not want to take as much risk. Oregon's approach ensures that all member funds are invested in a carefully managed portfolio. Either way, it is ironic that DC members may need to give up their ability to choose their own investments in order to earn returns competitive with DB plans.

Both the Washington and Oregon plans are hybrid plans where employer contributions fund a DB plan and employee contributions go into a DC plan. This is significant because the DB plan will provide some level of guaranteed income regardless of DC investment returns.

## Does changing to DC solve funding problems?

In 1991, the West Virginia teachers' poorly funded DB plan was closed to new members. All new hires were put into a DC plan. This funding solution overlooked some important considerations:

- New members do not start with any unfunded obligation.
- Projected contributions for new members were worth more than the projected DB costs for those members.
- No unfunded obligations for existing members are reduced when new members go into a DC plan.

As a result, the loss of new members made it more difficult to finance the unfunded obligations of the West Virginia Teachers' Retirement System (TRS).

In 2003, West Virginia studied whether teacher retirement should be returned to a DB plan. Another factor in the decision was that 4,500 members who transferred from the DB to the DC plan in 1991 found it hard to retire after the bear market of 2000–2002. When also considering the lower average returns that were earned on the DC member accounts, the state decided that starting in 2005 all new hires would go into the DB plan to save money. After studying the issue, the state decided that funding a DB plan properly would be less expensive than a DC plan providing equivalent benefits. The state has shown discipline to achieve this proper funding, with extra contributions of \$290.1 million in fiscal year 2006 and \$313.8 million in fiscal year 2007. In addition, West Virginia completed a tobacco bond securitization in fiscal year 2007 and deposited \$807.5 million of those proceeds into TRS as another special appropriation. Most recently, in June of 2008, the teachers in the DC plan were given the choice to switch to the DB plan. Seventy-eight percent chose to switch.

West Virginia projected a \$1.2 billion savings in the first 30 years due to moving new entrants from the DC to the DB plan. This relies on an assumed return of 7.5%. The Legislature asked what return would be needed to break even. The answer was 6.0%. In order for the DB plan to save money, a projected return of more than 6.0% was needed. The employer cannot avoid funding risk with a DB plan, but changing to a DC plan does nothing to take care of unfunded obligations.

Some states require specific contributions to the DB plan as a percent of DC member pay in order to finance preexisting unfunded liabilities and to defray expenses. The systems include Colorado, Montana PERS, Ohio PERS, Ohio Teachers, and South Carolina. Details are in the appendix.

## What are the implications of these choices?

The choices discussed in this article have many implications. Public employees have overwhelmingly chosen DB plans over DC plans. This implies that DB plans are more attractive than DC plans to public employees. This is not surprising, as public employees tend to have long service. Some systems have chosen to allow their members a second choice. This do-over could help an employee reverse a bad decision. Some systems have chosen to provide meaningful death and disability benefits in a DC environment; however, supplemental contributions are required. Employees tend to earn less when they choose their own investments. However, this can be countered in a DC plan by using an alternative like Washington state's TAP or Oregon's IAP, where the DC assets are invested in the same manner as the DB assets. Choosing to change from a DB to a DC plan does not solve funding problems.

In the final analysis, it's a question of accumulation and distribution. The accumulation of contributions and investment earnings determines available retirement income. A plan that maximizes investment earnings maximizes the benefits provided by contributions. Public employees are choosing plans that provide lifetime distributions. There is not yet much experience on how many DC members have been able to make their assets last a lifetime. The distribution phase and the loss of longevity risk pooling in retirement is probably the hardest obstacle for DC plans to overcome. The consequences of outliving one's assets are severe. DC plans rarely measure whether assets accumulated will provide adequate retirement income. How many employees can be sufficiently educated and empowered to navigate the risks of pre-retirement accumulation and postretirement distribution?

There often seems to be a choice between the employer bearing all the risk of funding a defined benefit and the member bearing all the risk of accumulating sufficient assets to last a lifetime. However, there are some choices that share risk between employers and employees, such as the combined DB/DC plans in Washington, Oregon, and Ohio, and DB plans where contribution increases are shared by employees. More choices are needed where risk is shared, or better yet reduced, and adequate retirement benefits are provided for a reasonable cost.

Further details are provided in the appendix available on Milliman's Web site.

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# PERiSCOPE

Public Employee Retirement Systems

## Appendix - Public plan DB/DC choices

This appendix provides further details.

TABLE 3

STATE SYSTEMS REFERRED TO IN THIS ARTICLE

| SYSTEM            | CURRENT PLAN                 | EFFECTIVE DATE  |
|-------------------|------------------------------|-----------------|
| ALASKA PERS & TRS | DC                           | JULY 1, 2006    |
| COLORADO PERA     | DB/DC CHOICE                 | JANUARY 1, 2006 |
| FLORIDA RS        | DB/DC CHOICE                 | JULY 1, 2002    |
| MONTANA PERS      | DB/DC CHOICE                 | JULY 1, 2002    |
| NEBRASKA PERS     | HYBRID DB                    | JANUARY 1, 2003 |
| NORTH DAKOTA PERS | DB/DC CHOICE (LIMITED GROUP) | JANUARY 1, 2000 |
| OHIO PERS         | DB/DC/COMBINED CHOICE        | JANUARY 1, 2003 |
| OHIO STRS         | DB/DC/COMBINED CHOICE        | JULY 1, 2001    |
| OREGON PERS       | COMBINED                     | AUGUST 29, 2003 |
| SOUTH CAROLINA RS | DB/DC CHOICE                 | JULY 1, 2001    |
| VERMONT SRS       | DB/DC CHOICE (LIMITED GROUP) | JANUARY 1, 1999 |
| WASHINGTON STATE  | DB/COMBINED CHOICE           | MARCH 1, 2002   |
| WEST VIRGINIA TRS | DB                           | JULY 1, 2005    |

### Systems with supplemental contributions

The following systems have contributions paid as a percentage of DC member salaries that are not credited to DC member accounts. Supplemental contributions required to fund DB liabilities show that introducing a DC plan does not reduce the unfunded liabilities of the existing DB plan.

#### Colorado PERA

- Amortization Equalization Disbursement (AED)—The AED has been 0.5% of pay in 2006, 1% in 2007, and 1.4% in 2008. It is scheduled to increase 0.4% each year to a maximum of 3% in 2012.
- Supplemental Amortization Equalization Disbursement (SAED)—The SAED is 0.5% in 2008, and is scheduled to increase 0.5% each year to a maximum of 3% in 2013.
- In Colorado, the AED and SAED are both contributions to the DB

plan to account for adverse selection. Both are applied to both DB and DC payroll. The AED is paid by employers. The SAED, although technically an employer contribution, is considered to be an employee contribution because it comes out of the employee compensation package. Both grade down when trust funds reach 100% funding.

#### Florida RS

- To fund supplemental disability benefits for DC members, a contribution ranging from 0.25% of DC member pay for general members to 1.33% of DC member pay for special-risk members is paid by employers into a separate side account.
- Employers contribute 0.05% of pay to fund communication and administration.
- In Florida, there is no payment as a percent of DC member salaries to fund DB unfunded liabilities.

## Montana PERS

The following contributions are made by Montana PERS employers as a percent of DC member pay:

- A Plan Choice Rate (PCR) contribution equal to 2.505% of pay is made to the DB plan to prevent DB costs from increasing due to financing unfunded liabilities over a smaller payroll and increases in the normal cost rate due to antiselection. The PCR was 2.37% from inception at July 1, 2002, until July 1, 2007, when it increased to 2.505% of pay.
- A payment of 0.30% is made to finance long-term disability benefits.
- A payment of 0.04% is made to the education fund.

## Ohio PERS

- A contribution of 0.77% of pay for members in the all DC plan is made to the DB plan by the employer in 2008 as a "mitigation rate." The board reviews the mitigation rate annually, and it can vary between 0% and 6%. The highest level to date is 0.77%.

## Ohio STRS

- 3.5% of pay from employer contributions for all DC members is used to pay for the unfunded liabilities of the DB plan.

## South Carolina RS

- The South Carolina Retirement System currently collects 4.24% of the employer contribution and may retain an amount as determined by the director to defray any reasonable expenses incurred in performing services regarding the plan. This amount has changed as follows: 3.05% for FYE 6/30/2007, 4.06% for FYE 6/30/2008, and 4.24% for FYE 6/30/2009.

## Further system details

The following section provides a brief summary of information relevant to this article for each system.

### Alaska

Starting July 1, 2006, Alaska's public employee and teachers defined benefit plans are closed. New hires will go into the defined contribution plan.

The default percent of pay contribution rates are 5% employer and 8% employee in PERS and 7% employer and 8% employee in TRS. Additional employee contributions may be elected once in the first 24 months of hire subject to the IRS maximums in Section 415.

Alaska teachers do not participate in Social Security and many Alaska public employers, like the state of Alaska, have opted out of Social Security participation.

## Colorado Public Employee Retirement Administration (PERA)

Starting Jan. 1, 2006, Colorado allowed new employees to choose between the PERA DB plan, the PERA DC plan, and three other state-offered DC plans.

Members have a 60-day election window and can then change their minds once between the PERA DB and PERA DC plans either way in years two through five after retirement. If a member changes to the DC plan, the DB benefit is frozen based on service and salary to the date of the change and the member participates in the DC plan going forward. If the member changes to the DB plan, the member has the option to purchase his or her original time in the DB plan after one year based on actuarial value.

The DB and DC plans require the same employer and employee percentage of pay contributions. The base contribution rates are 10.15% employer and 8% employee for state and school employees, and 12.85% employer and 10% employee for state troopers. For DB members, 1.02% of pay from the base employer contribution is used to fund retiree healthcare instead of pension benefits. For DC members, the 1.02% of pay goes into the members' DC accounts as part of the employer contribution and it is up to the members to pay for healthcare when they retire. The AED and SAED supplemental contributions described earlier are in addition to these base contribution rates.

Table 5 is a historical record of the choices of new hires in Colorado PERA.

## Florida Retirement System (FRS)

Starting July 1, 2002, Florida allowed new employees to choose between a DB plan and a DC plan.

Members have a six-month election window and can change their minds once at any time before retirement or termination. Details of how the switch is treated are given in the main body of the article.

There are no employee contributions to either the DB or the DC plan. Employer contributions to members' DC accounts range from 9% of pay for general members to 20% of pay for special risk. Employer contributions to fund additional disability benefits for DC members range from 0.25% of pay for general members to 1.33% of pay for special-risk members. Employers contribute 0.05% of pay to fund communication and administration.

DC accounts vest 100% at one year of service. DB benefits vest 100% at six years of service. Accounts and benefits are 0% vested before these dates.

Table 6 is a historical record of the choices of new hires in Florida. Florida has an active education campaign. DC elections have increased each year and the overall DC election percentage of 26% in the year ending June 30, 2008, is the highest of any system in this study.

## Montana Public Employees' Retirement System (PERS)

Starting Jan. 1, 2002, Montana PERS allowed new employees to choose between a DB plan and a DC plan.

Members have 12 months after hire to make a one-time irrevocable decision between the DB plan and the DC plan.

The DB and DC plans require the same employer and employee percentage of pay contributions. Employers contribute 7.035% of pay. Employees contribute 6.90% of pay. Employer DC contributions can be broken down as 4.19% to the DC account, 2.505% plan choice rate (DB funding), 0.30% for long-term disability benefits, and 0.04% for the education fund. The entire employee contribution is credited to the DC account.

Table 7 is a historical record of the choices of new hires in Montana PERS. Members not making a choice are placed in the DB plan by default; however, statistics are not available on what portion of new hires entering the DB plan did so by default.

## North Dakota Public Employees Retirement System (NDPERS)

Starting Jan. 1, 2000, North Dakota allowed nonclassified state employees to choose between a DB plan and a DC plan. As only nonclassified state employees are eligible, there were only 291 members in the DC plan as of July 1, 2008.

Members have six months after hire to make a one-time irrevocable decision between the DB plan and the DC plan.

The DB and DC plans require the same employer and employee percentage of pay contributions. Employers contribute 4.12% of pay and employees contribute 4% of pay for a total contribution of 8.12% of pay.

Table 8 shows that about 12% have actively elected the DC plan and 88% have either actively elected the DB plan or have not made a choice and have been placed in the DB plan as the default. Breakouts by year and the portion of DB elections that were active versus default are not available.

## Ohio Public Employees Retirement System (OPERS)

Starting Jan. 1, 2003, OPERS allowed new employees to choose between an all-DB plan (the Traditional Pension Plan), an all-DC plan (the Member-Directed Plan), and the Combined Plan.

In the Combined Plan, employer contributions fund DB benefits and all member contributions are credited to DC accounts.

Members have three chances to change their minds about their choice—once in the first five years after hire, once five to 10 years after hire, and once at any time after 10 years from hire and before retirement. Changes are prospective only, but members transferring to the all-DB or combined plan have the option to purchase service in the new plan using their DC accounts. Service purchases are based on service in the plan the member is opting out of; must use the DC account first; and if the DC account is less than the total cost, then the member may still purchase all service with an additional lump sum, rollover, or payroll deduction. Frozen DB benefits are based on salary and service during DB membership only.

The employer contribution is 14% of pay and the employee contribution is 10% of pay for all three plans and for all groups. Members in the all-DC and combined plans have all employee contributions credited to their DC accounts. However, a portion of the employer contribution is used to fund retiree health benefits (4.5% of pay in 2008). Also, the mitigation rate, which is currently 0.77% of pay, comes out of the 14% employer contribution and is not credited to DC accounts.

Table 9 is a historical record of the choices of new hires in OPERS.

## State Teachers Retirement System of Ohio (STRS)

Starting July 1, 2001, STRS allowed new employees to choose between an all-DB plan, an all-DC plan, and a combined plan. In the combined plan, employer contributions fund DB benefits and all member contributions are credited to DC accounts.

Members have a six-month election window. After the member is put in the all-DB plan either by default or by active election, he or she cannot elect out. All changes after the first six months are effective at the end of the fiscal year following the fourth anniversary of the hire date. Members must positively elect to stay in the combined or all-DC plan at the end of the fifth fiscal year of participation or they will default into the all-DB plan. If members change into the all-DB plan, they forfeit their DC accounts and are treated as if they had been in the all-DB plan since hire. There are no changes after the end of the fifth fiscal year of participation after hire.

The employer contribution is 14% of pay and the employee contribution is 10% of pay for all three plans. Members in the all-DC and combined plans have all employee contributions credited to their DC accounts. However, a portion of the employer contribution to the all-DC plan is used to fund unfunded liabilities for the all-DB plan (3.5% of pay in 2008).



Table 10 is a historical record of the choices of new hires in STRS of Ohio.

## *Oregon Public Service Retirement Plan (OPSRP)*

Oregon has chosen that starting Aug. 29, 2003, all new hires go into a combined pension plan with two components: the defined benefit pension program and the defined contribution Individual Account Program (IAP).

The pension program provides a defined benefit equal to 1.5% of final average earnings (1.8% for police officers and firefighters) for every year of service and is funded entirely by employer contributions.

The IAP is funded entirely by the employee contributions, which are 6% of pay. All IAP assets are invested in the same portfolio as the DB assets; there is no difference. Employees have no choice in how IAP assets are invested. As a result, the members' DC accounts earn the same return, positive or negative, as the DB assets. Earnings are credited annually to member accounts. Administrative fees are deducted from the fund's earnings as part of the annual crediting process. Members receive an annual statement after interest is credited each year.

## *South Carolina Retirement Systems*

South Carolina allows new employees to choose between a DB plan and a DC plan. This arrangement was made effective over the period from July 1, 2001, to July 1, 2003, varying by group.

DC members choose between four authorized investment providers. Members must choose investment options from their chosen investment provider. Members may change investment providers during the annual open-enrollment period subject to the investment provider's contractual limitations.

Members have a 30-day election window after hire to choose between the DB plan and the DC plan. During their first five years, members can change from the DC plan to the DB plan. Members cannot change from the DB plan to the DC plan. If a member changes to the DB plan during this five-year period, the member has the option to purchase his or her original time in the DB plan. The cost is 16% of the member's highest career salary for each year of service. The member has the option, but is not required, to use his or her DC account for these service purchases.

The DB and DC plans require the same employer and employee percentage of pay contributions. Employers contribute 9.24% of pay. Employees contribute 6.50% of pay. Five percent of employer DC contributions are deposited to the DC account; the South Carolina Retirement System currently collects 4.24% of the employer contribution and may retain an amount as determined by the director to defray any reasonable expenses incurred in performing services regarding the plan. The entire employee contribution is credited to the DC account.

Table 11 is a historical record of the choices of new hires in South Carolina. Like most other systems, the DB plan is the default election. It is interesting to note that the percent of new hires electing DC varies widely by group. The percent of higher education employees choosing DC has varied from 32% to 37%, whereas the DC choice for other groups has only varied from 11% to 16%.

## *Vermont*

Starting Jan. 1, 1999, all new exempt state employees were given a choice between a DB plan and a DC plan. In addition, beginning in July of 2000, the governing body of employers in the Vermont Municipal Employees' Retirement System (VMERS) can elect to offer employees a choice between a DB plan and a DC plan. To date, about 77 of the over 400 VMERS employers have chosen to offer this choice to their employees.

Employees make a one-time irrevocable choice at hire.

In the state DC plan, employers contribute 7% of pay and employees contribute 2.85% of pay. In the VMERS DC plan, employers contribute 5% of pay and employees contribute 5% of pay.

Statistics on the percentage of members electing the DC plan or DB plan are not available.

## *Washington State Department of Retirement Systems*

Starting March 1, 2002, Washington state allowed new hires in the Public Employees' Retirement System (PERS) to choose between an all-DB plan (Plan 2), and a combined plan (Plan 3). In the combined plan, employer contributions fund DB benefits equal to 1% of final average earnings for each year of service and all member contributions are credited to DC accounts. Starting July 1, 2007, new hires in the Teachers' Retirement System (TRS) and the School Employees' Retirement System (SERS) were given the same choice between Plan 2 and Plan 3.

Members have 90 days after hire to make a one-time irrevocable decision between the all DB plan and the combined plan.

At the same time the plan election is made in the first 90 days, members in the combined plan (Plan 3) also choose between six employee contribution-rate options. Once the employee contribution-rate option is chosen, it cannot be changed as long as the member remains with the same employer. If members separate from the employer, they may change their contribution rate with the next employer. All employee contributions are credited to the DC account. The six employee contribution options in the combined plan are as follows:

Option A: 5% of pay contribution at all ages

Option B: 5% to age 35, 6% at ages 35 to 44, 7.5% at ages 45 and up

Option C: 6% to age 35, 7.5% at ages 35 to 44, 8.5% at ages 45 and up

Option D: 7% of pay contribution at all ages  
 Option E: 10% of pay contribution at all ages  
 Option F: 15% of pay contribution at all ages

Employees who do not make an election in the first 90 days after hire are placed in the combined plan (Plan 3) with employee contribution option A. Approximately 58% of combined plan members are in option A, with the remainder spread fairly evenly between the other five contribution options.

One of the DC investment options is the Total Allocation Portfolio (TAP), which mirrors the investments in the state DB plan and therefore earns the same returns. Washington has made the TAP the default investment option for Plan 3 and approximately 61% of the members' DC assets are in the TAP option. Starting in October of 2008, target date funds managed by an outside provider are also available. The target date funds allocate investments without the member's involvement and automatically change the asset mix as the member moves closer to retirement.

Table 12 shows that approximately 63% of the PERS members hired between March 1, 2002, and Sept. 26, 2008, have actively chosen the all DB plan over the combined plan, which is the default. Breakouts of choices by year are not available.

### West Virginia Teachers Retirement System

The following chronology of the West Virginia TRS fills in some holes not described in the article.

- 1941—West Virginia TRS was established as a DC plan.
- 1960s and 1970s—DB benefits were added to counter the inadequate DC benefits, but the benefits were never properly funded.
- 1991—The DC plan (TDC) was established for new hires in response to funding problems and 4,500 former DB participants also switched from the DB to DC.
- 2003—Many of the 4,500 who switched felt misled and said they could not afford to retire. Other DC members were also not satisfied.

- 2005—The state decided that a given level of benefits could be funded for a lower cost through a DB plan. Average DC returns had been lower than DB returns in both up and down markets. Changing to a DC plan did not solve the state's funding problems. All members hired after July 1, 2005, go into the DB plan instead of the DC plan. West Virginia projected a \$1.2 billion savings in the first 30 years due to moving new entrants from the DC to the DB plan.
- 2006 and 2007—Special appropriations of \$290.1 million in FY2006 and \$313.8 million in FY2007 were deposited. In addition, West Virginia completed a tobacco bond securitization in FY2007 and deposited \$807.5 million of those proceeds into TRS as another special appropriation. All these amounts were in addition to the regular contribution determined under the ARC, which was converted to a level dollar amortization (from level percentage of payroll). Clearly, West Virginia is demonstrating a new DB contribution discipline.
- 2008—DC members are given the option to switch to the DB plan. Of those DC members, 78.6% (14,925 members) chose to switch to the DB plan. Surprisingly, the switch, which was expected to cost the state up to \$78 million before the elections were made, is now expected to save the state about \$22 million. Fewer older TDC members than expected transferred. More young TDC members than expected transferred. Fifty percent of those over 70 transferred. Sixty-nine percent of those age 65 to 69 transferred. Eighty-one percent of those 45 to 64 transferred. Seventy-six percent of members under age 40 transferred.

Table 4 shows the investment returns for the seven years ended June 30, 2001, through June 30, 2007. The seven-year average DB return was 3.15% higher than the average DC return. DB investments did better in both the best and worst investment years. The average DC return was only higher in 2003 when DC investments averaged 4.84% and DB investments earned 4.75%.

TABLE 4

WEST VIRGINIA TEACHERS' DC RETURNS COMPARED TO DB

| YEAR ENDING JUNE 30 | DC PLAN | DB PLAN |
|---------------------|---------|---------|
| 2001                | -2.60%  | -0.25%  |
| 2002                | -3.76%  | -2.94%  |
| 2003                | 4.84%   | 4.75%   |
| 2004                | 8.83%   | 15.08%  |
| 2005                | 6.33%   | 10.56%  |
| 2006                | 6.73%   | 9.55%   |
| 2007                | 11.85%  | 17.43%  |
| 7 YR AVERAGE        | 4.59%   | 7.74%   |

TABLE 5

COLORADO PERA NEW HIRE CHOICES\*

(EFFECTIVE DATE: JANUARY 1, 2006)

|             | DB BY DEFAULT | DB ACTIVE ENROLLMENTS | DC ACTIVE ENROLLMENTS |
|-------------|---------------|-----------------------|-----------------------|
| 2006        | 37%           | 48%                   | 14%                   |
| 2007        | 39%           | 43%                   | 18%                   |
| 1/08 – 5/08 | 35%           | 43%                   | 21%                   |

\*BASED ON 11,200 NEW HIRES.

TABLE 6

FLORIDA RETIREMENT SYSTEM NEW HIRE CHOICES\*

(EFFECTIVE DATE: JULY 1, 2002)

|             | DB BY DEFAULT | DB ACTIVE ENROLLMENTS | DC ACTIVE ENROLLMENTS |
|-------------|---------------|-----------------------|-----------------------|
| 9/02 – 6/03 | 86%           | 6%                    | 8%                    |
| 7/03 – 6/04 | 73%           | 11%                   | 16%                   |
| 7/04 – 6/05 | 61%           | 18%                   | 21%                   |
| 7/05 – 6/06 | 59%           | 19%                   | 22%                   |
| 7/06 – 6/07 | 58%           | 18%                   | 24%                   |
| 7/07 – 6/08 | 55%           | 19%                   | 26%                   |

\* AT JUNE 30, 2008 THERE ARE 609,888 DB MEMBERS AND 95,392 DC MEMBERS.

**TABLE 7**
**MONTANA PERS NEW HIRE CHOICES**  
 (EFFECTIVE DATE: JULY 1, 2002)

| DC ACTIVE ENROLLMENTS |     |
|-----------------------|-----|
| 7/04 – 6/05           | 9%  |
| 7/05 – 6/06           | 10% |
| 7/06 – 6/07           | 10% |
| 7/07 – 6/08           | 10% |

**TABLE 8**
**NORTH DAKOTA PERS NEW HIRE ELECTIONS FROM JANUARY 2001 THROUGH JUNE 2008\***  
 (EFFECTIVE DATE: JANUARY 1, 2000)

| DB BY DEFAULT | DC ACTIVE ENROLLMENTS |
|---------------|-----------------------|
| 88%           | 12%                   |

\* THERE ARE 291 MEMBERS IN THE DC PLAN AS OF JULY 1, 2008.

**TABLE 9**
**OHIO PERS NEW HIRE CHOICES\***  
 (EFFECTIVE DATE: JANUARY 1, 2003)

|             | DB BY DEFAULT | DB ACTIVE<br>ENROLLMENTS | DC ACTIVE<br>ENROLLMENTS | COMBINED PLAN<br>ACTIVE ENROLLMENTS |
|-------------|---------------|--------------------------|--------------------------|-------------------------------------|
| 2004        | 84%           | 11%                      | 3%                       | 2%                                  |
| 2005        | 84%           | 10%                      | 3%                       | 3%                                  |
| 2006        | 83%           | 12%                      | 3%                       | 2%                                  |
| 2007        | 82%           | 13%                      | 3%                       | 2%                                  |
| 1/08 – 6/08 | 79%           | 15%                      | 4%                       | 2%                                  |

\* BASED ON 228,234 NEW HIRES.

TABLE 10

**OHIO TEACHERS (STRS) NEW HIRE CHOICES\***  
(EFFECTIVE DATE: JULY 1, 2001)

|             | DB BY DEFAULT | DB ACTIVE ENROLLMENTS | DC ACTIVE ENROLLMENTS | COMBINED PLAN ACTIVE ENROLLMENTS |
|-------------|---------------|-----------------------|-----------------------|----------------------------------|
| 7/01 – 6/04 | 69%           | 15%                   | 10%                   | 6%                               |
| 7/04 – 6/05 | 70%           | 15%                   | 11%                   | 4%                               |
| 7/05 – 6/06 | 72%           | 13%                   | 11%                   | 4%                               |
| 7/06 – 6/07 | 72%           | 13%                   | 11%                   | 4%                               |
| 7/07 – 6/08 | 71%           | 14%                   | 11%                   | 4%                               |

\* BASED ON 123,781 NEW HIRES.

TABLE 11

**SOUTH CAROLINA RETIREMENT SYSTEMS PERCENT OF NEW HIRES ELECTING DEFINED CONTRIBUTION\***  
(EFFECTIVE DATES: JULY 1, 2001 TO JULY 1, 2003)

|             | HIGHER ED. | K - 12 SCHOOLS | STATE AGENCIES | OVERALL |
|-------------|------------|----------------|----------------|---------|
| 7/04 – 6/05 | 32%        | 14%            | 11%            | 17%     |
| 7/05 – 6/06 | 34%        | 14%            | 12%            | 18%     |
| 7/06 – 6/07 | 37%        | 15%            | 13%            | 19%     |
| 7/07 – 6/08 | 35%        | 16%            | 13%            | 20%     |

\* BASED ON 128,459 NEW HIRES.

TABLE 12

**CUMULATIVE WASHINGTON PERS NEW HIRE ELECTIONS FROM MARCH 2002 TO SEPTEMBER 2008**

| PLAN 3 COMBINED DB & DC BY DEFAULT | PLAN 3 COMBINED DB & DC ACTIVE ENROLLMENTS | PLAN 2 ALL DB ACTIVE ENROLLMENTS |
|------------------------------------|--|----------------------------------|
| 19%                                | 18%  | 63%                              |



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Damsel, Bill, Assistant Director, Defined Contribution,  
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Davis, Tammy, Assistant Director, Payroll and Financial Reporting,  
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Green, Garry, Research and Education Section Administrator,  
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Maurek, David, Chief Operating Officer,  
*Colorado Public Employees' Retirement System*

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Orr, Dale, Actuarial Analysis Section Manager,  
*Oregon Public Service Retirement Plan*

Reinhardt, Bryan, Research Analyst, Benefits Planner,  
*North Dakota Public Employees Retirement System*

Russell, Gary, Director, Member Services,  
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## **Attachment C**

“Myths and Realities: Defined Benefit vs. Defined Contribution Systems Debate,” *Center for Tax and Budget Accountability Fact Sheet*, 2007

# FACT SHEET

## Myths and Realities: *Defined Benefit vs. Defined Contribution Systems Debate*

### **Myth #1:**

“Switching the public sector from a defined benefit to defined contribution system would save states money.”

### **Reality:**

- Defined contribution systems have significantly higher annual administrative costs than fully funded defined benefit systems.
- According to the Investment Management Institute, the operating expense ratio for defined benefit plans averages 31 basis points (31 cents per \$100 of assets); the average for defined contribution plans is three to six times higher at 96 to 175 basis points.<sup>1</sup>
- To put that in context of the Illinois pension systems, the administrative costs of a defined contribution system would in all likelihood be anywhere from \$275 million to \$610 million more expensive annually than the state’s current defined benefit systems.

### **Myth #2:**

“Defined benefit systems have inordinately high costs.”

### **Reality:**

- The weighted average “normal cost” across all five Illinois pension systems, as a percentage of active members’ payroll, averages 9.13 percent.<sup>2</sup>
- The national average for state and local government is 12.5 percent,<sup>3</sup> placing the normal cost of Illinois’ current defined benefit program far below the national average.
- Moreover, going forward, a fully funded defined benefit system can save taxpayers money annually that would be impossible to save under a defined contribution system.
- Under a defined contribution system, all investment returns belong solely to the employees’ individual account, good returns cannot be used to reduce annual costs to taxpayers. However, in a defined benefit system returns can and frequently do assist in reducing costs to taxpayers. Take for example the experience of the Illinois Municipal Retirement Fund (IMRF).
- The IMRF, the second largest pension fund in Illinois covering public employees such as bus drivers, sewer workers and municipal administrators, has enjoyed a funding advantage for years,

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<sup>1</sup> Sean Collins, The Expenses of Defined Benefit Pension Plans and Mutual Funds, December 2003.

<sup>2</sup> Weighted average based on data provided by each of the five retirement systems.

<sup>3</sup> Norman Jones and Paul Zorn, Harvard Law School, Pension and Capital Stewardship Project Conference, October 2005.

- in large part because it has relentlessly demanded full and on time payments from member government employers and employees.<sup>4</sup>
- As a result, the IMRF has consistently maintained high levels of funding.<sup>5</sup>
- As of December 31, 2006, IMRF was 100.5 percent funded on an actuarial basis.<sup>6</sup>
- Because of this, government employers within the IMRF will enjoy lower contribution rates in 2007.<sup>7</sup>
- Rates will fall from an average 10.04 percent in 2006 to 9.72 percent this year, saving taxpayers millions.<sup>8</sup>

**Myth # 3:**

“Pension benefits offered to public employees in Illinois are overly generous.”

**Reality:**

- According to U.S. census data, the average monthly pension payment to state government employees nationally was \$1,374 in 2001-2002.<sup>9</sup>
- At the same time, the average Illinois payment was \$1,426, a difference of just 3.7 percent.<sup>10</sup>
- An annual retirement income of \$17,112 is barely enough to live on in Illinois. In fact, an annual income of \$17,112 is only \$3,422 away from the poverty level for a family of two under federal government standards.<sup>11</sup>

**Myth # 3:**

“Illinois has too many public employees.”

**Reality:**

- The total number of participants in the state's various pension plans represents a meager 5.3% of Illinois' total population.<sup>12</sup>
- That's because historically, Illinois has not been a high public employee head count state.<sup>13</sup>
- Instead, Illinois is mostly a grant-making state—that is, rather than hire state employees to provide services, Illinois disburses grants to independent providers such as Lutheran Social Services or Catholic Charities, which in turn deliver the service to the public.
- Illinois actually ranks 50<sup>th</sup> among the states, dead last in the nation, in number of state employees per capita.<sup>14</sup>

**Myth # 4:**

“The significant shift from defined benefit to defined contribution systems in the private sector demonstrates the undue cost and uncompetitiveness of defined benefit systems.”

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4 Murphy, Lee. “One State Pension Plan Back to Being Fully Funded” Crains. Feb. 21, 2007.

5 Ibid.

6 Murphy, Lee. “One State Pension Plan Back to Being Fully Funded” Crains. Feb. 21, 2007.

7 Ibid.

8 Ibid.

9 United States Census Bureau, Employee Retirement System of State and Local Governments. 2001-2002. (This is the latest available national data.)

10 Ibid.

11 2007 HHS Poverty Index for family of 2 is \$13,690. Taken from: United States Department of Health and Human Services, Federal Poverty Guidelines, 2007.

12 State of Illinois FY 2008 Budget Book.

13 United States Census Bureau, Statistical Abstract of the United States, 1993-2006.

14 Based on 2006 U.S. Census Data.

## Reality:

- Much of the increased utilization of defined contribution systems in private industry was caused by the passage of the Employment Retirement Income Security Act ("ERISA").<sup>15</sup> ERISA established standards for defined benefit plan participation, vesting, retirement, and reporting; and imposed a tax on defined benefit plans to fund the Pension Benefit Guaranty Corporation ("PBGC").<sup>16</sup>
- These changes reduced or eliminated incentives to private sector employers offering defined benefit plans, and increased the liability, expense, or regulatory requirements of maintaining a private sector defined benefit plan.<sup>17</sup>
- As a reaction to the importance of these new standards and costs, many small to mid-sized private sector businesses moved away from defined benefit systems toward defined contribution systems.<sup>18</sup>
- However, state and local government pension plans are not subject to most ERISA regulations and amendments.<sup>19</sup>
- Moreover, public plans are not required to make payments to the PBGC.<sup>20</sup>
- As a result, the primary factor - ERISA - that pushed the private sector toward defined contribution plans does not even apply to state and local governments.
- Interestingly, even after the ERISA motivated shift to defined contribution systems in the private sector, costs of moving to a defined contribution system were so much higher than the potential tax burden under ERISA, large, private business predominantly continued to use defined benefit systems.<sup>21</sup>
- Fully 75 percent of the Fortune 500 still use defined benefit plans as their main retirement benefit system.<sup>22</sup>
- Public sector employers are typically large employers.
- If large employers in the private sector still favor defined benefit systems despite the added costs and administrative burdens imposed by ERISA, there seems to be no reason for the public sector, which does not have those costs and burdens, to abandon defined benefit systems.
- This is especially so, given the higher administration costs that defined contribution systems would impose on taxpayers.

## Harsh Realities:

- If contribution rates remained the same, defined contribution systems can be expected to generate significantly lower retirement benefits for greater costs. This was the specific experience of

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15 Citing U.S. Department of Labor "The Employee Retirement Income Security Act of 1974 (ERISA) is a federal law that sets minimum standards for most voluntarily established pension and health plans in private industry to provide protection for individuals in these plans." <http://www.dol.gov/dol/topic/health-plans/erisa.htm#doltopics>.

16 Citing Pension Benefit Guaranty Corporation; "PBGC is a federal corporation created by the Employee Retirement Income Security Act of 1974. It currently protects the pensions of nearly 44 million American workers and retirees in 30,330 private single-employer and multiemployer defined benefit pension plans. PBGC receives no funds from general tax revenues. Operations are financed by insurance premiums set by Congress and paid by sponsors of defined benefit plans, investment income, assets from pension plans trusted by PBGC, and recoveries from the companies formerly responsible for the plans" <http://www.pbgc.gov/>.

17 Rajnes, David. "An Evolving Pension System: Trends in Defined Benefit and Defined Contribution Plans" Employment Benefit Research Institute, pg 3, September 2002.

18 Ibid.

19 Ibid.

20 Ibid.

21 Ghilarducci, Teresa. "Future Retirement Income Security Needs Defined Benefit Pensions" Center for Economic Progress May 19, 2006.

22 "Government and Regulatory Initiatives Endanger America's Retirement Security" Association for Financial Professionals, March 18, 2004.



Nebraska which switched to a defined contribution system 30 years ago and recently shifted back to a defined benefit system.

*The Nebraska Experience:*

- In the mid 1960's, Nebraska switched from a defined benefit to a defined contribution plan for state and county government employees.
- Immediately, that state noted it was paying higher administrative costs for its new, defined contribution system.<sup>23</sup>
- Over time, Nebraska found that, when compared to its defined benefit plan, the new defined contribution plan cost the state significantly more in investment management fees, record-keeping fees, educational programs and other administrative line items.<sup>24</sup>
- In 1999, Nebraska's administrative expenses for its defined contribution plans were double the costs of its defined benefit plans.<sup>25</sup>
- Additionally, the state of Nebraska found that when employees managed their own investments under that state's defined contribution plan, investment returns were in fact lower than under the state's defined benefit system.<sup>26</sup>
- During the period from 1983 to 1999, Nebraska state and county workers averaged a 6 percent return when investing their individual retirement accounts in that state's defined contribution plan, versus the 11 percent return for teachers and judges under Nebraska's defined benefit plan.<sup>27</sup>
- The actual investment differential in favor of the defined benefit system becomes even greater once the lower administrative costs of the defined benefit system are factored in.<sup>28</sup>
- One key reason public defined contribution plan returns lag defined benefit portfolios is simple, asset allocations made by employees in a defined contribution setting are often quite conservative.<sup>29</sup>
- The Nebraska experience is illustrative.
- Despite state education programs on the importance of proper asset allocation and eleven different investment options, 90 percent of Nebraska's employees invested all their individual plan deposits in just three funds.<sup>30</sup>
- This suggests employees lack the proper skills to diversify their assets and make sound investments.
- Under a defined benefit system, experienced portfolio managers invest plan assets under carefully considered asset allocation models geared toward long term returns.
- The bottom line was clear, Nebraska found that ten years after retirement, a retiree in that state's defined contribution plan with 30 years of service and an average annual salary of \$30,000, had about \$11,230 annually in retirement benefits,<sup>31</sup> which is \$2,460 less than the poverty level for a family of two.

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23 House Committee on Pensions and Investments, Texas House of Representatives, Interim Report 2000: A Report to the House of Representatives 77th Texas Legislature, p. 27.

24 Ibid.

25 Ibid.

26 Anderson, Gary W, and Brainard, Keith. Profitable Prudence: The Case for Public Employer Defined Benefit Plans Pension Research Council, The Wharton School, University of Pennsylvania. 2004.

27 Anderson, Gary W, and Brainard, Keith. Profitable Prudence: The Case for Public Employer Defined Benefit Plans Pension Research Council, The Wharton School, University of Pennsylvania. 2004.

28 Hawkins, Ronald L. The Nebraska Defined Contribution Plans: A Review of the State's Three Decade Plus Experience with Public Employee DC Plans. Defined Benefits.Org.

29 Ibid.

30 National Association of State Retirement Administrators, 2002.

31 House Committee on Pensions and Investments, Texas House of Representatives, Interim Report 2000: A Report to the House of Representatives 77th Texas Legislature, p. 26.

- Participants in Nebraska's defined benefit plan with similar pay and service credit, however, had an annual retirement benefit of \$16,797,<sup>32</sup> which is \$3,100 more than the poverty level for a family of two.
- Faced with irrefutable data illustrating that defined contribution systems provide lower benefits for employees at higher costs to taxpayers, Nebraska legislators changed back to a defined benefit model in 2002.<sup>33</sup>
- The state's duty to maintain pension benefit levels for its public employees is directly mandated in the Illinois Constitution.<sup>34</sup> The absolute nature of this responsibility means the unfunded liability cannot be legislated away; the debt must be repaid.
  - In fact, because the state is constitutionally required to provide retirees the benefits they earned, any proposed change to Illinois pension benefits can only operate on a *prospective* basis.
  - That means any legislation the state passes to reduce pension benefits will only apply to public employees newly hired *after* the change in law goes into effect.
  - Thus any significant savings from proposed changes to the state's pension system will not be realized for many years, until those new hires become a significant portion of the state workforce.
  - Because of this constitutional mandate, any change in the type or value of benefits offered public employees will in no way reduce the \$40.7 billion in accrued, unfunded pension liability.
  - *The only way the state can address this obligation is to develop a rational way to pay it over time, one that does not backload costs, and has a dedicated, sustainable revenue stream.*

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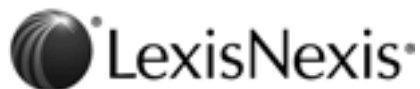
<sup>32</sup> Ibid.

<sup>33</sup> Ibid.

<sup>34</sup> Specifically, Article XIII, Section 5 of the Illinois Constitution provides, "Membership in any pension or retirement system of the State, any unit of local government or school district, or any agency or instrumentality thereof, shall be an enforceable contractual relationship, the benefits of which shall not be diminished or impaired." (emphasis supplied)

## **Attachment D**

Nebraska LB 687 (2002)



LEXSEE 2002 NEB. LB 687

NEBRASKA ADVANCE LEGISLATIVE SERVICE  
STATENET



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NEBRASKA 97TH LEGISLATURE -- SECOND REGULAR SESSION

LEGISLATIVE BILL 687

*2002 Neb. ALS 687; 2002 Neb. Laws 687; 2002 Neb. LB 687*

**BILL TRACKING SUMMARY FOR THIS DOCUMENT**

**SYNOPSIS:** AN ACT relating to retirement; to amend sections 23-2305.01, 23-2309, 23-2316, 23-2317, 23-2321, 84-1305.02, 84-1310, 84-1311, 84-1318, 84-1319, 84-1321, 84-1322, 84-1323, and 84-1331, Reissue Revised Statutes of Nebraska, sections 2-1608, 23-2310, 23-2319, 23-2319.01, 23-2320, 84-1301, 84-1307, and 84-1321.01, Revised Statutes Supplement, 2000, and sections 23-2301, 23-2306, 23-2309.01, 23-2310.05, 23-2331, 84-1310.01, and 84-1311.03, Revised Statutes Supplement, 2001; to state intent; to change provisions relating to the County Employees Retirement Act and the State Employees Retirement Act; to provide for a cash balance benefit; to change provisions relating to vesting; to provide duties for the Public Employees Retirement Board; to change and eliminate provisions relating to annuities as prescribed; to define, redefine, and eliminate terms; to harmonize provisions; to repeal the original sections; to outright repeal section 23-2327, Reissue Revised Statutes of Nebraska; and to declare an emergency.

**NOTICE:** [A> UPPERCASE TEXT WITHIN THESE SYMBOLS IS ADDED <A]  
[D> Text within these symbols is deleted <D]

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To view the next section, type .np\* TRANSMIT.

To view a specific section, transmit p\* and the section number. e.g. p\*1  
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Be it enacted by the people of the State of Nebraska,

[\*1] Section 1. [A> IN JANUARY 2000, THE PUBLIC EMPLOYEES RETIREMENT BOARD, WITH THE SUPPORT OF THE NEBRASKA RETIREMENT SYSTEMS COMMITTEE OF THE LEGISLATURE, RECOMMENDED A COORDINATED STRATEGY BE DEVELOPED FOR THE LONG-TERM MANAGEMENT OF THE NEBRASKA PUBLIC EMPLOYEES RETIREMENT SYSTEMS. THIS STRATEGY INCLUDED A REVIEW OF BENEFITS, FUNDING, AND INVESTMENT MANAGEMENT. AMONG OTHER THINGS, THE

2002 Neb. ALS 687, \*1; 2002 Neb. Laws 687;  
2002 Neb. LB 687

STUDY FOUND THAT STATE AND COUNTY RETIREMENT SYSTEMS DO NOT MEET ADEQUACY NEEDS AND THAT SUCH SYSTEMS RANK BELOW MEDIAN IN THE AMOUNT OF INITIAL NORMAL RETIREMENT BENEFIT AND THAT, AS DEFINED CONTRIBUTION PLANS, SUCH PLANS ARE DEPENDENT UPON SIGNIFICANT INVESTMENT PERFORMANCE AND SUBSTANTIAL CONTRIBUTIONS, EVEN THOUGH SUCH PLANS ARE ALSO SUBJECT TO SIGNIFICANT VOLATILITY IN THE DELIVERY OF SUCH BENEFITS. <A]

[A> PURSUANT TO THE BENEFIT REVIEW STUDY OF THE NEBRASKA RETIREMENT SYSTEMS OF AUGUST 2000, THE PREVIOUS FINDINGS OF THE NEBRASKA RETIREMENT SYSTEMS COMMITTEE OF THE LEGISLATURE RELATING TO THE COMPREHENSIVE STUDY OF THE PUBLIC EMPLOYEES RETIREMENT SYSTEMS AUTHORIZED BY LR 328 (1992), THE COMPARISON OF DEFINED BENEFIT PLANS AND DEFINED CONTRIBUTION PLANS - LR 383 (1994), AND BENEFIT ADEQUACY STUDIES, INCLUDING THE CREATION OF A UNIFORM SET OF CRITERIA TO BE USED IN THE DETERMINATION OF BENEFIT ADEQUACY - LR 148 (1997), BENEFIT COMPARISONS BETWEEN SYSTEMS - LR 431 (1998), THE COSTS ASSOCIATED WITH CHANGING CURRENT CONTRIBUTION RATES TO PROVIDE ADDITIONAL BENEFITS FOR RETIREMENT PLANS WHICH FAIL TO MEET INCOME REPLACEMENT NEEDS IDENTIFIED IN THE COMPREHENSIVE STUDY OF 1992 - LR 431 (1994), AND THE COST, FEASIBILITY, AND DESIGN OF COST-OF-LIVING ADJUSTMENTS FOR THE RETIREMENT SYSTEMS - LR 381 (1994), AND IN CONJUNCTION WITH THE REVIEW AND UPDATE OF THE GENERAL PRINCIPLES OF SOUND RETIREMENT PLANNING - LR 164 (1995) AND LR 336 (2000), IT IS THE INTENT OF THE LEGISLATURE THAT, IN ORDER TO IMPROVE THE COMPETITIVENESS OF THE RETIREMENT PLANS FOR STATE AND COUNTY EMPLOYEES, A DEFINED BENEFIT ELEMENT SHALL BE ADDED TO THE STATE AND COUNTY EMPLOYEES' RETIREMENT PLANS CONTAINED WITHIN THE PROVISIONS OF THE STATE EMPLOYEES RETIREMENT ACT AND THE COUNTY EMPLOYEES RETIREMENT ACT. THE NEBRASKA RETIREMENT SYSTEMS COMMITTEE OF THE LEGISLATURE, WITH THE ASSISTANCE OF THE PUBLIC EMPLOYEES RETIREMENT BOARD, AND PURSUANT TO THE FINDINGS OF THE AUGUST 2000 BENEFIT REVIEW STUDY, SHALL DESIGN AND PROPOSE CHANGES IN THE STATE AND COUNTY RETIREMENT PLANS IN ORDER TO PROVIDE STATE AND COUNTY EMPLOYEES WITH A CHOICE BETWEEN A TRADITIONAL DEFINED BENEFIT PLAN OR CASH BALANCE PLAN, AND THE CURRENT DEFINED CONTRIBUTION PLAN. IN ADDITION, IT IS THE INTENT OF THE LEGISLATURE TO FORMULATE AN ADDITIONAL CHANGE TO BOTH SYSTEMS IN ORDER TO ADD A GUARANTEED INCOME OPTION FOR RETIRING EMPLOYEES WHICH WOULD BE A SELF-FUNDED APPROACH TO THE PURCHASE OF AN ANNUITY IN WHICH A RETIRING EMPLOYEE COULD ELECT SUCH ANNUITY, WITH OR WITHOUT A COST-OF-LIVING ADJUSTMENT BUILT INTO THE PAYMENTS, USING HIS OR HER ACCOUNT BALANCE AT RETIREMENT, AND FOR WHICH AN ANNUITY RESERVE ACCOUNT COULD BE CREATED TO ADMINISTER PAYMENTS. <A]

[A> IT IS THE INTENT OF THE LEGISLATURE THAT THE CHANGES REQUIRED IN THIS SECTION BE IMPLEMENTED BEGINNING WITH THIS LEGISLATIVE BILL AND CONTINUING THROUGH 2005. <A]

[\*2] Sec. 2. Section 2-1608, Revised Statutes Supplement, 2000, is amended to read:

2-1608. Whenever two or more county extension organizations have united as provided in section 2-1607 for the purpose of support and management of extension work, county extension employees jointly employed by the participating extension organizations shall be considered persons employed by a county for the purpose of subdivision [D] (6) <D] [A] (10) <A] of section 23-2301 and shall participate in the Retirement System for Nebraska Counties under the County Employees Retirement Act. To accomplish such participation the participating county extension organizations shall (1) pick up employee contributions as salary deductions on behalf of such county extension employees in the manner required for a county in section 23-2307, and (2) pay to the Public Employees Retirement Board or an entity designated by the board an amount in accordance with the provisions of section 23-2308. In all other respects the participation of such county extension employees in the retirement system shall be in accordance with the



act.

[\*3] Sec. 3. Section 23-2301, Revised Statutes Supplement, 2001, is amended to read:

23-2301. For purposes of the County Employees Retirement Act, unless the context otherwise requires:

(1) [A] ACTUARIAL EQUIVALENT MEANS THE EQUALITY IN VALUE OF THE AGGREGATE AMOUNTS EXPECTED TO BE RECEIVED UNDER DIFFERENT FORMS OF AN ANNUITY PAYMENT. THE MORTALITY ASSUMPTION USED FOR PURPOSES OF CONVERTING THE MEMBER CASH BALANCE ACCOUNT SHALL BE THE 1994 GROUP ANNUITY MORTALITY TABLE USING A UNISEX RATE THAT IS FIFTY PERCENT MALE AND FIFTY PERCENT FEMALE. FOR PURPOSES OF CONVERTING THE MEMBER CASH BALANCE ACCOUNT ATTRIBUTABLE TO CONTRIBUTIONS MADE PRIOR TO JANUARY 1, 1984, THAT WERE TRANSFERRED PURSUANT TO THE ACT, THE 1994 GROUP ANNUITY MORTALITY TABLE FOR MALES SHALL BE USED; <A]

[A] (2) ANNUITY MEANS EQUAL MONTHLY PAYMENTS PROVIDED BY THE RETIREMENT SYSTEM TO A MEMBER OR BENEFICIARY UNDER FORMS DETERMINED BY THE BOARD BEGINNING THE FIRST DAY OF THE MONTH AFTER AN ANNUITY ELECTION IS RECEIVED IN THE OFFICE OF THE NEBRASKA PUBLIC EMPLOYEES RETIREMENT SYSTEMS OR THE FIRST DAY OF THE MONTH AFTER THE EMPLOYEE'S TERMINATION OF EMPLOYMENT, WHICHEVER IS LATER; <A]

[A] (3) CASH BALANCE BENEFIT MEANS A MEMBER'S RETIREMENT BENEFIT THAT IS EQUAL TO AN AMOUNT BASED ON ANNUAL EMPLOYEE CONTRIBUTION CREDITS PLUS INTEREST CREDITS AND, IF VESTED, EMPLOYER CONTRIBUTION CREDITS PLUS INTEREST CREDITS; <A]

[A] (4) <A] (a) Compensation means gross wages or salaries payable to the member for personal services performed during the plan year. Compensation does not include insurance premiums converted into cash payments, reimbursement for expenses incurred, fringe benefits, or bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, except for retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements. Compensation includes overtime pay, member retirement contributions, and amounts contributed by the member to plans under sections 125, 403(b), and 457 of the Internal Revenue Code or any other section of the code which defers or excludes such amounts from income.

(b) Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code shall be disregarded. For an employee who was a member of the retirement system before the first plan year beginning after December 31, 1995, the limitation on compensation shall not be less than the amount which was allowed to be taken into account under the retirement system as in effect on July 1, 1993;

[D] (2) <D] [A] (5) <A] Date of adoption of the retirement system by each county means the first day of the month next following the date of approval of the retirement system by the county board or January 1, 1987, whichever is earlier;

[D] (3) <D] [A] (6) <A] Date of disability means the date on which a member is determined by the board to be disabled;

[A] (7) DEFINED CONTRIBUTION BENEFIT MEANS A MEMBER'S RETIREMENT BENEFIT FROM A MONEY PURCHASE PLAN IN WHICH MEMBER BENEFITS EQUAL ANNUAL CONTRIBUTIONS AND EARNINGS PURSUANT TO SECTION 23-2309 AND, IF VESTED, EMPLOYER CONTRIBUTIONS AND EARNINGS PURSUANT TO SECTION 23-2310; <A]

[D] (4) <D] [A] (8) <A] Disability means an inability to engage in a substantially gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or be of a long and

indefinite duration;

[D] (5) [A] (9) [A] Eligibility and vesting credit means credit for years, or a fraction of a year, of participation in a Nebraska governmental plan for purposes of determining membership in the retirement system and vesting the employer account;

[A] (10) EMPLOYEE [D] (6) Employees [D] means all persons or officers who are employed by a county of the State of Nebraska on a permanent basis, persons or officers employed by or serving in a municipal county formed by at least one county participating in the retirement system, persons employed as provided in section 2-1608, all elected officers of a county, and such other persons or officers as are classified from time to time as permanent employees by the county board of the county by whom they are employed, except that [D] employees [D] [A] EMPLOYEE [A] does not include judges, employees or officers of any county having a population in excess of one hundred fifty thousand inhabitants, or, except as provided in section 23-2306, persons making contributions to the School Retirement System of the State of Nebraska;

[A] (11) EMPLOYEE CONTRIBUTION CREDIT MEANS AN AMOUNT EQUAL TO THE MEMBER CONTRIBUTION AMOUNT REQUIRED BY SECTION 23-2307; [A]

[A] (12) EMPLOYER CONTRIBUTION CREDIT MEANS AN AMOUNT EQUAL TO THE EMPLOYER CONTRIBUTION AMOUNT REQUIRED BY SECTION 23-2308; [A]

[D] (7) [A] (13) [A] Five-year break in service means a period of five consecutive one-year breaks in service;

[D] (8) [A] (14) [A] Full-time employee means an employee who is employed to work one-half or more of the regularly scheduled hours during each pay period;

[D] (9) [A] (15) [A] Future service means service following the date of adoption of the retirement system;

[D] (10) Group annuity contract means the contract issued by one or more life insurance companies to the board in order to provide the future service benefits described in the act; [D]

[D] (11) [D] [A] (16) [A] Guaranteed investment contract means an investment contract or account offering a return of principal invested plus interest at a specified rate. For investments made after July 19, 1996, guaranteed investment contract does not include direct obligations of the United States or its instrumentalities, bonds, participation certificates or other obligations of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Government National Mortgage Association, or collateralized mortgage obligations and other derivative securities. This subdivision shall not be construed to require the liquidation of investment contracts or accounts entered into prior to July 19, 1996;

[A] (17) INTEREST CREDIT RATE MEANS THE GREATER OF (A) FIVE PERCENT OR (B) THE APPLICABLE FEDERAL MID-TERM RATE, AS PUBLISHED BY THE INTERNAL REVENUE SERVICE AS OF THE FIRST DAY OF THE CALENDAR QUARTER FOR WHICH INTEREST CREDITS ARE CREDITED, PLUS ONE AND ONE-HALF PERCENT, SUCH RATE TO BE COMPOUNDED ANNUALLY; [A]

[A] (18) INTEREST CREDITS MEANS THE AMOUNTS CREDITED TO THE EMPLOYEE CASH BALANCE ACCOUNT AND THE EMPLOYER CASH BALANCE ACCOUNT AT THE END OF EACH DAY. SUCH INTEREST CREDIT FOR EACH ACCOUNT SHALL BE DETERMINED BY APPLYING THE DAILY PORTION OF THE INTEREST CREDIT RATE TO THE ACCOUNT BALANCE AT THE END OF THE PREVIOUS DAY. SUCH INTEREST CREDITS SHALL CONTINUE TO BE CREDITED TO THE EMPLOYEE CASH BALANCE ACCOUNT AND THE EMPLOYER CASH BALANCE ACCOUNT AFTER A MEMBER CEASES TO BE AN EMPLOYEE, EXCEPT THAT NO SUCH CREDIT SHALL BE MADE WITH RESPECT TO THE EMPLOYEE CASH BALANCE ACCOUNT AND THE EMPLOYER CASH BALANCE ACCOUNT FOR

ANY DAY BEGINNING ON OR AFTER THE MEMBER'S ANNUITY STARTING DATE. IF BENEFITS PAYABLE TO THE MEMBER'S SURVIVING SPOUSE OR BENEFICIARY ARE DELAYED AFTER THE MEMBER'S DEATH, INTEREST CREDITS SHALL CONTINUE TO BE CREDITED TO THE EMPLOYEE CASH BALANCE ACCOUNT AND THE EMPLOYER CASH BALANCE ACCOUNT UNTIL SUCH SURVIVING SPOUSE OR BENEFICIARY COMMENCES RECEIPT OF A DISTRIBUTION FROM THE PLAN; <A]

[A> (19) MEMBER CASH BALANCE ACCOUNT MEANS AN ACCOUNT EQUAL TO THE SUM OF THE EMPLOYEE CASH BALANCE ACCOUNT AND, IF VESTED, THE EMPLOYER CASH BALANCE ACCOUNT; <A]

[D> (12) <D] [A> (20) <A] One-year break in service means a plan year during which the member has not completed more than five hundred hours of service;

[D> (13) <D] [A> (21) <A] Part-time employee means an employee who is employed to work less than one-half of the regularly scheduled hours during each pay period;

[D> (14) <D] [A> (22) <A] Plan year means the twelve-month period beginning on January 1 and ending on December 31;

[D> (15) <D] [A> (23) <A] Prior service means service prior to the date of adoption of the retirement system;

[D> (16) <D] [A> (24) <A] Regular interest means the rate of interest earned each calendar year as determined by the retirement board in conformity with actual and expected earnings on the investments [A> THROUGH DECEMBER 31, 1985 <A] ;

[D> (17) <D] [A> (25) <A] Required contribution means the deduction to be made from the compensation of employees as provided in the act;

[D> (18) <D] [A> (26) <A] Retirement means qualifying for and terminating employment after becoming qualified to receive the retirement allowance granted under the act;

[D> (19) <D] [A> (27) <A] Retirement board or board means the Public Employees Retirement Board;

[D> (20) <D] [A> (28) <A] Retirement system means the Retirement System for Nebraska Counties;

[D> (21) <D] [A> (29) <A] Service means the actual total length of employment as an employee and is not deemed to be interrupted by (a) temporary or seasonal suspension of service that does not terminate the employee's employment, (b) leave of absence authorized by the employer for a period not exceeding twelve months, (c) leave of absence because of disability, or (d) military service, when properly authorized by the retirement board. Service does not include any period of disability for which disability retirement benefits are received under section 23-2315;

[D> (22) Straight life annuity means an ordinary annuity, payable for the life of the primary annuitant only, and terminating at his or her death without refund or death benefit of any kind; <D]

[D> (23) <D] [A> (30) <A] Surviving spouse means (a) the spouse married to the member on the date of the member's death or (b) the spouse or former spouse of the member if survivorship rights are provided under a qualified domestic relations order filed with the board pursuant to the Spousal Pension Rights Act. The spouse or former spouse shall supersede the spouse married to the member on the date of the member's death as provided under a qualified domestic relations order. If the benefits payable to the spouse or former spouse under a qualified domestic relations order are less than the value of benefits entitled to the surviving spouse, the spouse married to the member on the date of the member's death shall be the surviving spouse for the balance of the benefits; and

[D> (24) <D] [A> (31) <A] Termination of employment occurs on the date on which a county which is a member

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of the retirement system determines that its employer-employee relationship with an employee is dissolved. The county shall notify the board within two weeks after the date such a termination is deemed to have occurred. Termination of employment does not occur if an employee whose employer-employee relationship with a county is dissolved enters into an employer-employee relationship with the same or another county which participates in the Retirement System for Nebraska Counties and there are less than one hundred twenty days between the date when the employee's employer-employee relationship ceased with the county and the date when the employer-employee relationship commenced with the same or another county which qualifies the employee for participation in the plan. It shall be the responsibility of the current employer to notify the board of such change in employment and provide the board with such information as the board deems necessary. If the board determines that termination of employment has not occurred and a termination benefit has been paid to a member of the retirement system pursuant to section 23-2319, the board shall require the member who has received such benefit to repay the benefit to the retirement system.

[\*4] Sec. 4. Section 23-2305.01, Reissue Revised Statutes of Nebraska, is amended to read:

23-2305.01. (1) If the board determines that the retirement system has previously received contributions or distributed benefits which for any reason are not in accordance with the statutory provisions of the County Employees Retirement Act, the board shall refund contributions, require additional contributions, adjust benefits, or require repayment of benefits paid. In the event of an overpayment of a benefit, the board may, in addition to other remedies, offset future benefit payments by the amount of the prior overpayment, together with regular interest [A] OR INTEREST CREDITS, WHICHEVER IS APPROPRIATE, [A] thereon. In the event of an underpayment of a benefit, the board shall immediately make payment equal to the deficit amount plus regular interest [A] OR INTEREST CREDITS, WHICHEVER IS APPROPRIATE [A] .

(2) The board shall adopt and promulgate rules and regulations implementing this section, which shall include, but not be limited to, the following: (a) The procedures for refunding contributions, adjusting future contributions or benefit payments, and requiring additional contributions or repayment of benefits; (b) the process for a member, member's beneficiary, employee, or employer to dispute an adjustment of contributions or benefits; and (c) notice provided to all affected persons. All notices shall be sent prior to an adjustment and shall describe the process for disputing an adjustment of contributions or benefits.

[\*5] Sec. 5. Section 23-2306, Revised Statutes Supplement, 2001, is amended to read:

23-2306. (1) The membership of the retirement system shall be composed of [A] ALL PERSONS WHO ARE OR WERE EMPLOYED BY MEMBER COUNTIES AND WHO MAINTAIN AN ACCOUNT BALANCE WITH THE RETIREMENT SYSTEM. [A]

[A] (2) THE FOLLOWING EMPLOYEES OF MEMBER COUNTIES ARE AUTHORIZED TO PARTICIPATE IN THE RETIREMENT SYSTEM: [A] (a) [D] all [D] [A] ALL [A] full-time employees who have been employees for a period of twelve continuous months [A] SHALL BEGIN PARTICIPATION IN THE RETIREMENT SYSTEM [A] , except that full-time elected officials shall [D] be members [D] [A] BEGIN PARTICIPATION IN THE RETIREMENT SYSTEM [A] on taking office, (b) all full-time or part-time employees who have attained the age of twenty-five [D] , [D] [A] AND [A] have been employed for a total of twelve months within a five-year period [A] , [A] [D] and [D] [A] MAY [A] exercise the option to [D] join [D] [A] BEGIN PARTICIPATION IN [A] the retirement system, and (c) all part-time elected officials [D] who [D] [A] MAY [A] exercise the option to [D] join [D] [A] BEGIN PARTICIPATION IN [A] the retirement system. A part-time employee who exercises the option to [D] join [D] [A] BEGIN PARTICIPATION IN [A] the retirement system shall remain in the system until termination or retirement [A] , REGARDLESS OF ANY CHANGE OF STATUS AS A PERMANENT OR TEMPORARY EMPLOYEE [A] .

[D] (2) [D] [A] (3) [A] Within the first thirty days of employment, a full-time employee may apply to the board for eligibility and vesting credit for years of participation in another Nebraska governmental plan, as defined by section

414(d) of the Internal Revenue Code. During the years of participation in the other Nebraska governmental plan, the employee must have been a full-time employee, as defined in the Nebraska governmental plan in which the credit was earned. [A> THE BOARD MAY ADOPT AND PROMULGATE RULES AND REGULATIONS GOVERNING THE ASSESSMENT AND GRANTING OF ELIGIBILITY AND VESTING CREDIT. <A]

[D> (3) <D] [A> (4) <A] Any employee who qualifies for membership in the retirement system pursuant to this section may not be disqualified for membership in the retirement system solely because such employee also maintains separate employment which qualifies the employee for membership in another public retirement system, nor may membership in this retirement system disqualify such an employee from membership in another public retirement system solely by reason of separate employment which qualifies such employee for membership in this retirement system.

[D> (4) <D] [A> (5) <A] A full-time or part-time employee of a city, village, or township who becomes a county employee pursuant to a merger of services shall receive credit for his or her years of employment with the city, village, or township for purposes of the membership provisions of this section and shall receive eligibility and vesting credit for his or her years of participation in a Nebraska governmental plan, as defined by section 414(d) of the Internal Revenue Code, of the city, village, or township.

[D> (5) <D] [A> (6) <A] A full-time or part-time employee of a city, village, fire protection district, or township who becomes a municipal county employee shall receive credit for his or her years of employment with the city, village, fire protection district, or township for purposes of the membership provisions of this section.

[D> (6) <D] [A> (7) COUNTIES SHALL ENSURE THAT EMPLOYEES AUTHORIZED TO PARTICIPATE IN THE RETIREMENT SYSTEM PURSUANT TO THIS SECTION SHALL ENROLL AND MAKE REQUIRED CONTRIBUTIONS TO THE RETIREMENT SYSTEM. <A] Information necessary to determine membership in the retirement system shall be provided by the employer.

[\*6] Sec. 6. [A> (1) IT IS THE INTENT OF THE LEGISLATURE THAT, IN ORDER TO IMPROVE THE COMPETITIVENESS OF THE RETIREMENT PLAN FOR COUNTY EMPLOYEES, A CASH BALANCE BENEFIT SHALL BE ADDED TO THE COUNTY EMPLOYEES RETIREMENT ACT ON AND AFTER JANUARY 1, 2003. EACH MEMBER WHO IS EMPLOYED AND PARTICIPATING IN THE RETIREMENT SYSTEM PRIOR TO JANUARY 1, 2003, MAY EITHER ELECT TO CONTINUE PARTICIPATION IN THE DEFINED CONTRIBUTION BENEFIT AS PROVIDED IN THE ACT PRIOR TO JANUARY 1, 2003, OR ELECT TO PARTICIPATE IN THE CASH BALANCE BENEFIT AS SET FORTH IN THIS SECTION. THE MEMBER SHALL MAKE THE ELECTION PRIOR TO JANUARY 1, 2003. IF NO ELECTION IS MADE PRIOR TO JANUARY 1, 2003, THE MEMBER SHALL BE TREATED AS THOUGH HE OR SHE ELECTED TO CONTINUE PARTICIPATING IN THE DEFINED CONTRIBUTION BENEFIT AS PROVIDED IN THE ACT PRIOR TO JANUARY 1, 2003. <A]

[A> (2) FOR A MEMBER EMPLOYED AND PARTICIPATING IN THE RETIREMENT SYSTEM BEGINNING ON AND AFTER JANUARY 1, 2003, OR A MEMBER EMPLOYED AND PARTICIPATING IN THE RETIREMENT SYSTEM ON JANUARY 1, 2003, WHO, PRIOR TO JANUARY 1, 2003, ELECTS TO CONVERT HIS OR HER EMPLOYEE AND EMPLOYER ACCOUNTS TO THE CASH BALANCE BENEFIT: <A]

[A> (A) THE EMPLOYEE CASH BALANCE ACCOUNT SHALL, AT ANY TIME, BE EQUAL TO THE FOLLOWING: <A]

[A> (I) THE INITIAL EMPLOYEE ACCOUNT BALANCE, IF ANY, TRANSFERRED FROM THE DEFINED CONTRIBUTION PLAN ACCOUNT DESCRIBED IN SECTION 23-2309; PLUS <A]

[A> (II) EMPLOYEE CONTRIBUTION CREDITS DEPOSITED IN ACCORDANCE WITH SECTION 23-2307; PLUS <A]

[A> (III) INTEREST CREDITS CREDITED IN ACCORDANCE WITH SUBDIVISION (18) OF SECTION 23-2301; AND <A]

[A> (B) THE EMPLOYER CASH BALANCE ACCOUNT SHALL, AT ANY TIME, BE EQUAL TO THE FOLLOWING: <A]

[A> (I) THE INITIAL EMPLOYER ACCOUNT BALANCE, IF ANY, TRANSFERRED FROM THE DEFINED CONTRIBUTION PLAN ACCOUNT DESCRIBED IN SECTION 23-2310; PLUS <A]

[A> (II) EMPLOYER CONTRIBUTION CREDITS DEPOSITED IN ACCORDANCE WITH SECTION 23-2308; PLUS <A]

[A> (III) INTEREST CREDITS CREDITED IN ACCORDANCE WITH SUBDIVISION (18) OF SECTION 23-2301. <A]

[\*7] Sec. 7. Section 23-2309, Reissue Revised Statutes of Nebraska, is amended to read:

23-2309. [D> A <D] [A> FOR A MEMBER EMPLOYED AND PARTICIPATING IN THE RETIREMENT SYSTEM PRIOR TO JANUARY 1, 2003, WHO HAS ELECTED NOT TO PARTICIPATE IN THE CASH BALANCE BENEFIT, A <A] member's share of the fund arising from the compensation deductions made in accordance with section 23-2307 shall be known as his or her employee account. Each year, commencing January 1, 1975, and ending December 31, 1985, regular interest shall be credited to the employee account. As of January 1 of each such year, a member's employee account shall be equal to one hundred percent of his or her employee account as of the next preceding January 1, increased by any regular interest earned and any amounts deducted from the member's compensation since the next preceding January 1 in accordance with section 23-2307.

On and after January 1, 1986, the employee account shall be equal to the sum of the employee's stable return account, equities account, and any assets of additional accounts created pursuant to section 23-2309.01.

[\*8] Sec. 8. Section 23-2309.01, Revised Statutes Supplement, 2001, is amended to read:

23-2309.01. (1) [D> On or after January 1, 1997, on such date as is established by the retirement board, each member of the retirement system <D] [A> EACH MEMBER EMPLOYED AND PARTICIPATING IN THE RETIREMENT SYSTEM PRIOR TO JANUARY 1, 2003, WHO HAS ELECTED NOT TO PARTICIPATE IN THE CASH BALANCE BENEFIT, <A] shall be allowed to allocate all contributions to his or her employee account [D> after such date <D] to various investment options. The investment options shall include, but not be limited to, the following:

(a) A stable return account which shall be invested by or under the direction of the state investment officer in one or more guaranteed investment contracts;

(b) An equities account which shall be invested by or under the direction of the state investment officer in domestic equities;

(c) A balanced account which shall be invested by or under the direction of the state investment officer in domestic equities and domestic fixed income instruments;

(d) An index fund account which shall be invested by or under the direction of the state investment officer in a portfolio of domestic common stocks designed to closely duplicate the total return of the Standard and Poor's 500 Index;

(e) A fixed income account which shall be invested by or under the direction of the state investment officer in domestic fixed income instruments; and



(f) A money market account which shall be invested by or under the direction of the state investment officer in domestic short-term fixed income securities.

If a member fails to select an option or combination of options, all of his or her funds shall be placed in the option described in subdivision (a) of this subsection. Each member shall be given a detailed current description of each investment option prior to making or revising his or her allocation.

(2) Members of the retirement system may allocate their contributions to the investment options in percentage increments as set by the board in any proportion, including full allocation to any one option. A member may transfer any portion of his or her funds among the options, except for restrictions on transfers to or from the stable return account pursuant to rule or regulation. The board shall adopt and promulgate rules and regulations for changes of a member's allocation of contributions to his or her accounts after his or her most recent allocation and for transfers from one investment account to another.

(3) The board shall develop a schedule for the allocation of administrative costs of maintaining the various investment options and shall assess the costs so that each member pays a reasonable fee as determined by the board. The money forfeited pursuant to section 23-2319.01 shall not be used to pay the administrative costs incurred pursuant to this section.

(4) In order to carry out this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the county and its participating employees.

(5) The state, the board, the state investment officer, the members of the Nebraska Investment Council, or the county shall not be liable for any investment results resulting from the member's exercise of control over the assets in the employee account.

[\*9] Sec. 9. Section 23-2310, Revised Statutes Supplement, 2000, is amended to read:

23-2310. (1) **[D> A <D]** **[A> FOR A MEMBER EMPLOYED AND PARTICIPATING IN THE RETIREMENT SYSTEM PRIOR TO JANUARY 1, 2003, WHO HAS ELECTED NOT TO PARTICIPATE IN THE CASH BALANCE BENEFIT, A <A]** member's share of the fund arising from the county contributions shall be known as his or her employer account. Prior to January 1, 1981, as of any January 1 a member's employer account shall be equal to his or her account as of the next preceding January 1, increased by one hundred percent of any amounts deducted from the member's compensation since the next preceding January 1 in accordance with section 23-2307. As of January 1, 1982, a member's employer account shall be equal to the account as of January 1, 1981, increased by one hundred percent of the amounts deducted from the member's compensation for the first nine months of the year and one hundred fifty percent for the final three months of the year in accordance with section 23-2307. As of January 1, 1983, and each year thereafter, the member's employer account shall be equal to the account as of the next preceding January 1 increased by one hundred fifty percent of the amounts deducted from the member's compensation since the next preceding January 1 in accordance with section 23-2307. The member's employer account shall be increased by any interest allocated under the provisions of the guaranteed investment contract and any gains on investments and reduced by any losses on investments, any expense charges under the guaranteed investment contract or other investments, and any expense charges incurred in connection with administering the retirement system in excess of those provided for in section 23-2319.01, except that a member who ceased being an employee since the next preceding January 1 may have his or her employer account reduced in accordance with such section. On and after July 1, 1999, the employer account shall be equal to the sum of the assets of the accounts created by the board pursuant to section 23-2310.05.

(2) On and after January 1, 1997, and until July 1, 1999, the state investment officer shall invest the employer account, and, after July 1, 1999, upon maturity, the state investment officer shall invest the employer account funds which have been invested in guaranteed investment contracts prior to January 1, 1997. On and after July 1, 1999, the

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employer account shall be invested pursuant to section 23-2310.05. The state investment officer shall invest or reinvest the funds in securities and investments the nature of which individuals of prudence, discretion, and intelligence acquire or retain in dealing with the property of another, and if the state investment officer has special skills or is appointed on the basis of representations of special skills or expertise, he or she is under a duty to use such skills.

[\*10] Sec. 10. Section 23-2310.05, Revised Statutes Supplement, 2001, is amended to read:

23-2310.05. (1) **[D>** On or after July 1, 1999, on such date as is established by the retirement board, each member of the retirement system **<D]** **[A>** EACH MEMBER EMPLOYED AND PARTICIPATING IN THE RETIREMENT SYSTEM PRIOR TO JANUARY 1, 2003, WHO HAS ELECTED NOT TO PARTICIPATE IN THE CASH BALANCE BENEFIT, **<A]** shall be allowed to allocate all contributions to his or her employer account **[D>** after such date **<D]** to various investment options. Such investment options shall be limited to the following:

(a) An account which shall be invested by or under the direction of the state investment officer in approximately twenty-five percent domestic equities and seventy-five percent domestic fixed income instruments;

(b) An account which shall be invested by or under the direction of the state investment officer in approximately fifty percent domestic equities and fifty percent domestic fixed income instruments; and

(c) An account which shall be invested by or under the direction of the state investment officer in approximately seventy-five percent domestic equities and twenty-five percent domestic fixed income instruments.

If a member fails to select an option or combination of options, all of his or her funds in the employer account shall be placed in one of the options described in subdivision (a), (b), or (c) of this subsection as determined by the board. Each member shall be given a detailed current description of each investment option prior to making or revising his or her allocation.

(2) Each member of the retirement system may allocate contributions to his or her employer account to the investment options in percentage increments as set by the board in any proportion, including full allocation to any one option. A member may transfer any portion of his or her funds among the options. The board shall adopt and promulgate rules and regulations for changes of a member's allocation of contributions to his or her accounts after his or her most recent allocation and for transfers from one investment account to another.

(3) The board shall develop a schedule for the allocation of administrative costs of maintaining the various investment options and shall assess the costs so that each member pays a reasonable fee as determined by the board. The money forfeited pursuant to section 23-2319.01 shall not be used to pay the administrative costs incurred pursuant to this section.

(4) In order to carry out the provisions of this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the state and its participating employees.

(5) The state, the board, the state investment officer, the members of the Nebraska Investment Council, or the county shall not be liable for any investment results resulting from the member's exercise of control over the assets in the employer account.

[\*11] Sec. 11. Section 23-2316, Reissue Revised Statutes of Nebraska, is amended to read:

23-2316. The retirement value for any employee who retires under the provisions of section 23-2315 shall be **[A>** (1) FOR PARTICIPANTS IN THE DEFINED CONTRIBUTION BENEFIT, **<A]** the sum of the employee's employee account and employer account **[A>** AS OF THE RETIREMENT DATE AND (2) FOR PARTICIPANTS IN THE CASH BALANCE BENEFIT, THE BENEFIT PROVIDED IN SECTION 6 OF THIS ACT **<A]** as of the retirement

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date.

[\*12] Sec. 12. Section 23-2317, Reissue Revised Statutes of Nebraska, is amended to read:

23-2317. (1) The future service retirement benefit shall be an annuity, payable monthly with the first payment made as of the retirement date, which shall be the actuarial equivalent of the retirement value based on factors determined by the board, except that gender shall not be a factor when determining the amount of such payments pursuant to subsection (2) of this section.

Except as provided in section 42-1107, at any time before the retirement date, the retiring employee may choose to receive his or her annuity either in the form of **[D]** a straight life **<D]** **[A]** AN **<A]** annuity **[A]** AS PROVIDED UNDER SUBSECTION (4) OF THIS SECTION **<A]** or any optional form that is determined by the board.

Except as provided in section 42-1107, in lieu of the future service retirement annuity, a retiring employee may, upon application to the board, receive a benefit not to exceed the amount in his or her employer and employee accounts payable in a lump sum and, if the employee chooses not to receive the entire amount in such accounts, an annuity equal to the actuarial equivalent of the remainder of the retirement value, and the employee may choose any form of such annuity as provided for by the board.

In any case, the amount of the monthly payment shall be such that the annuity chosen shall be the actuarial equivalent of the retirement value except as provided in this section.

The board shall provide to any county employee who is eligible for retirement, prior to his or her selecting any of the retirement options provided by this section, information on the federal and state income tax consequences of the various annuity or retirement benefit options.

(2) **[D]** The **<D]** **[A]** EXCEPT AS PROVIDED IN SUBSECTION (4) OF THIS SECTION, THE **<A]** monthly income payable to a member retiring on or after January 1, 1984, shall be as follows:

He or she shall receive at retirement the amount which may be purchased by the accumulated contributions based on annuity rates in effect on the date of purchase which do not utilize gender as a factor, except that such amounts shall not be less than the retirement income which can be provided by the sum of the amounts derived pursuant to subdivisions (a) and (b) of this subsection as follows:

(a) The income provided by the accumulated contributions made prior to January 1, 1984, based on male annuity purchase rates in effect on the date of purchase; and

(b) The income provided by the accumulated contributions made on and after January 1, 1984, based on the annuity purchase rates in effect on the date of purchase which do not use gender as a factor.

(3) Any amount, in excess of contributions, which may be required in order to purchase the retirement income specified in subsection (2) of this section shall be withdrawn from the County Equal Retirement Benefit Fund.

(4) **[A]** (A) THE NORMAL FORM OF PAYMENT SHALL BE A SINGLE LIFE ANNUITY WITH FIVE-YEAR CERTAIN, WHICH IS AN ANNUITY PAYABLE MONTHLY DURING THE REMAINDER OF THE MEMBER'S LIFE WITH THE PROVISION THAT, IN THE EVENT OF HIS OR HER DEATH BEFORE SIXTY MONTHLY PAYMENTS HAVE BEEN MADE, THE MONTHLY PAYMENTS WILL BE CONTINUED TO HIS OR HER ESTATE OR TO THE BENEFICIARY HE OR SHE HAS DESIGNATED UNTIL SIXTY MONTHLY PAYMENTS HAVE BEEN MADE IN TOTAL. SUCH ANNUITY SHALL BE EQUAL TO THE ACTUARIAL EQUIVALENT OF THE MEMBER CASH BALANCE ACCOUNT OR THE SUM OF THE EMPLOYEE AND EMPLOYER ACCOUNTS, WHICHEVER IS APPLICABLE, AS OF THE MEMBER'S ANNUITY STARTING DATE. AS A PART OF THE ANNUITY, THE NORMAL FORM OF PAYMENT MAY INCLUDE A TWO AND

ONE-HALF PERCENT COST-OF-LIVING ADJUSTMENT PURCHASED BY THE MEMBER, IF THE MEMBER ELECTS SUCH A PAYMENT OPTION. <A]

[A> EXCEPT AS PROVIDED IN SECTION 42-1107, A MEMBER MAY ELECT A LUMP-SUM DISTRIBUTION OF HIS OR HER MEMBER CASH BALANCE ACCOUNT UPON TERMINATION OF SERVICE OR RETIREMENT. <A]

[A> FOR A MEMBER EMPLOYED AND PARTICIPATING IN THE RETIREMENT SYSTEM PRIOR TO JANUARY 1, 2003, WHO HAS ELECTED TO PARTICIPATE IN THE CASH BALANCE BENEFIT PURSUANT TO SECTION 6 OF THIS ACT, OR FOR A MEMBER EMPLOYED AND PARTICIPATING IN THE RETIREMENT SYSTEM BEGINNING ON AND AFTER JANUARY 1, 2003, THE BALANCE OF HIS OR HER MEMBER CASH BALANCE ACCOUNT SHALL BE CONVERTED TO AN ANNUITY USING AN INTEREST RATE USED IN THE ACTUARIAL VALUATION AS RECOMMENDED BY THE ACTUARY AND APPROVED BY THE BOARD. <A]

[A> FOR AN EMPLOYEE WHO IS A MEMBER PRIOR TO JANUARY 1, 2003, WHO HAS ELECTED NOT TO PARTICIPATE IN THE CASH BALANCE BENEFIT PRIOR TO JANUARY 1, 2003, PURSUANT TO SECTION 6 OF THIS ACT, AND WHO, AT THE TIME OF RETIREMENT, CHOOSES THE ANNUITY OPTION RATHER THAN THE LUMP-SUM OPTION, HIS OR HER EMPLOYEE AND EMPLOYER ACCOUNTS SHALL BE CONVERTED TO AN ANNUITY USING AN INTEREST RATE THAT IS EQUAL TO THE LESSER OF (I) THE PENSION BENEFITS GUARANTEE CORPORATION INITIAL INTEREST RATE FOR VALUING ANNUITIES FOR TERMINATING PLANS AS OF THE BEGINNING OF THE YEAR DURING WHICH PAYMENT BEGINS PLUS THREE-FOURTHS OF ONE PERCENT OR (II) THE INTEREST RATE USED IN THE ACTUARIAL VALUATION AS RECOMMENDED BY THE ACTUARY AND APPROVED BY THE BOARD. <A]

[A> (B) FOR THE CALENDAR YEAR BEGINNING JANUARY 1, 2003, AND EACH CALENDAR YEAR THEREAFTER, THE ACTUARY FOR THE BOARD SHALL PERFORM AN ACTUARIAL VALUATION OF THE SYSTEM USING THE ENTRY AGE ACTUARIAL COST METHOD. UNDER THIS METHOD, THE ACTUARIALLY REQUIRED FUNDING RATE IS EQUAL TO THE NORMAL COST RATE PLUS THE CONTRIBUTION RATE NECESSARY TO AMORTIZE THE UNFUNDED ACTUARIAL ACCRUED LIABILITY ON A LEVEL-PAYMENT BASIS. THE NORMAL COST UNDER THIS METHOD SHALL BE DETERMINED FOR EACH INDIVIDUAL MEMBER ON A LEVEL PERCENTAGE OF SALARY BASIS. THE NORMAL COST AMOUNT IS THEN SUMMED FOR ALL MEMBERS. THE INITIAL UNFUNDED ACTUARIAL ACCRUED LIABILITY AS OF JANUARY 1, 2003, IF ANY, SHALL BE AMORTIZED OVER A TWENTY-FIVE-YEAR PERIOD. DURING EACH SUBSEQUENT ACTUARIAL VALUATION, CHANGES IN THE UNFUNDED ACTUARIAL ACCRUED LIABILITY DUE TO CHANGES IN BENEFITS, ACTUARIAL ASSUMPTIONS, THE ASSET VALUATION METHOD, OR ACTUARIAL GAINS OR LOSSES SHALL BE MEASURED AND AMORTIZED OVER A TWENTY-FIVE-YEAR PERIOD BEGINNING ON THE VALUATION DATE OF SUCH CHANGE. IF THE UNFUNDED ACTUARIAL ACCRUED LIABILITY UNDER THE ENTRY AGE ACTUARIAL COST METHOD IS ZERO OR LESS THAN ZERO ON AN ACTUARIAL VALUATION DATE, THEN ALL PRIOR UNFUNDED ACTUARIAL ACCRUED LIABILITIES SHALL BE CONSIDERED FULLY FUNDED AND THE UNFUNDED ACTUARIAL ACCRUED LIABILITY SHALL BE REINITIALIZED AND AMORTIZED OVER A TWENTY-FIVE-YEAR PERIOD AS OF THE ACTUARIAL VALUATION DATE. IF THE ACTUARIALLY REQUIRED CONTRIBUTION RATE EXCEEDS THE RATE OF ALL CONTRIBUTIONS REQUIRED PURSUANT TO THE COUNTY EMPLOYEES RETIREMENT ACT, THERE SHALL BE A SUPPLEMENTAL APPROPRIATION SUFFICIENT TO PAY FOR THE DIFFERENCE BETWEEN THE ACTUARIALLY REQUIRED CONTRIBUTION RATE AND THE RATE OF ALL CONTRIBUTIONS REQUIRED PURSUANT TO THE ACT. <A]

[A> (C) ON THE BASIS OF ALL DATA IN THE POSSESSION OF THE RETIREMENT BOARD, INCLUDING SUCH MORTALITY AND OTHER TABLES AS ARE RECOMMENDED BY THE ACTUARY

ENGAGED BY THE RETIREMENT BOARD AND ADOPTED BY THE RETIREMENT BOARD, THE RETIREMENT BOARD SHALL NOT PROVIDE FOR ANY BENEFIT IMPROVEMENTS THAT WOULD INCREASE THE ACTUARIAL CONTRIBUTION RATE ABOVE NINETY PERCENT OF THE ACTUAL CONTRIBUTION RATE. <A]

[A] (5) AT THE OPTION OF THE RETIRING MEMBER, ANY LUMP SUM OR ANNUITY PROVIDED UNDER THIS SECTION OR SECTION 23-2334 MAY BE DEFERRED TO COMMENCE AT ANY TIME, EXCEPT THAT NO BENEFIT SHALL BE DEFERRED LATER THAN THE SIXTIETH DAY AFTER THE END OF THE YEAR IN WHICH THE EMPLOYEE HAS BOTH ATTAINED AT LEAST SEVENTY AND ONE-HALF YEARS OF AGE AND HAS TERMINATED HIS OR HER EMPLOYMENT WITH THE COUNTY. SUCH ELECTION BY THE RETIRING MEMBER MAY BE MADE AT ANY TIME PRIOR TO THE COMMENCEMENT OF THE LUMP-SUM OR ANNUITY PAYMENTS. <A] [D] Retirement benefits for persons who retire prior to January 1, 1984, shall not be affected by changes to this section which become operative on or after January 1, 1984. <D]

[\*13] Sec. 13. Section 23-2319, Revised Statutes Supplement, 2000, is amended to read:

23-2319. (1) Except as provided in section 42-1107, upon termination of employment, except for retirement or disability, and after filing an application with the board, a member may receive:

(a) If not vested, a termination benefit [D] not to exceed <D] [A] EQUAL TO <A] the amount of his or her employee account [A] OR MEMBER CASH BALANCE ACCOUNT <A] payable in a lump sum or an annuity with the lump-sum or first annuity payment made at any time after termination but no later than the sixtieth day after the end of the year in which the member attains the age of seventy and one-half years; or

(b) If vested, a termination benefit [D] not to exceed <D] [A] EQUAL TO <A] (i) [A] THE AMOUNT OF HIS OR HER MEMBER CASH BALANCE ACCOUNT PAYABLE IN A LUMP SUM OR AN ANNUITY WITH THE LUMP-SUM OR FIRST ANNUITY PAYMENT MADE AT ANY TIME AFTER TERMINATION BUT NO LATER THAN THE SIXTIETH DAY AFTER THE END OF THE YEAR IN WHICH THE MEMBER ATTAINS THE AGE OF SEVENTY AND ONE-HALF YEARS OR (II)(A) <A] the amount of his or her employee account payable in a lump sum or an annuity with the lump-sum or first annuity payment made at any time after termination but no later than the sixtieth day after the end of the year in which the member attains the age of seventy and one-half years plus [D] (ii) <D] [A] (B) <A] the amount of his or her employer account payable in a lump sum or an annuity with the lump-sum or first annuity payment made at any time after termination but no later than the sixtieth day after the end of the year in which the member attains the age of seventy and one-half years.

Benefits of a terminating member shall be deferred until the application is received.

(2) At the option of the terminating member, any lump sum of the employer account [A] OR MEMBER CASH BALANCE ACCOUNT <A] or any annuity payment provided under subsection (1) of this section shall commence as of the first of the month at any time after such member has terminated his or her employment with the county and no later than the sixtieth day after the end of the year in which the member attains the age of seventy and one-half years. Such election by the terminating member shall be made at any time prior to the commencement of the lump-sum or annuity payments.

(3) Members of the retirement system shall be vested after a total of [D] five <D] [A] THREE <A] years of [D] (a) <D] participation in the system [A] , INCLUDING <A] [D] plus (b) <D] eligibility and vesting credit. If an employee retires pursuant to section 23-2315, such employee shall be fully vested in the retirement system.

[\*14] Sec. 14. Section 23-2319.01, Revised Statutes Supplement, 2000, is amended to read:

23-2319.01. (1) For a member who has terminated employment and is not vested, the balance of the member's employer account [A] OR EMPLOYER CASH BALANCE ACCOUNT <A] shall be forfeited. The forfeited [D]

employer <D] account shall be credited to the County Employees Retirement Fund and shall first be used to meet the expense charges incurred by the retirement board in connection with administering the retirement system, which charges shall be credited to the County Employees Retirement System Expense Fund, and the remainder, if any, shall then be used to reduce the county contribution which would otherwise be required to fund future service retirement benefits or to restore employer accounts [A> OR EMPLOYER CASH BALANCE ACCOUNTS <A] .

(2) If a member ceases to be an employee due to the termination of his or her employment by the county and a grievance or other appeal of the termination is filed, transactions involving forfeiture of his or her employer account [A> OR EMPLOYER CASH BALANCE ACCOUNT <A] shall be suspended pending the final outcome of the grievance or other appeal.

[\*15] Sec. 15. Section 23-2320, Revised Statutes Supplement, 2000, is amended to read:

23-2320. (1) Except as otherwise provided in this section, a member of the retirement system who has a five-year break in service shall upon reemployment be considered a new employee with respect to the County Employees Retirement Act and shall not receive credit for service prior to his or her reemployment date.

(2)(a) A member who ceases to be an employee before becoming eligible for retirement under section 23-2315 and again becomes a permanent full-time or permanent part-time county employee prior to having a five-year break in service shall be reenrolled in the retirement system and resume making contributions under rules and regulations adopted by the board. For purposes of vesting employer contributions made prior to and after the reentry into the retirement system under subsection (3) of section 23-2319, years of participation include years of participation prior to such employee's original termination. For a member who is not vested and has received a termination benefit pursuant to section 23-2319, the years of participation prior to such employee's original termination shall be limited in a ratio equal to the amount that the member repays divided by the termination benefit withdrawn pursuant to section 23-2319.

(b) The reemployed member may repay the value of, or a portion of the value of, the termination benefit withdrawn pursuant to section 23-2319. In addition, the member may repay the actual earnings on such value. Repayment of the termination benefit shall commence within three years of reemployment and shall be completed within five years of reemployment or prior to termination of employment, whichever occurs first, through (i) direct payments to the retirement system, (ii) installment payments made pursuant to a binding irrevocable payroll deduction authorization made by the member, (iii) an eligible rollover distribution as provided under the Internal Revenue Code, or (iv) a direct rollover distribution made in accordance with section 401(a)(31) of the Internal Revenue Code.

(c) After the member completes one year of service following reemployment, the value of the member's forfeited employer account [A> OR EMPLOYER CASH BALANCE ACCOUNT <A] , as of the date of forfeiture, shall be restored at the end of the plan year in a ratio equal to the amount of the benefit that the member has repaid divided by the termination benefit received. The employer account [A> OR EMPLOYER CASH BALANCE ACCOUNT <A] shall be restored first out of the current forfeiture amounts of the county that received the member's forfeited [D> employer <D] account and then by additional employer contributions by the county that received the member's forfeited [D> employer <D] account.

(3) For a member who retired pursuant to section 23-2315 and becomes a permanent full-time employee or permanent part-time employee with a county under the County Employees Retirement Act after his or her retirement date, the member shall continue receiving retirement benefits. Such a retired member or a retired member who received a lump-sum distribution of his or her benefit shall be considered a new employee as of the date of reemployment and shall not receive credit for any service prior to the member's retirement for purposes of the act.

(4) A member who is reinstated as an employee pursuant to a grievance or appeal of his or her termination by the county shall be a member upon reemployment and shall not be considered to have a break in service for such period of time that the grievance or appeal was pending.



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[\*16] Sec. 16. Section 23-2321, Reissue Revised Statutes of Nebraska, is amended to read:

23-2321. In the event of the death before his or her retirement date of any employee who is a member of the system, a death benefit shall be paid to the member's beneficiary or to an alternate payee pursuant to a qualified domestic relations order as provided in section 42-1107. The death benefit shall be equal to [A> (1) FOR PARTICIPANTS IN THE DEFINED CONTRIBUTION BENEFIT, <A] the total of the employee account and the employer account [A> AND (2) FOR PARTICIPANTS IN THE CASH BALANCE BENEFIT, THE BENEFIT PROVIDED IN SECTION 6 OF THIS ACT <A] . The beneficiary may elect any retirement option to which the member would have been entitled. If an annuity option is not selected within sixty days after the death of the member, the beneficiary shall receive a lump-sum payment.

[\*17] Sec. 17. Section 23-2331, Revised Statutes Supplement, 2001, is amended to read:

23-2331. Sections 23-2301 to 23-2332.01 [A> AND SECTION 6 OF THIS ACT <A] shall be known and may be cited as the County Employees Retirement Act.

[\*18] Sec. 18. Section 84-1301, Revised Statutes Supplement, 2000, is amended to read:

84-1301. For purposes of the State Employees Retirement Act, unless the context otherwise requires:

(1) [A> ACTUARIAL EQUIVALENT MEANS THE EQUALITY IN VALUE OF THE AGGREGATE AMOUNTS EXPECTED TO BE RECEIVED UNDER DIFFERENT FORMS OF AN ANNUITY PAYMENT. THE MORTALITY ASSUMPTION USED FOR PURPOSES OF CONVERTING THE MEMBER CASH BALANCE ACCOUNT SHALL BE THE 1994 GROUP ANNUITY MORTALITY TABLE USING A UNISEX RATE THAT IS FIFTY PERCENT MALE AND FIFTY PERCENT FEMALE. FOR PURPOSES OF CONVERTING THE MEMBER CASH BALANCE ACCOUNT ATTRIBUTABLE TO CONTRIBUTIONS MADE PRIOR TO JANUARY 1, 1984, THAT WERE TRANSFERRED PURSUANT TO THE ACT, THE 1994 GROUP ANNUITY MORTALITY TABLE FOR MALES SHALL BE USED; <A]

[A> (2) ANNUITY MEANS EQUAL MONTHLY PAYMENTS PROVIDED BY THE RETIREMENT SYSTEM TO A MEMBER OR BENEFICIARY UNDER FORMS DETERMINED BY THE BOARD BEGINNING THE FIRST DAY OF THE MONTH AFTER AN ANNUITY ELECTION IS RECEIVED IN THE OFFICE OF THE NEBRASKA PUBLIC EMPLOYEES RETIREMENT SYSTEMS OR THE FIRST DAY OF THE MONTH AFTER THE EMPLOYEE'S TERMINATION OF EMPLOYMENT, WHICHEVER IS LATER; <A]

[A> (3) CASH BALANCE BENEFIT MEANS A MEMBER'S RETIREMENT BENEFIT THAT IS EQUAL TO AN AMOUNT BASED ON ANNUAL EMPLOYEE CONTRIBUTION CREDITS PLUS INTEREST CREDITS AND, IF VESTED, EMPLOYER CONTRIBUTION CREDITS PLUS INTEREST CREDITS; <A]

[A> (4) <A] (a) Compensation means gross wages or salaries payable to the member for personal services performed during the plan year. Compensation does not include insurance premiums converted into cash payments, reimbursement for expenses incurred, fringe benefits, or bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, except for retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements. Compensation includes overtime pay, member retirement contributions, and amounts contributed by the member to plans under sections 125, 403(b), and 457 of the Internal Revenue Code or any other section of the code which defers or excludes such amounts from income.

(b) Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code shall be disregarded. For an employee who was a member of the retirement system before the first plan year beginning after December 31, 1995, the limitation on compensation shall not be less than the amount which was allowed to be taken into account under the retirement system as in effect on July 1, 1993;

[A> (5) <A] [D> (2) <D] Date of disability means the date on which a member is determined to be disabled by the board;

[A> (6) DEFINED CONTRIBUTION BENEFIT MEANS A MEMBER'S RETIREMENT BENEFIT FROM A MONEY PURCHASE PLAN IN WHICH MEMBER BENEFITS EQUAL ANNUAL CONTRIBUTIONS AND EARNINGS PURSUANT TO SECTION 84-1310 AND, IF VESTED, EMPLOYER CONTRIBUTIONS AND EARNINGS PURSUANT TO SECTION 84-1311; <A]

[A> (7) <A] [D> (3) <D] Disability means an inability to engage in a substantially gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration;

[A> (8) <A] [D> (4) <D] Eligibility and vesting credit means credit for years, or a fraction of a year, of participation in a Nebraska governmental plan for purposes of determining membership in the system and vesting the employer account;

[A> (9) <A] [D> (5) <D] Employee means any employee of the State Board of Agriculture who is a member of the state retirement system on July 1, 1982, and any person or officer employed by the State of Nebraska whose compensation is paid out of state funds or funds controlled or administered by a state department through any of its executive or administrative officers when acting exclusively in their respective official, executive, or administrative capacities. Employee does not include (a) judges as defined in section 24-701, (b) members of the Nebraska State Patrol, (c) employees of the University of Nebraska, (d) employees of the state colleges, (e) employees of community colleges, (f) employees of the Department of Labor employed prior to July 1, 1984, and paid from funds provided pursuant to Title III of the federal Social Security Act or funds from other federal sources, (g) the Commissioner of Labor employed prior to July 1, 1984, (h) employees of the State Board of Agriculture who are not members of the state retirement system on July 1, 1982, (i) the Nebraska National Guard air and army technicians, (j) persons eligible for membership under the School Retirement System of the State of Nebraska who have not elected to become members of the retirement system pursuant to section 79-920 or been made members of the system pursuant to such section, except that those persons so eligible and who as of September 2, 1973, are contributing to the State Employees Retirement System of the State of Nebraska shall continue as members of such system, or (k) employees of the Coordinating Commission for Postsecondary Education who are eligible for and have elected to become members of a qualified retirement program approved by the commission which is commensurate with retirement programs at the University of Nebraska. Any individual appointed by the Governor may elect not to become a member of the State Employees Retirement System of the State of Nebraska;

[A> (10) EMPLOYEE CONTRIBUTION CREDIT MEANS AN AMOUNT EQUAL TO THE MEMBER CONTRIBUTION AMOUNT REQUIRED BY SECTION 84-1308; <A]

[A> (11) EMPLOYER CONTRIBUTION CREDIT MEANS AN AMOUNT EQUAL TO THE EMPLOYER CONTRIBUTION AMOUNT REQUIRED BY SECTION 84-1309; <A]

[A> (12) <A] [D> (6) <D] Five-year break in service means five consecutive one-year breaks in service;

[A> (13) <A] [D> (7) <D] Full-time employee means an employee who is employed to work one-half or more of the regularly scheduled hours during each pay period;

[A> (14) <A] [D> (8) <D] Fund means the State Employees Retirement Fund created by section 84-1309;

[D> (9) Group annuity contract means the contract or contracts issued by one or more life insurance companies to the board in order to provide the benefits described in sections 84-1319, 84-1320, 84-1321, 84-1323, and 84-1323.01; <D]

[A> (15) <A] [D> (10) <D] Guaranteed investment contract means an investment contract or account offering a return of principal invested plus interest at a specified rate. For investments made after July 19, 1996, guaranteed investment contract does not include direct obligations of the United States or its instrumentalities, bonds, participation certificates or other obligations of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Government National Mortgage Association, or collateralized mortgage obligations and other derivative securities. This subdivision shall not be construed to require the liquidation of investment contracts or accounts entered into prior to July 19, 1996;

[D> (11) <D] [A> (16) INTEREST CREDIT RATE MEANS THE GREATER OF (A) FIVE PERCENT OR (B) THE APPLICABLE FEDERAL MID-TERM RATE, AS PUBLISHED BY THE INTERNAL REVENUE SERVICE AS OF THE FIRST DAY OF THE CALENDAR QUARTER FOR WHICH INTEREST CREDITS ARE CREDITED, PLUS ONE AND ONE-HALF PERCENT, SUCH RATE TO BE COMPOUNDED ANNUALLY; <A]

[A> (17) INTEREST CREDITS MEANS THE AMOUNTS CREDITED TO THE EMPLOYEE CASH BALANCE ACCOUNT AND THE EMPLOYER CASH BALANCE ACCOUNT AT THE END OF EACH DAY. SUCH INTEREST CREDIT FOR EACH ACCOUNT SHALL BE DETERMINED BY APPLYING THE DAILY PORTION OF THE INTEREST CREDIT RATE TO THE ACCOUNT BALANCE AT THE END OF THE PREVIOUS DAY. SUCH INTEREST CREDITS SHALL CONTINUE TO BE CREDITED TO THE EMPLOYEE CASH BALANCE ACCOUNT AND THE EMPLOYER CASH BALANCE ACCOUNT AFTER A MEMBER CEASES TO BE AN EMPLOYEE, EXCEPT THAT NO SUCH CREDIT SHALL BE MADE WITH RESPECT TO THE EMPLOYEE CASH BALANCE ACCOUNT AND THE EMPLOYER CASH BALANCE ACCOUNT FOR ANY DAY BEGINNING ON OR AFTER THE MEMBER'S ANNUITY STARTING DATE. IF BENEFITS PAYABLE TO THE MEMBER'S SURVIVING SPOUSE OR BENEFICIARY ARE DELAYED AFTER THE MEMBER'S DEATH, INTEREST CREDITS SHALL CONTINUE TO BE CREDITED TO THE EMPLOYEE CASH BALANCE ACCOUNT AND THE EMPLOYER CASH BALANCE ACCOUNT UNTIL SUCH SURVIVING SPOUSE OR BENEFICIARY COMMENCES RECEIPT OF A DISTRIBUTION FROM THE PLAN; <A]

[A> (18) MEMBER CASH BALANCE ACCOUNT MEANS AN ACCOUNT EQUAL TO THE SUM OF THE EMPLOYEE CASH BALANCE ACCOUNT AND, IF VESTED, THE EMPLOYER CASH BALANCE ACCOUNT; <A]

[A> (19) <A] One-year break in service means a plan year during which the member has not completed more than five hundred hours of service;

[A> (20) <A] [D> (12) <D] Part-time employee means an employee who is employed to work less than one-half of the regularly scheduled hours during each pay period;

[A> (21) <A] [D> (13) <D] Plan year means the twelve-month period beginning on January 1 and ending on December 31;

[A> (22) <A] [D> (14) <D] Prior service means service before January 1, 1964;

[A> (23) <A] [D> (15) <D] Regular interest means the rate of interest earned each calendar year commencing January 1, 1975, as determined by the retirement board in conformity with actual and expected earnings on the investments [A> THROUGH DECEMBER 31, 1984 <A] ;

[A> (24) <A] [D> (16) <D] Required contribution means the deduction to be made from the compensation of employees as provided in section 84-1308;

[A> (25) <A] [D> (17) <D] Retirement means qualifying for and terminating employment after becoming qualified to receive the retirement allowance granted under the State Employees Retirement Act;

[A> (26) <A] [D> (18) <D] Retirement board or board means the Public Employees Retirement Board;

[A> (27) <A] [D> (19) <D] Retirement system means the State Employees Retirement System of the State of Nebraska;

[A> (28) <A] [D> (20) <D] Service means the actual total length of employment as an employee and shall not be deemed to be interrupted by (a) temporary or seasonal suspension of service that does not terminate the employee's employment, (b) leave of absence authorized by the employer for a period not exceeding twelve months, (c) leave of absence because of disability, or (d) military service, when properly authorized by the retirement board. Service does not include any period of disability for which disability retirement benefits are received under section 84-1317;

[A> (29) <A] [D> (21) <D] State department means any department, bureau, commission, or other division of state government not otherwise specifically defined or exempted in the act, the employees and officers of which are not already covered by a retirement plan;

[D> (22) Straight life annuity means an ordinary annuity payable for the life of the primary annuitant only and terminating at his or her death without refund or death benefit of any kind; <D]

[A> (30) <A] [D> (23) <D] Surviving spouse means (a) the spouse married to the member on the date of the member's death or (b) the spouse or former spouse of the member if survivorship rights are provided under a qualified domestic relations order filed with the board pursuant to the Spousal Pension Rights Act. The spouse or former spouse shall supersede the spouse married to the member on the date of the member's death as provided under a qualified domestic relations order. If the benefits payable to the spouse or former spouse under a qualified domestic relations order are less than the value of benefits entitled to the surviving spouse, the spouse married to the member on the date of the member's death shall be the surviving spouse for the balance of the benefits; and

[A> (31) <A] [D> (24) <D] Termination of employment occurs on the date on which the agency which employs the member determines that the member's employer-employee relationship with the State of Nebraska is dissolved. The agency which employs the member shall notify the board within two weeks after the date such a termination is deemed to have occurred. Termination of employment does not occur if an employee whose employer-employee relationship with the State of Nebraska is dissolved enters into an employer-employee relationship with the same or another agency of the State of Nebraska and there are less than one hundred twenty days between the date when the employee's employer-employee relationship ceased with the state and the date when the employer-employee relationship commenced with the same or another agency which qualifies the employee for participation in the plan. It shall be the responsibility of the current employer to notify the board of such change in employment and provide the board with such information as the board deems necessary. If the board determines that termination of employment has not occurred and a termination benefit has been paid to a member of the retirement system pursuant to section 84-1321, the board shall require the member who has received such benefit to repay the benefit to the retirement system.

[\*19] Sec. 19. Section 84-1305.02, Reissue Revised Statutes of Nebraska, is amended to read:

84-1305.02. (1) If the board determines that the retirement system has previously received contributions or distributed benefits which for any reason are not in accordance with the statutory provisions of the State Employees Retirement Act, the board shall refund contributions, require additional contributions, adjust benefits, or require repayment of benefits paid. In the event of an overpayment of a benefit, the board may, in addition to other remedies, offset future benefit payments by the amount of the prior overpayment, together with regular interest [A> OR INTEREST CREDITS, WHICHEVER IS APPROPRIATE, <A] thereon. In the event of an underpayment of a benefit, the board shall immediately make payment equal to the deficit amount plus regular interest [A> OR INTEREST CREDITS, WHICHEVER IS APPROPRIATE <A].

(2) The board shall adopt and promulgate rules and regulations implementing this section, which shall include, but not be limited to, the following: (a) The procedures for refunding contributions, adjusting future contributions or benefit

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payments, and requiring additional contributions or repayment of benefits; (b) the process for a member, member's beneficiary, employee, or employer to dispute an adjustment of contributions or benefits; and (c) notice provided to all affected persons. All notices shall be sent prior to an adjustment and shall describe the process for disputing an adjustment of contributions or benefits.

[\*20] Sec. 20. Section 84-1307, Revised Statutes Supplement, 2000, is amended to read:

84-1307. (1) The membership of the retirement system shall be composed of [A] ALL PERSONS WHO ARE OR WERE EMPLOYED BY THE STATE OF NEBRASKA AND WHO MAINTAIN AN ACCOUNT BALANCE WITH THE RETIREMENT SYSTEM. <A]

[A] (2) THE FOLLOWING EMPLOYEES OF THE STATE OF NEBRASKA ARE AUTHORIZED TO PARTICIPATE IN THE RETIREMENT SYSTEM: <A] (a) [D] all <D] [A] ALL <A] permanent full-time employees who have [D] twenty-four <D] [A] TWELVE <A] continuous months of service [A] SHALL BEGIN PARTICIPATION IN THE RETIREMENT SYSTEM; <A] [D] and who have attained the age of thirty <D] and (b) all permanent full-time or permanent part-time employees [A] , <A] who have twelve months of service within a five-year period [D] , <D] [A] AND <A] who have attained the age of twenty, [D] and who <D] [A] MAY <A] exercise the option to [D] join <D] [A] BEGIN PARTICIPATION IN <A] the retirement system. An employee who exercises the option to [D] join <D] [A] BEGIN PARTICIPATION IN <A] the retirement system pursuant to this section shall remain in the retirement system until his or her termination of employment or retirement [A] , REGARDLESS OF ANY CHANGE OF STATUS AS A PERMANENT OR TEMPORARY EMPLOYEE <A] .

[D] (2) <D] [A] (3) <A] For purposes of this section, (a) permanent full-time employees includes employees of the Legislature or Legislative Council who work one-half or more of the regularly scheduled hours during each pay period of the legislative session and (b) permanent part-time employees includes employees of the Legislature or Legislative Council who work less than one-half of the regularly scheduled hours during each pay period of the legislative session.

[D] (3) <D] [A] (4) <A] Within the first thirty days of employment, a full-time employee may apply to the board for eligibility and vesting credit for years of participation in another Nebraska governmental plan, as defined by section 414(d) of the Internal Revenue Code. During the years of participation in the other Nebraska governmental plan, the employee must have been a full-time employee, as defined in the Nebraska governmental plan in which the credit was earned. [A] THE BOARD MAY ADOPT AND PROMULGATE RULES AND REGULATIONS GOVERNING THE ASSESSMENT AND GRANTING OF ELIGIBILITY AND VESTING CREDIT. <A]

[D] (4) <D] [A] (5) <A] Any employee who qualifies for membership in the retirement system pursuant to this section may not be disqualified for membership in the retirement system solely because such employee also maintains separate employment which qualifies the employee for membership in another public retirement system, nor may membership in this retirement system disqualify such an employee from membership in another public employment system solely by reason of separate employment which qualifies such employee for membership in this retirement system.

[D] (5) <D] [A] (6) STATE AGENCIES SHALL ENSURE THAT EMPLOYEES AUTHORIZED TO PARTICIPATE IN THE RETIREMENT SYSTEM PURSUANT TO THIS SECTION SHALL ENROLL AND MAKE REQUIRED CONTRIBUTIONS TO THE RETIREMENT SYSTEM. <A] Information necessary to determine membership in the retirement system shall be provided by the employer.

[\*21] Sec. 21. [A] (1) IT IS THE INTENT OF THE LEGISLATURE THAT, IN ORDER TO IMPROVE THE COMPETITIVENESS OF THE RETIREMENT PLAN FOR STATE EMPLOYEES, A CASH BALANCE BENEFIT SHALL BE ADDED TO THE STATE EMPLOYEES RETIREMENT ACT ON AND AFTER JANUARY 1, 2003. EACH MEMBER WHO IS EMPLOYED AND PARTICIPATING IN THE RETIREMENT SYSTEM PRIOR TO JANUARY 1, 2003, MAY EITHER ELECT TO CONTINUE PARTICIPATION IN THE DEFINED

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CONTRIBUTION BENEFIT AS PROVIDED IN THE ACT PRIOR TO JANUARY 1, 2003, OR ELECT TO PARTICIPATE IN THE CASH BALANCE BENEFIT AS SET FORTH IN THIS SECTION. THE MEMBER SHALL MAKE THE ELECTION PRIOR TO JANUARY 1, 2003. IF NO ELECTION IS MADE PRIOR TO JANUARY 1, 2003, THE MEMBER SHALL BE TREATED AS THOUGH HE OR SHE ELECTED TO CONTINUE PARTICIPATING IN THE DEFINED CONTRIBUTION BENEFIT AS PROVIDED IN THE ACT PRIOR TO JANUARY 1, 2003. <A]

[A> (2) FOR A MEMBER EMPLOYED AND PARTICIPATING IN THE RETIREMENT SYSTEM BEGINNING ON AND AFTER JANUARY 1, 2003, OR A MEMBER EMPLOYED AND PARTICIPATING IN THE RETIREMENT SYSTEM ON JANUARY 1, 2003, WHO, PRIOR TO JANUARY 1, 2003, ELECTS TO CONVERT HIS OR HER EMPLOYEE AND EMPLOYER ACCOUNTS TO THE CASH BALANCE BENEFIT: <A]

[A> (A) THE EMPLOYEE CASH BALANCE ACCOUNT SHALL, AT ANY TIME, BE EQUAL TO THE FOLLOWING: <A]

[A> (I) THE INITIAL EMPLOYEE ACCOUNT BALANCE, IF ANY, TRANSFERRED FROM THE DEFINED CONTRIBUTION PLAN ACCOUNT DESCRIBED IN SECTION 84-1310; PLUS <A]

[A> (II) EMPLOYEE CONTRIBUTION CREDITS DEPOSITED IN ACCORDANCE WITH SECTION 84-1308; PLUS <A]

[A> (III) INTEREST CREDITS CREDITED IN ACCORDANCE WITH SUBDIVISION (17) OF SECTION 84-1301; AND <A]

[A> (B) THE EMPLOYER CASH BALANCE ACCOUNT SHALL, AT ANY TIME, BE EQUAL TO THE FOLLOWING: <A]

[A> (I) THE INITIAL EMPLOYER ACCOUNT BALANCE, IF ANY, TRANSFERRED FROM THE DEFINED CONTRIBUTION PLAN ACCOUNT DESCRIBED IN SECTION 84-1311; PLUS <A]

[A> (II) EMPLOYER CONTRIBUTION CREDITS DEPOSITED IN ACCORDANCE WITH SECTION 84-1309; PLUS <A]

[A> (III) INTEREST CREDITS CREDITED IN ACCORDANCE WITH SUBDIVISION (17) OF SECTION 84-1301. <A]

[\*22] Sec. 22. Section 84-1310, Reissue Revised Statutes of Nebraska, is amended to read:

84-1310. [D> A <D] [A> FOR A MEMBER EMPLOYED AND PARTICIPATING IN THE RETIREMENT SYSTEM PRIOR TO JANUARY 1, 2003, WHO HAS ELECTED NOT TO PARTICIPATE IN THE CASH BALANCE BENEFIT, A <A] member's share of the fund arising from the compensation deductions made in accordance with section 84-1308 shall be known as his or her employee account. Each year commencing January 1, 1975, and ending December 31, 1984, regular interest shall be credited to the employee account. As of January 1 of each such year, a member's employee account shall be equal to one hundred percent of his or her employee account as of the next preceding January 1 increased by any regular interest earned and any amounts deducted from the member's compensation since the next preceding January 1 in accordance with the provisions of section 84-1308. On and after January 1, 1985, the employee account shall be equal to the sum of the stable return account, the equities account, and any assets of additional accounts created by the board pursuant to section 84-1310.01.

[\*23] Sec. 23. Section 84-1310.01, Revised Statutes Supplement, 2001, is amended to read:

84-1310.01. (1) [D> On or after January 1, 1997, on such date as is established by the retirement board, each



member of the retirement system <D] [A> EACH MEMBER EMPLOYED AND PARTICIPATING IN THE RETIREMENT SYSTEM PRIOR TO JANUARY 1, 2003, WHO HAS ELECTED NOT TO PARTICIPATE IN THE CASH BALANCE BENEFIT, <A] shall be allowed to allocate all contributions to his or her employee account [D> after such date <D] to various investment options. Such investment options shall include, but not be limited to, the following:

(a) A stable return account which shall be invested by or under the direction of the state investment officer in one or more guaranteed investment contracts;

(b) An equities account which shall be invested by or under the direction of the state investment officer in domestic equities;

(c) A balanced account which shall be invested by or under the direction of the state investment officer in domestic equities and domestic fixed income instruments;

(d) An index fund account which shall be invested by or under the direction of the state investment officer in a portfolio of domestic common stocks designed to closely duplicate the total return of the Standard and Poor's 500 Index;

(e) A fixed income account which shall be invested by or under the direction of the state investment officer in domestic fixed income instruments; and

(f) A money market account which shall be invested by or under the direction of the state investment officer in domestic short-term fixed income securities.

If a member fails to select an option or combination of options, all of his or her funds shall be placed in the option described in subdivision (a) of this subsection. Each member shall be given a detailed current description of each investment option prior to making or revising his or her allocation.

(2) Members of the retirement system may allocate their contributions to the investment options in percentage increments as set by the board in any proportion, including full allocation to any one option. A member may transfer any portion of his or her funds among the options, except for restrictions on transfers to or from the stable return account pursuant to rule or regulation. The board shall adopt and promulgate rules and regulations for changes of a member's allocation of contributions to his or her accounts after his or her most recent allocation and for transfers from one investment account to another.

(3) The board shall develop a schedule for the allocation of administrative costs of maintaining the various investment options and shall assess the costs so that each member pays a reasonable fee as determined by the board. The money forfeited pursuant to section 84-1321.01 shall not be used to pay the administrative costs incurred pursuant to this section.

(4) In order to carry out the provisions of this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the state and its participating employees.

(5) The state, the board, the state investment officer, the members of the Nebraska Investment Council, or the agency shall not be liable for any investment results resulting from the member's exercise of control over the assets in the employee account.

[\*24] Sec. 24. Section 84-1311, Reissue Revised Statutes of Nebraska, is amended to read:

84-1311. (1) [D> A <D] [A> FOR A MEMBER EMPLOYED AND PARTICIPATING IN THE RETIREMENT SYSTEM PRIOR TO JANUARY 1, 2003, WHO HAS ELECTED NOT TO PARTICIPATE IN THE CASH

BALANCE BENEFIT, A <A] member's share of the fund arising from the state contributions made in accordance with section 84-1309 shall be known as his or her employer account. Prior to January 1, 1981, as of any January 1 a member's employer account shall be equal to his or her account as of the next preceding January 1, increased by one hundred four percent of any amounts deducted from the member's compensation since the next preceding January 1 in accordance with section 84-1308. As of January 1, 1982, a member's employer account shall be equal to the account as of January 1, 1981, increased by one hundred four percent of the amounts deducted from the member's compensation for the first nine months of the year and one hundred fifty-six percent of the amount so deducted for the final three months of the year in accordance with section 84-1308. As of January 1, 1983, and each year thereafter, the member's employer account shall be equal to the account as of the next preceding January 1 increased by one hundred fifty-six percent of any amounts deducted from the member's compensation since the next preceding January 1 in accordance with section 84-1308. The member's employer account shall be increased by any interest allocated under the provisions of the guaranteed investment contract and any gains on investments and reduced by any losses on investments, any expense charges under the guaranteed investment contract or other investments, and any expense charges incurred in connection with administering the retirement system in excess of those provided for in section 84-1321.01, except that a member who ceased being an employee since the next preceding January 1 may have his or her employer account reduced in accordance with section 84-1321.01. On and after July 1, 1999, the employer account shall be equal to the sum of the assets of the accounts created by the board pursuant to section 84-1311.03.

(2) On and after January 1, 1997, and until July 1, 1999, the state investment officer shall invest the employer account, and, after July 1, 1999, upon maturity, the state investment officer shall invest the employer account funds which have been invested in guaranteed investment contracts prior to January 1, 1997. On and after July 1, 1999, the employer account shall be invested pursuant to section 84-1311.03. The state investment officer shall invest or reinvest the funds in securities and investments the nature of which individuals of prudence, discretion, and intelligence acquire or retain in dealing with the property of another, and if the state investment officer has special skills or is appointed on the basis of representations of special skills or expertise, he or she is under a duty to use such skills.

[\*25] Sec. 25. Section 84-1311.03, Revised Statutes Supplement, 2001, is amended to read:

84-1311.03. (1) [D] On or after July 1, 1999, on such date as is established by the retirement board, each member of the retirement system <D] [A] EACH MEMBER EMPLOYED AND PARTICIPATING IN THE RETIREMENT SYSTEM PRIOR TO JANUARY 1, 2003, WHO HAS ELECTED NOT TO PARTICIPATE IN THE CASH BALANCE BENEFIT, <A] shall be allowed to allocate all contributions to his or her employer account [D] after such date <D] to various investment options. Such investment options shall be limited to the following:

(a) An account which shall be invested by or under the direction of the state investment officer in approximately twenty-five percent domestic equities and seventy-five percent domestic fixed income instruments;

(b) An account which shall be invested by or under the direction of the state investment officer in approximately fifty percent domestic equities and fifty percent domestic fixed income instruments; and

(c) An account which shall be invested by or under the direction of the state investment officer in approximately seventy-five percent domestic equities and twenty-five percent domestic fixed income instruments.

If a member fails to select an option or combination of options, all of his or her funds in the employer account shall be placed in one of the options described in subdivision (a), (b), or (c) of this subsection as determined by the board. Each member shall be given a detailed current description of each investment option prior to making or revising his or her allocation.

(2) Each member of the retirement system may allocate contributions to his or her employer account to the investment options in percentage increments as set by the board in any proportion, including full allocation to any one option. A member may transfer any portion of his or her funds among the options. The board shall adopt and

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promulgate rules and regulations for changes of a member's allocation of contributions to his or her accounts after his or her most recent allocation and for transfers from one investment account to another.

(3) The board shall develop a schedule for the allocation of administrative costs of maintaining the various investment options and shall assess the costs so that each member pays a reasonable fee as determined by the board. The money forfeited pursuant to section 84-1321.01 shall not be used to pay the administrative costs incurred pursuant to this section.

(4) In order to carry out the provisions of this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the state and its participating employees.

(5) The state, the board, the state investment officer, the members of the Nebraska Investment Council, or the agency shall not be liable for any investment results resulting from the member's exercise of control over the assets in the employer account.

[\*26] Sec. 26. Section 84-1318, Reissue Revised Statutes of Nebraska, is amended to read:

84-1318. The retirement value for any employee who retires under the provisions of section 84-1317 shall be [A> (1) FOR PARTICIPANTS IN THE DEFINED CONTRIBUTION BENEFIT, <A] the sum of the employee's employee account and employer account [A> AS OF THE RETIREMENT DATE AND (2) FOR PARTICIPANTS IN THE CASH BALANCE BENEFIT, THE BENEFIT PROVIDED IN SECTION 21 OF THIS ACT <A] as of the retirement date.

[\*27] Sec. 27. Section 84-1319, Reissue Revised Statutes of Nebraska, is amended to read:

84-1319. (1) The future service retirement benefit shall be an annuity, payable monthly with the first payment made as of the retirement date, which shall be the actuarial equivalent of the retirement value based on factors determined by the board, except that gender shall not be a factor when determining the amount of such payments except as provided in this section.

Except as provided in section 42-1107, at any time before the retirement date, the retiring employee may choose to receive his or her annuity either in the form of [D> a straight life <D] [A> AN <A] annuity [A> AS PROVIDED UNDER SUBSECTION (4) OF THIS SECTION <A] or any optional form that is determined acceptable by the board.

Except as provided in section 42-1107, in lieu of the future service retirement annuity, a retiring employee may, upon application to the board, receive a benefit not to exceed the amount in his or her employer and employee accounts payable in a lump sum and, if the employee chooses not to receive the entire amount in such accounts, an annuity equal to the actuarial equivalent of the remainder of the retirement value, and the employee may choose any form of such annuity as provided for by the board.

In any case, the amount of the monthly payment shall be such that the annuity chosen shall be the actuarial equivalent of the retirement value except as provided in this section.

The board shall provide to any state employee who is eligible for retirement, prior to his or her selecting any of the retirement options provided by this section, information on the federal and state income tax consequences of the various annuity or retirement benefit options.

(2) [D> The <D] [A> EXCEPT AS PROVIDED IN SUBSECTION (4) OF THIS SECTION, THE <A] monthly annuity income payable to a member retiring on or after January 1, 1984, shall be as follows:

He or she shall receive at retirement the amount which may be purchased by the accumulated contributions based

on annuity rates in effect on the date of purchase which do not utilize gender as a factor, except that such amounts shall not be less than the retirement income which can be provided by the sum of the amounts derived pursuant to subdivisions (a) and (b) of this subsection as follows:

(a) The income provided by the accumulated contributions made prior to January 1, 1984, based on male annuity purchase rates in effect on the date of purchase; and

(b) The income provided by the accumulated contributions made on and after January 1, 1984, based on the annuity purchase rates in effect on the date of purchase which do not use gender as a factor.

(3) Any amounts, in excess of contributions, which may be required in order to purchase the retirement income specified in subsection (2) of this section shall be withdrawn from the State Equal Retirement Benefit Fund.

(4) [A] (A) THE NORMAL FORM OF PAYMENT SHALL BE A SINGLE LIFE ANNUITY WITH FIVE-YEAR CERTAIN, WHICH IS AN ANNUITY PAYABLE MONTHLY DURING THE REMAINDER OF THE MEMBER'S LIFE WITH THE PROVISION THAT, IN THE EVENT OF HIS OR HER DEATH BEFORE SIXTY MONTHLY PAYMENTS HAVE BEEN MADE, THE MONTHLY PAYMENTS WILL BE CONTINUED TO HIS OR HER ESTATE OR TO THE BENEFICIARY HE OR SHE HAS DESIGNATED UNTIL SIXTY MONTHLY PAYMENTS HAVE BEEN MADE IN TOTAL. SUCH ANNUITY SHALL BE EQUAL TO THE ACTUARIAL EQUIVALENT OF THE MEMBER CASH BALANCE ACCOUNT OR THE SUM OF THE EMPLOYEE AND EMPLOYER ACCOUNTS, WHICHEVER IS APPLICABLE, AS OF THE MEMBER'S ANNUITY STARTING DATE. AS A PART OF THE ANNUITY, THE NORMAL FORM OF PAYMENT MAY INCLUDE A TWO AND ONE-HALF PERCENT COST-OF-LIVING ADJUSTMENT PURCHASED BY THE MEMBER, IF THE MEMBER ELECTS SUCH A PAYMENT OPTION. <A]

[A] EXCEPT AS PROVIDED IN SECTION 42-1107, A MEMBER MAY ELECT A LUMP-SUM DISTRIBUTION OF HIS OR HER MEMBER CASH BALANCE ACCOUNT UPON TERMINATION OF SERVICE OR RETIREMENT. <A]

[A] FOR A MEMBER EMPLOYED AND PARTICIPATING IN THE RETIREMENT SYSTEM PRIOR TO JANUARY 1, 2003, WHO HAS ELECTED TO PARTICIPATE IN THE CASH BALANCE BENEFIT PURSUANT TO SECTION 21 OF THIS ACT, OR FOR A MEMBER EMPLOYED AND PARTICIPATING IN THE RETIREMENT SYSTEM BEGINNING ON AND AFTER JANUARY 1, 2003, THE BALANCE OF HIS OR HER MEMBER CASH BALANCE ACCOUNT SHALL BE CONVERTED TO AN ANNUITY USING AN INTEREST RATE USED IN THE ACTUARIAL VALUATION AS RECOMMENDED BY THE ACTUARY AND APPROVED BY THE BOARD. <A]

[A] FOR AN EMPLOYEE WHO IS A MEMBER PRIOR TO JANUARY 1, 2003, WHO HAS ELECTED NOT TO PARTICIPATE IN THE CASH BALANCE BENEFIT PRIOR TO JANUARY 1, 2003, PURSUANT TO SECTION 21 OF THIS ACT, AND WHO, AT THE TIME OF RETIREMENT, CHOOSES THE ANNUITY OPTION RATHER THAN THE LUMP-SUM OPTION, HIS OR HER EMPLOYEE AND EMPLOYER ACCOUNTS SHALL BE CONVERTED TO AN ANNUITY USING AN INTEREST RATE THAT IS EQUAL TO THE LESSER OF (I) THE PENSION BENEFITS GUARANTEE CORPORATION INITIAL INTEREST RATE FOR VALUING ANNUITIES FOR TERMINATING PLANS AS OF THE BEGINNING OF THE YEAR DURING WHICH PAYMENT BEGINS PLUS THREE-FOURTHS OF ONE PERCENT OR (II) THE INTEREST RATE USED IN THE ACTUARIAL VALUATION AS RECOMMENDED BY THE ACTUARY AND APPROVED BY THE BOARD. <A]

[A] (B) FOR THE CALENDAR YEAR BEGINNING JANUARY 1, 2003, AND EACH CALENDAR YEAR THEREAFTER, THE ACTUARY FOR THE BOARD SHALL PERFORM AN ACTUARIAL VALUATION OF THE SYSTEM USING THE ENTRY AGE ACTUARIAL COST METHOD. UNDER THIS METHOD, THE ACTUARIALLY REQUIRED FUNDING RATE IS EQUAL TO THE NORMAL COST RATE PLUS THE

CONTRIBUTION RATE NECESSARY TO AMORTIZE THE UNFUNDED ACTUARIAL ACCRUED LIABILITY ON A LEVEL-PAYMENT BASIS. THE NORMAL COST UNDER THIS METHOD SHALL BE DETERMINED FOR EACH INDIVIDUAL MEMBER ON A LEVEL PERCENTAGE OF SALARY BASIS. THE NORMAL COST AMOUNT IS THEN SUMMED FOR ALL MEMBERS. THE INITIAL UNFUNDED ACTUARIAL ACCRUED LIABILITY AS OF JANUARY 1, 2003, IF ANY, SHALL BE AMORTIZED OVER A TWENTY-FIVE-YEAR PERIOD. DURING EACH SUBSEQUENT ACTUARIAL VALUATION, CHANGES IN THE UNFUNDED ACTUARIAL ACCRUED LIABILITY DUE TO CHANGES IN BENEFITS, ACTUARIAL ASSUMPTIONS, THE ASSET VALUATION METHOD, OR ACTUARIAL GAINS OR LOSSES SHALL BE MEASURED AND AMORTIZED OVER A TWENTY-FIVE-YEAR PERIOD BEGINNING ON THE VALUATION DATE OF SUCH CHANGE. IF THE UNFUNDED ACTUARIAL ACCRUED LIABILITY UNDER THE ENTRY AGE ACTUARIAL COST METHOD IS ZERO OR LESS THAN ZERO ON AN ACTUARIAL VALUATION DATE, THEN ALL PRIOR UNFUNDED ACTUARIAL ACCRUED LIABILITIES SHALL BE CONSIDERED FULLY FUNDED AND THE UNFUNDED ACTUARIAL ACCRUED LIABILITY SHALL BE REINITIALIZED AND AMORTIZED OVER A TWENTY-FIVE-YEAR PERIOD AS OF THE ACTUARIAL VALUATION DATE. IF THE ACTUARIALY REQUIRED CONTRIBUTION RATE EXCEEDS THE RATE OF ALL CONTRIBUTIONS REQUIRED PURSUANT TO THE STATE EMPLOYEES RETIREMENT ACT, THERE SHALL BE A SUPPLEMENTAL APPROPRIATION SUFFICIENT TO PAY FOR THE DIFFERENCE BETWEEN THE ACTUARIALY REQUIRED CONTRIBUTION RATE AND THE RATE OF ALL CONTRIBUTIONS REQUIRED PURSUANT TO THE ACT.

<A]

[A] (C) ON THE BASIS OF ALL DATA IN THE POSSESSION OF THE RETIREMENT BOARD, INCLUDING SUCH MORTALITY AND OTHER TABLES AS ARE RECOMMENDED BY THE ACTUARY ENGAGED BY THE RETIREMENT BOARD AND ADOPTED BY THE RETIREMENT BOARD, THE RETIREMENT BOARD SHALL NOT PROVIDE FOR ANY BENEFIT IMPROVEMENTS THAT WOULD INCREASE THE ACTUARIAL CONTRIBUTION RATE ABOVE NINETY PERCENT OF THE ACTUAL CONTRIBUTION RATE. <A] [D] Retirement benefits for persons who retire prior to January 1, 1984, shall not be affected by changes to this section which become operative on or after January 1, 1984. <D]

(5) At the option of the retiring member, any lump sum or annuity provided under this section or section 84-1320 may be deferred to commence at any time, except that no benefit shall be deferred later than the sixtieth day after the end of the year in which the employee has both attained at least seventy and one-half years of age and has terminated his or her employment with the state. Such election by the retiring member may be made at any time prior to the commencement of the lump-sum or annuity payments.

[\*28] Sec. 28. Section 84-1321, Reissue Revised Statutes of Nebraska, is amended to read:

84-1321. (1) Except as provided in section 42-1107, upon termination of employment before becoming eligible for retirement under section 84-1317, a member may, upon application to the board, receive:

(a) If not vested, a termination benefit [D] not to exceed <D] [A] EQUAL TO <A] the amount in his or her employee account [A] OR MEMBER CASH BALANCE ACCOUNT <A] payable in a lump sum or an annuity with the lump-sum or first annuity payment made at any time after termination but no later than the sixtieth day after the end of the year in which the member attains the age of seventy and one-half years; or

(b) If vested, a termination benefit [D] not to exceed <D] [A] EQUAL TO <A] (i) [A] THE AMOUNT OF HIS OR HER MEMBER CASH BALANCE ACCOUNT PAYABLE IN A LUMP SUM OR AN ANNUITY WITH THE LUMP-SUM OR FIRST ANNUITY PAYMENT MADE AT ANY TIME AFTER TERMINATION BUT NO LATER THAN THE SIXTIETH DAY AFTER THE END OF THE YEAR IN WHICH THE MEMBER ATTAINS THE AGE OF SEVENTY AND ONE-HALF YEARS OR (II)(A) <A] the amount in his or her employee account payable in a lump sum or an annuity with the lump-sum or first annuity payment made at any time after termination but no later than the sixtieth day after the end of the year in which the member attains the age of seventy and one-half years plus [D] (ii)

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<D] [A> (B) <A] the amount of his or her employer account payable in a lump sum or an annuity with the lump-sum or first annuity payment made at any time after termination but no later than the sixtieth day after the end of the year in which the member attains the age of seventy and one-half years.

Benefits of a terminating member shall be deferred until the application is received.

(2) At the option of the terminating member, any lump sum of the vested portion of the employer account [A> OR MEMBER CASH BALANCE ACCOUNT <A] or any annuity provided under subsection (1) of this section shall commence as of the first of the month at any time after such member has terminated his or her employment with the state or may be deferred, except that no benefit shall be deferred later than the sixtieth day after the end of the year in which the employee has both attained at least seventy and one-half years of age and has terminated his or her employment with the state. Such election by the terminating member shall be made at any time prior to the commencement of the lump-sum or annuity payments.

(3) Members of the retirement system shall be vested after a total of [D> five <D] [A> THREE <A] years of [D> (a) <D] participation in the system [A> , INCLUDING <A] [D> plus (b) <D] eligibility and vesting credit. If an employee retires pursuant to section 84-1317, such an employee shall be fully vested in the retirement system.

[\*29] Sec. 29. Section 84-1321.01, Revised Statutes Supplement, 2000, is amended to read:

84-1321.01. (1) For a member who has terminated employment and is not vested, the balance of the member's employer account [A> OR EMPLOYER CASH BALANCE ACCOUNT <A] shall be forfeited. The forfeited [D> employer <D] account shall be credited to the State Employees Retirement Fund and shall first be used to meet the expense charges incurred by the retirement board in connection with administering the retirement system, which charges shall be credited to the State Employees Retirement System Expense Fund, and the remainder, if any, shall then be used to reduce the state contribution which would otherwise be required to fund future service retirement benefits or to restore employer accounts [A> OR EMPLOYER CASH BALANCE ACCOUNTS <A] .

(2) If a member ceases to be an employee due to the termination of his or her employment by the state and a grievance or other appeal of the termination is filed, transactions involving forfeiture of his or her employer account [A> OR EMPLOYER CASH BALANCE ACCOUNT <A] shall be suspended pending the final outcome of the grievance or other appeal.

[\*30] Sec. 30. Section 84-1322, Reissue Revised Statutes of Nebraska, is amended to read:

84-1322. (1) Except as otherwise provided in this section, a member of the retirement system who has a five-year break in service shall upon reemployment be considered a new employee with respect to the State Employees Retirement Act and shall not receive credit for service prior to his or her reemployment date.

(2)(a) A member who ceases to be an employee before becoming eligible for retirement under section 84-1317 and again becomes a permanent full-time or permanent part-time state employee prior to having a five-year break in service shall be reenrolled in the retirement system and resume making contributions within sixty days under rules and regulations established by the board. For purposes of vesting employer contributions made prior to and after reentry into the retirement system under subsection (3) of section 84-1321, years of participation include years of participation prior to such employee's original termination. For a member who is not vested and has received a termination benefit pursuant to section 84-1321, the years of participation prior to such employee's original termination shall be limited in a ratio equal to the amount that the member repays divided by the termination benefit withdrawn pursuant to section 84-1321. This subsection shall apply whether or not the person was a state employee on April 20, 1986, or July 17, 1986.

(b) The reemployed member may repay the value of, or a portion of the value of, the termination benefit withdrawn pursuant to section 84-1321. In addition, the member may repay the actual earnings on such value. Repayment of the



termination benefit shall commence within three years after reemployment and shall be completed within five years after reemployment or prior to termination of employment, whichever occurs first, through (i) direct payments to the retirement system, (ii) installment payments made pursuant to a binding irrevocable payroll deduction authorization made by the member, (iii) an eligible rollover distribution as provided under the Internal Revenue Code, or (iv) a direct rollover distribution made in accordance with section 401(a)(31) of the Internal Revenue Code.

(c) After the member completes one year of service following reemployment, the value of the member's forfeited employer account [A> OR EMPLOYER CASH BALANCE ACCOUNT <A] , as of the date of forfeiture, shall be restored at the end of the plan year in a ratio equal to the amount of the benefit that the member has repaid divided by the termination benefit received. The employer account [A> OR EMPLOYER CASH BALANCE ACCOUNT <A] shall be restored first out of the current forfeiture amounts and then by additional employer contributions.

(3) For a member who retired pursuant to section 84-1317 and becomes a permanent full-time employee or permanent part-time employee with the state after his or her retirement date, the member shall continue receiving retirement benefits. Such a retired member or a retired member who received a lump-sum distribution of his or her benefit shall be considered a new employee as of the date of reemployment and shall not receive credit for any service prior to the member's retirement for purposes of the act.

(4) A member who is reinstated as an employee pursuant to a grievance or appeal of his or her termination by the state shall be a member upon reemployment and shall not be considered to have a break in service for such period of time that the grievance or appeal was pending.

[\*31] Sec. 31. Section 84-1323, Reissue Revised Statutes of Nebraska, is amended to read:

84-1323. In the event of the death before his or her retirement date of any employee who is a member of the system, a death benefit shall be paid to the member's beneficiary or to an alternate payee pursuant to a qualified domestic relations order as provided in section 42-1107. The death benefit shall be equal to [A> (1) FOR PARTICIPANTS IN THE DEFINED CONTRIBUTION BENEFIT, <A] the total of the employee account and the employer account [A> AND (2) FOR PARTICIPANTS IN THE CASH BALANCE BENEFIT, THE BENEFIT PROVIDED IN SECTION 21 OF THIS ACT <A] . The beneficiary may elect any retirement option to which the member would have been entitled. If an annuity option is not selected within sixty days after the death of the member, the beneficiary shall receive a lump-sum payment.

[\*32] Sec. 32. Section 84-1331, Reissue Revised Statutes of Nebraska, is amended to read:

84-1331. Sections 84-1301 to 84-1331 [A> AND SECTION 21 OF THIS ACT <A] shall be known and may be cited as the State Employees Retirement Act.

[\*33] Sec. 33. Original sections 23-2305.01, 23-2309, 23-2316, 23-2317, 23-2321, 84-1305.02, 84-1310, 84-1311, 84-1318, 84-1319, 84-1321, 84-1322, 84-1323, and 84-1331, Reissue Revised Statutes of Nebraska, sections 2-1608, 23-2310, 23-2319, 23-2319.01, 23-2320, 84-1301, 84-1307, and 84-1321.01, Revised Statutes Supplement, 2000, and sections 23-2301, 23-2306, 23-2309.01, 23-2310.05, 23-2331, 84-1310.01, and 84-1311.03, Revised Statutes Supplement, 2001, are repealed.

[\*34] Sec. 34. The following section is outright repealed:

Section 23-2327, Reissue Revised Statutes of Nebraska.

[\*35] Sec. 35. Since an emergency exists, this act takes effect when passed and approved according to law.

#### **HISTORY:**

Approved by the Governor April 17, 2002

2002 Neb. ALS 687, \*35; 2002 Neb. Laws 687;  
2002 Neb. LB 687

**SPONSOR:** Bruning

## **Attachment E**

“Governor Signs LB 687: Change will Affect State and County Employees,” Nebraska Public Employees Retirement System, *Retirement Roundup*, Vol. 17, No. 5, Summer 2002

# Retirement Roundup

*"Providing Information to State & County Employees"*

Nebraska Public Employees Retirement Systems

Vol. 17, No. 5, Summer 2002

## PUBLIC EMPLOYEES' RETIREMENT BOARD

**Charles Peters**  
Chairperson  
Member-at-large

**Julia Moeller**  
Vice Chairperson  
County Employee

**Denis Blank**  
State employee

**Lormong Lo**  
Member-at-large

**William Hastings**  
Retired Member

**Daniel S. Contonis**  
Member-at-large

**Rick D. Black**  
School Employee

**Gayle Wrasse**  
Ex-officio member

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## Governor Signs LB 687

*Change Will Affect State and County Employees*

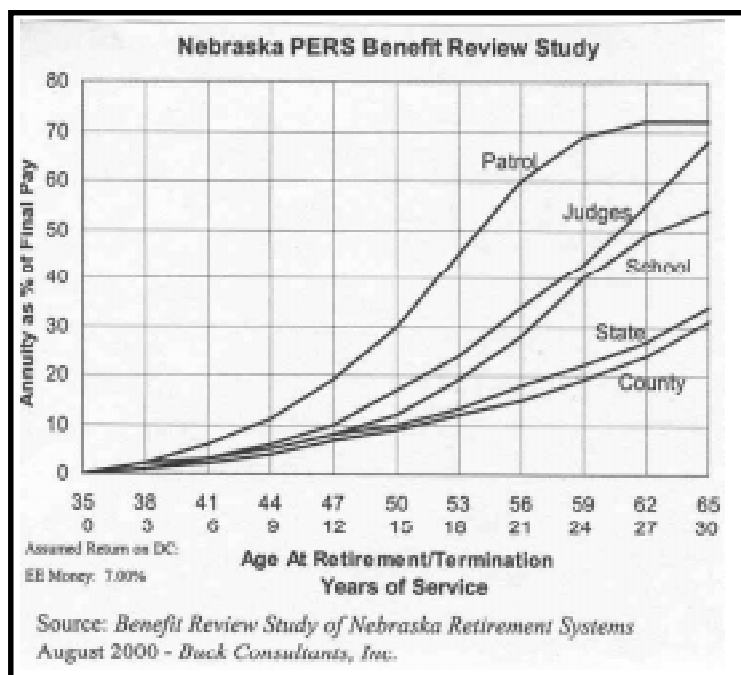
The Nebraska Legislature took a dramatic step this spring by advancing a law to redesign the State and County Employees Retirement Plans. The Governor supported the move and signed LB 687 into law with the major portion of the legislation making changes effective on January 1, 2003.

So why LB 687? And, what does the change mean to state and county employees? The defined contribution plans state and county employees have now had for over 30 years have provided retirement benefits for many employees. However, in a recent study when compared to benefits received by members in our three defined benefit plans (School Employees, State Judges and State Patrol officers), the retirement benefits for state and county plan members are less than adequate.

Retirement benefits received in a defined contribution plan are determined primarily by the investment decisions made by its plan members. And, the average member, the study showed, tends to invest more conservatively than a professional investor. The result has been lower investment returns and smaller retirement benefits.

When compared to the investment results of the professionals managing the assets of the State's three "defined benefit" plans, the numbers are staggering. On average the investment returns in the School Employees, State Judges and State Patrol defined benefit plans were 11% for the past 20 years while state and county employees returned between 6% and 7% on average.

It is important to note that the retirement benefits received by members of the three "defined benefit" plans are NOT based on a member's account balance but on a member's total service years and average salary at retirement. However, the contrast in investment return is important when comparing the results between an employee (with little or no investment training) and the results of professional investors.



Continued on page 5

# Behind the Scenes

## Member Services

### *Your link to Nebraska Retirement Systems*

If you pay a visit to our office, you will be greeted by our receptionist, Margaret, who is one of the representatives that make up the Member Services Department for the Nebraska Public Employees Retirement Systems (NPERS). If you visit our office or call to discuss your retirement account, chances are, you will speak to one of the helpful representatives in our Call Center, which is also part of Member Services.



Member Services Representatives (from left to right): Margaret, Lori, Manager Jane, Teresa and Peggy, (not pictured) Brenda

Call Center Representatives rely on their knowledge of a wide range of topics to assist you. They are trained to help you with the following:

- Pension estimates
  - Retirements
  - Refunds
  - Purchase of Service
  - Account Statements
- as well as many other various tasks.

Member Services Representatives can access information in our computer and imaging systems to look up a wide range of details related to your account. Be aware that for your protection, our representatives cannot share detailed account information with you by telephone.

Representatives are trained in all six plans our office oversees, as well as multiple tasks and procedures for each plan. They are always prepared to take your calls, trouble-shoot problems, an-

swer questions, and research your situation. If they don't have an answer, they will go to the NPERS expert who does!

Since not all situations may be solved with a phone call, you may also schedule an appointment to speak face-to-face with a Member Services Representative. In-office appointments allow for a visual explanation and for you to bring your spouse, financial advisor, or other guest with you.

Our Call Center is in operation Monday through Friday, 8:00 a.m. to 5:00 p.m. at **800-245-5712** or **402-471-2053**.

Although the Member Services Department has only been in operation for two years, the representatives have a combined total of 42 years of experience in different areas of the Retirement Office. They are truly dedicated to serving our members.□

## Decision Making 101

### *To Cash Balance or Not?*

Decisions. We make them everyday. Small decisions needing only a thought or two. Burger King or McDonalds? Gas the car now or later? Bagel with light cream cheese or a sugared Bismarck with custard filling? Dodgers or Mets? Some decisions we make without any thought. Go to work? Brush your teeth? Buckle up? (of course!)

Some decisions while small at the time can have a cumulative effect, maybe on your waistline (see Bismarck's above), your finances, career, health or marriage. Other decisions are weighty from the get go. Should I marry her/him? Should we have another child? Is this the right job? Move to a warmer climate? Experimental drug treatment? "Can my mother come to live with us?"

All important decisions you make will be made with incomplete or inadequate

information. Will I like the custard filling? Will I meet someone later that is more "right" for me? Will our children be healthy? A warmer climate but can I put up with the bugs? How long will your Mother stay? And so on. We have some facts. But never all the facts. What will the future hold? What have I forgotten to think about? What is best for me? Will it still be best for me in five years?

Current state and county employees will be asked to make an important decision about their retirement plan later this year. You'll make a one-time decision to keep your current defined contribution benefit or convert to the new cash balance benefit.

- First, don't panic. You'll be given plenty of time to make your choice. You'll also be provided with a lot of information about the pros and cons

of each benefit. You'll also hear the opinions of a lot of people. Co-workers, fishing buddies, distant cousins and even local and national news articles will all have an opinion. Do your homework. Ask questions.

- Second, understand that there is no "one size fits all" decision. Different choices will be made for a variety of reasons. Some may make an identical decision but for entirely different reasons. So, listen to what others have to say, but your decision needs to be for your own reasons.
- Third, at different points in the future your choice may look like it was a wise decision, other times not so. However, do remember, you are not choosing between good and evil,

*Continued on page 6*

# Optimism Keeps Heart Healthy



A sunny outlook not only helps you live longer, it also protects you against heart disease. Recent research from Johns Hopkins Medical Institutions has found that optimistic people are much less likely to develop chest pain from heart disease or even to have a heart attack.

Researchers followed 600 healthy people with a family history of heart disease and discovered that those with a positive outlook were only half as likely to develop heart disease compared to those who were more pessimistic.

Researchers also found that even if you already have heart disease, optimism can prevent you from further ravages from the disease. Another Hopkins study showed that people who became depressed after suffering a heart attack were less likely to stick to a health lifestyle, a key component to recovering from an attack.

Source: *Pelizza's Positive Principles*

Adapted from the WebMD Web Site

## Insurance Questions?

Ask your *Personnel Contact* when you have questions about your insurance coverage.



## Retirement Questions?

Ask the *Retirement Office* when you have questions about your retirement account.

## LEGAL CORNER

by NPERS Legal Counsel,  
Shawn Nowlan

### 2002 Plan Changes Summarized (LB 407 and LB 687)

#### Membership

Eligibility standards were revised to make the standard the same in the State and County Plans:

- Participation *becomes mandatory* for “all permanent full-time employees” (no matter their age) when they have “twelve continuous months of service;” and
- Participation is *voluntary* for “all permanent full-time or permanent part-time employees” when they have “twelve months of service within a five-year period” and “have attained the age of twenty.”

#### Vesting

Vesting for both State and County Plans now occurs after three years of participation in the system (including any eligibility and vesting credit a member has been granted at the time of enrollment).

#### Changes to Rollover Provisions

The State and County Plans accept rollovers or other transfers of money into the plans in order to:

- (a) repay a prior termination benefit a member has previously received and wishes to repay, or
- (b) make contributions for a period of military service.

The range of tax-deferred accounts from which a member may make payment now includes all of the following:

- An IRC § 401(a) *qualified retirement plan* which is exempt from tax under IRC § 501(a);
- An IRC § 403(a) *annuity plan*;
- An IRC § 403(b) *annuity contract*;
- An IRC § 408(a) *individual retirement account (IRA)* containing only monies from another qualified retirement plan; and
- An IRC § 408(b) *individual retirement annuity (IRA)*, other than an *endowment contract*.

A member can also (without terminating employment) use monies from a § 403(b) or a § 457(b) account via a “trustee-to-trustee” transfer directly from the other plan to the State and County Plans to make qualified payments.

#### Addition of the Cash Balance Benefit

LB 687 added a “cash balance benefit” to the State and County Plans. A separate article on page 4, as well as other articles in this newsletter, describe the new benefit, explain why the benefit was created and announce the schedule of statewide educational meetings and election deadline.

If you have questions regarding the information contained in this Legal Corner, call our office at **800-245-5712** or **402-471-2053**.

# What is a Cash Balance Benefit?

By Shawn Nowlan, NPERS Legal Counsel

In pension plans there are normally two types of benefits:

In a traditional *defined benefit (DB) plan*, the member receives a “formula benefit,” based on years of service, a multiplier and the member’s salary. The contribution rate is not directly tied to the benefit the member receives; instead, the contributions provide money to pay for the legally promised benefit. The risk of market losses and the benefits of market gains flow to the plan as a whole, rather than to individual members.

In a traditional *defined contribution (DC) plan*, the members are promised that a percentage of their paycheck will be placed in the Retirement Account, and are provided investment options. The member then selects his or her investments and awaits the end of their career. The risk of market losses and the benefits of market gains fall on the individual. When they terminate or retire and take their money, the member’s benefit consists of the total sum of money in his or her account.

A *cash balance plan*, on the other hand, has the look of a defined contribution plan but is technically a defined benefit plan, but **not** as the traditional is described above. In the cash balance plan (as with a DC plan) the contribution rate matters in determining the final benefit. However, the benefit (like in a DB plan) constitutes legal promises made by the state that can not be taken away. *That promise is the balance in*

*the members’ cash balance accounts* and an *annuity* based on that account balance which is funded and guaranteed by the plan at retirement.

The new cash balance benefit created by LB 687 does not change the flow of member and state monies into the retirement plan. The plan members continue to contribute at the current rates. In the State Plan this means 4.33% of compensation until contributions reach \$864.00 and 4.8% on contributions made on compensation after that point; the state’s matching contribution remains at 156% of the member contributions. In the County Plan, the January 2003 contribution rate will be 4.5% of pay; the county’s matching contribution rate stays at 150% of the member contribution. (The new law did **not** change the contribution rates.)

Daily, the accounts are also accruing a statutorily-set rate of return (called the interest credit rate). The new law sets that rate as the “applicable federal mid-term rate” published by the IRS plus an additional 1.5%. It also includes a floor rate of 5%, below which the rate may not fall. This means the interest credit rate can rise with the mid-term rate, but will never fall below 5%. (Since 1985, NPERS estimates the federal mid-term rate plus 1.5% would have fluctuated between approximately 5.4% and 12.8% - with an average of approximately 8.4% - during that time, the rate never fell below the 5% floor rate.) Both the member and state contributions and the interest credit rate consti-

tute legal promises to pay money to the member when the member ceases employment or retires.

At retirement or termination, the cash balance benefit will allow the member to:

- (1) use the money to purchase an annuity from the plan that is funded and guaranteed by the plan,
- (2) leave the money with NPERS,
- (3) roll the money over into another tax-deferred account, or
- (4) “cash in” the entire amount of his or her account (although, if not vested, they may only take the employee cash balance account).

While the accounts are accruing the interest credit rate, the Investment Council will be investing the plan’s assets, including all new contributions flowing into the plan, so the plan will have sufficient assets to pay the account balances to plan members, and the annuities at retirement.

The risk of bad investment returns falls on the plan as a whole (as with a DB plan). On the other hand, any excess returns will also flow into the plan as a whole. By federal law, however, any excess returns must be used for the exclusive benefit of the members. The Board decides whether to use any excess to pay a little extra into the members’ accounts (above the interest credit rate) or – alternatively – the excess could be used to make benefit improvements to the plan (with the Legislature deciding what benefit enhancements may be made). □

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## NPERS Actions Regarding the Cash Balance Benefit

By **December 1, 2002**, all state and county employees will be required to make a decision regarding the cash balance benefit. Every employee must choose to either:

- **convert** to the new cash balance benefit, **OR**
- **keep** the current defined contribution benefit.

The Retirement Office will provide the information you need to make this important decision.

- In July or August we will mail an **information packet and election form** to all employees.
- We will hold **educational meetings** statewide from mid-August through October. (Schedule is on page 5.)

- NPERS will be available upon request for special meetings at state agencies and counties.
- NPERS is available by telephone or personal visits by appointment to explain the new benefit and answer questions.

Call NPERS at **800-245-5712** or **402-471-2053**, or visit our web site at [www.nol.org/home/pers](http://www.nol.org/home/pers). □ □



Another telling piece of evidence considered by the Legislature when making this change for state and county employees was the fact that even with the tools available to them (11 investment funds offered and retirement planning seminars available to all) 90% of the member contributions have been directed to *only* 3 of the investment funds. In fact, nearly 50% of the employee contributions are invested in one of the most conservative funds, the Stable Value Fund. The Stable Value Fund is one of the 11 funds offered to state and county employees but it is also the fund where member contributions are invested when a member fails to make an investment election at the time of his or her enrollment in the State or County Retirement Plan.

The fact that state and county employees have not fully utilized the investment options available to them may be the result of planning on the part of these employees OR it could, in fact, be that employees do not plan or they do not have the time or expertise to manage their retirement accounts. A typical state or county employee, by job description or training, is not an investment professional.

The fact that employees may not be the best investment managers is not unique to Nebraska or to state or county employees. National studies have shown that self-directed employee investment accounts or private-sector 401(k) retirement accounts are generally not on par with accounts managed by investment professionals.

Today, each state and county employee has a once in a lifetime opportunity to reconsider the type of retirement benefit best suited for him or her. The new cash balance benefit (described on page 4 of this issue) offers a defined benefit component to the State and County Employees Retirement Plans for the very first time. The new cash balance benefit will provide *security* to those who are risk averse. It will

## Cash Balance Educational Meeting Schedule

|          |   |                                      |
|----------|---|--------------------------------------|
| Aug. 14  | <b>Omaha</b> - NSOB, Room 218                         | 9:00, 10:30 a.m.,<br>1:00, 2:30 p.m. |
| Aug. 15  | <b>Lincoln</b> - Public Service Commission            | 9:00, 10:30 a.m.,<br>1:00, 2:30 p.m. |
| Aug. 20  | <b>Lincoln</b> - Dept. of Roads, Auditorium           | 9:00, 10:30 a.m.,<br>1:00, 2:30 p.m. |
| Aug. 21  | <b>Omaha</b> - Sarpy Co. Courthouse                   | 9:00, 10:30 a.m.                     |
| Aug. 21  | <b>Omaha</b> - Douglas/Sarpy Co. Extension Bldg.      | 1:00, 2:30 p.m.                      |
| Aug. 22  | <b>Beatrice</b> - BSDC, Chapel                        | 9:00, 10:30 a.m.                     |
| Aug. 22  | <b>Beatrice</b> - Gage Co. Courthouse                 | 1:00, 2:30 p.m.                      |
| Aug. 27  | <b>Chadron</b> - City Hall                            | 8:30, 10:00 a.m.                     |
| Aug. 27  | <b>Alliance</b> - Box Butte Co. Courthouse            | 1:30, 3:00 p.m.                      |
| Aug. 28  | <b>Scottsbluff</b> - Panhandle Learning Center        | 8:30, 10:00 a.m.                     |
| Aug. 28  | <b>Gering</b> - Scotts Bluff Co. Courthouse           | 12:00 p.m.                           |
| Aug. 28  | <b>Kimball</b> - Kimball Co. Courthouse               | 3:00 p.m.                            |
| Aug. 29  | <b>Sidney</b> - Cheyenne Co. Courthouse               | 8:30, 10:00 a.m.                     |
| Aug. 29  | <b>Ogallala</b> - Keith Co. Courthouse                | 1:30, 3:00 p.m.                      |
| Sept. 4  | <b>Lincoln</b> - NSOB, LLA                            | 9:00, 10:30 a.m.,<br>1:00, 2:30 p.m. |
| Sept. 5  | <b>Omaha</b> - NSOB, Room 218                         | 9:00, 10:30 a.m.,<br>1:00, 2:30 p.m. |
| Sept. 10 | <b>Imperial</b> - Senior Comm. Center                 | 8:30, 10:00 a.m.                     |
| Sept. 10 | <b>McCook</b> - McCook Comm. Coll., Mini Theatre      | 2:00, 3:30 p.m.                      |
| Sept. 11 | <b>North Platte</b> - Mid-Plains Comm. Coll., Theatre | 8:30, 10:00 a.m.                     |
| Sept. 11 | <b>Thedford</b> - Thomas Co. Courthouse               | 1:30, 3:00 p.m.                      |
| Sept. 12 | <b>Valentine</b> - Cherry Co. Courthouse              | 10:30 a.m., 1:00 p.m.                |
| Sept. 13 | <b>O'Neill</b> - Holt Co. Courthouse                  | 9:00, 10:30 a.m.,<br>12:00 p.m.      |
| Sept. 18 | <b>Norfolk</b> - Norfolk Veterans' Home               | 8:30, 10:00 a.m.                     |
| Sept. 18 | <b>Columbus</b> - Platte Co. Courthouse               | 1:00, 2:30 p.m.                      |
| Sept. 23 | <b>Burwell</b> - Garfield Co. Courthouse              | 1:00 p.m.                            |
| Sept. 24 | <b>Broken Bow</b> - Municipal Bldg., Auditorium       | 8:30, 10:00 a.m.                     |
| Sept. 24 | <b>Kearney</b> - Law Enforcement Center, 2nd Floor    | 1:30, 3:00 p.m.                      |
| Sept. 25 | <b>Holdrege</b> - Phelps Co. Courthouse               | 8:30, 10:00 a.m.                     |
| Sept. 25 | <b>Hastings</b> - Hastings Regional Center            | 1:30, 3:00 p.m.                      |
| Sept. 26 | <b>Grand Island</b> - G.I. Veterans' Home, Auditorium | 8:30, 10:00 a.m.                     |
| Sept. 26 | <b>York</b> - York Co. Courthouse                     | 1:00, 2:30 p.m.                      |
| Oct. 2   | <b>Grand Island</b> - G.I. Veterans' Home, Auditorium | 8:30, 10:00 a.m.                     |
| Oct. 2   | <b>Seward</b> - Cattle National Bank                  | 1:00, 2:30 p.m.                      |
| Oct. 7   | <b>Wayne</b> - Wayne Co. Courthouse                   | 1:00, 2:30 p.m.                      |
| Oct. 8   | <b>Norfolk</b> - Norfolk Veterans' Home               | 8:30, 10:00 a.m.                     |
| Oct. 8   | <b>Albion</b> - Boone Co. Courthouse                  | 1:30, 3:00 p.m.                      |
| Oct. 9   | <b>Columbus</b> - Platte Co. Courthouse               | 8:30, 10:00 a.m.                     |
| Oct. 9   | <b>Fremont</b> - Dodge Co. Courthouse, Room 301       | 1:00, 2:30 p.m.                      |
| Oct. 10  | <b>Beatrice</b> - BSDC, Chapel                        | 8:30, 10:00 a.m.                     |
| Oct. 10  | <b>Nebraska City</b> - Otoe Co. Courthouse            | 1:30, 3:00 p.m.                      |
| Oct. 16  | <b>Kearney</b> - Buffalo Co. Courthouse               | 8:30, 10:00 a.m.                     |
| Oct. 16  | <b>Hastings</b> - Hastings Regional Center            | 1:30, 3:00 p.m.                      |

provide a *regular rate of return* on a member's retirement account rather than a fluctuating return. And, most importantly, the new cash balance benefit allows the Retirement Office to self-fund monthly annuities (rather than contract with outside companies), which will result in better annuity rates when the lump sum cash balance account is converted to monthly benefit payments at retirement.

This issue of the "Retirement Roundup" covers different aspects of this new cash balance benefit for members. Please read the material carefully and plan to attend one of the special educational meetings to be held throughout the state this summer and fall. A special "election" and information packet will be mailed to all State and County Plan members prior to the meetings. □

## Preretirement Seminars Postponed

No Preretirement (over age 50) or Personal Planning (under age 50) seminars will be offered this fall for state and county employees. This change in schedule is due to NPERS' redirection of staff time and resources toward implementation of the new cash balance benefit. Look for Preretirement and Personal Planning seminars to be offered again Fall 2003. Meanwhile, call **Sterling Financial** at **402-970-9300** or **877-970-9300** with investment questions, or the **Retirement Office** at **800-245-5712** or **471-2053** with any other questions about your membership or retirement account.

### Employer Education and Reporting

The "Employer Education and Reporting" section is intended for **County Clerks** and **State Agency Personnel**.

**Vesting** - Vesting for members of the State and County Plans is now **three years** of participation (including any eligibility and vesting credit granted at enrollment).

**Membership** - Participation in the State and County Plans is now **mandatory** for all permanent full-time employees, no matter their age, when they have 12 months of continuous service. It is **voluntary** for all permanent full-time or permanent part-time employees when they have 12 months of service within a 5 year period and are age 20.

**Budget Cuts** - For agencies downsizing due to budget cuts, contact **Jan Fox** at **402-471-9505** for a packet of materials to provide affected employees, or to arrange a meeting at your work site.

**Enrollments and Change Forms** - With the new requirement of mandatory participation in the State Employees Retirement Plan after 12 months of service, the Retirement Office is processing large volumes of paperwork for new enrollees. Personnel contacts are reminded to use the **State/County Enrollment Form – NPERS1030** (Rev. 8/01) for this process, rather than the **Investment Change Form – NPERS2500** (Rev.3/01). Investment Change Forms should be used to transfer funds, change future contribution allocations, or select a new PIN. Personnel contacts should also remind their employees to send all **Investment Change Forms** to NPERS for completion, rather than to Ameritas. Forms sent to Ameritas by mistake will cause delays to our members' requests. Please provide the *current* form to your employees by checking the revision date on the lower left corner of the form. Contact our office for a copy of the current form or download it from our web site.

**County Employer Reporting** - County Clerks currently reporting through MIPS/County Solutions are required to mail or e-mail only the total page of the report to NPERS. The detail of the report and copies of checks are not required. The total page may be e-mailed to **Clint Holmes** at **cholmes@ret.state.ne.us**. County Clerks reporting directly to Ameritas must send both the total page and the detail of the report to NPERS. NPERS does not require copies of checks. Original checks and full documentation must be forwarded to Ameritas.

**Questions?** Contact these staff members when you have specific questions on employer reporting:

|                                 |                |                     |
|---------------------------------|----------------|---------------------|
| County reporting questions      | – <b>Clint</b> | <b>402-471-9725</b> |
| State, County and DCP questions | – <b>Kim</b>   | <b>402-471-9483</b> |
| Toll free                       | –              | <b>800-245-5712</b> |

## Decision

(Cont. from pg. 2)

life and death, or heaven and hell. (Sorry, no black and white choices or it would be easy.) Both the current and the new benefit have redeeming qualities, good points and bad.

For some people, more security, less decision-making and less volatility will make the new cash balance benefit more attractive. Others, who are comfortable with investment decisions and market volatility, will feel that greater personal control and the potential upside makes staying with the current benefit the better choice for them.

For now keep an open mind, gather information, and attend the educational meetings! We at Sterling Financial Advisors will continue to be available to help as you make this important decision about your retirement plan. You are on your own when it comes to Bismarck rolls or your mother-in-law! ☐

Mary H. Jochim, President  
Sterling Financial Advisors, LLC  
877-970-9300 or 402- 970-9300

## Have a Great Summer!



### RETIREMENT ROUNDUP

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