Broadening Pension Portability for Public School Teachers through Interstate Reciprocity

Survey of Current Statutes and Model Legislation

Prepared by the National Council on Teacher Retirement under a Grant from the Education Commission of the States

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The Education Commission of the States (ECS) awarded the National Council on Teacher Retirement (NCTR) a grant to survey the use of pension reciprocity for public school teachers and develop model legislation to permit such reciprocity. The ECS is a national organization that works with state leaders in shaping education policy. The National Council on Teacher Retirement (NCTR) is an association of the retirement systems serving teachers and other state and local government employees.

In accordance with the grant, NCTR conducted a survey of retirement systems to determine whether any states permit interstate pension reciprocity, that is, the transfer of the value of a teacher’s (or other public employee’s) retirement service credit to another state. Through the survey, it identified existing statutes that authorize such transfers. It then developed model legislation. It also drew up a list of alternatives to portability. Finally, it informed the key state policy makers, the National Governors Association and the National Conference of State Legislatures, about the model legislation.

This report contains:

- Overview of retirement coverage for kindergarten through grade 12 (K-12) teachers

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2 NCTR has been extensively involved in the portability issue. See Appendix D.

3 This report for ECS concentrates on interstate reciprocity, that is, making pensions portable across state lines. The related issue of intrastate reciprocity, that is, making pensions portable between retirement systems within a single state appeared in reports by NCTR during 1999 and 2001. See Appendix D. The model legislation in this report may be used for either intrastate or interstate reciprocity.
Overview of Retirement Coverage for Kindergarten through Grade 12 (K-12) Teachers

Most K-12 public school teachers in the United States participate in defined benefit pension plans as their principal retirement benefit. They are also usually eligible to participate in a tax-sheltered annuity under Section 403(b) of the Internal Revenue Code. Section 403(b) accounts are defined contribution plans. They provide benefits that supplement those from a defined benefit plan.

Many other state and local government employees also participate in defined benefit plans as their principal retirement benefit. They are also usually eligible to participate in a deferred compensation plan under Section 457 of the Internal Revenue Code. Section 457 accounts are defined contribution plans. They provide benefits that supplement those from a defined benefit plan.

The pension program for higher education personnel frequently differs from that for other public employees. Some higher education personnel participate in defined contribution pension plans as their principal retirement benefit instead of defined benefit plans.

A defined benefit plan provides a future pension benefit according to a formula. The benefit is tied to an employee’s length of service and salary at retirement. A typical defined benefit plan for teachers promises to pay an educator upon retirement a pension equal to 1.7% of his/her final three-year average salary, times the number of years that the educator worked for a school district. Defined benefit plans frequently also offer disability programs and cost of living adjustments. Defined benefit plans are usually funded by employer and employee contributions and income earned from the investment of such contributions. (Note that employee contributions are not common in private sector defined benefit plans.)

A defined contribution plan is an account into which contributions (employee, employer, or both) are deposited. Such contributions are invested and the amount in the account at retirement provides a pension benefit.

Both types of plans provide portability of benefits. “Portability” is the right of an employee to move future pension benefits with him/her when he/she changes jobs. Portability ensures that an employee does not lose future pension benefits because of a job change or other circumstances.
The portability options for participants of defined contribution plans differ from those for participants of defined benefit plans. The difference is due to the structure of the two types of plans. As noted, a defined contribution plan is essentially an account that holds funds. Under the federal Internal Revenue Code, an employee may rollover the funds in his/her previous employer’s plan into the plan of a new employer. Thus, portability under a defined contribution plan involves the movement of money.

Under a defined benefit plan, a worker does not have an account, but rather accrues credit corresponding to the years (known as “service”) that he/she works. Thus, portability for a participant in a defined benefit plan involves the movement of years of service credit. The mechanism used, “purchase of service credit,” allows an employee to buy service credit for years for which he/she will be ineligible for retirement benefits. The purchase allows the employee to recover credit for years of work that would otherwise be lost, e.g., he/she may have worked too few years in a certain jurisdiction to be eligible for a retirement benefit from those years of service. Nearly every state has enacted laws that allow educators and other employees to purchase years of service credit earned out-of-state. States also frequently allow purchases for civilian work with the federal government, service in the U.S. armed forces, and Peace Corps service.

The process for purchasing the credit is straightforward. The employee asks the retirement system whether he/she is eligible and, if so, the system calculates the cost of the purchase. If the employee decides that the purchase will help him/her and he/she can afford the cost, then he/she buys it. Frequently, such purchases can be made with pre-tax dollars.⁴

Purchase of service credit is a common means of portability in a defined benefit plan. Another way to make defined benefit plans portable is through reciprocity. Under reciprocity, a retirement system transfers the value of an individual’s benefit to another retirement system. Under purchase of service credit, by contrast, the individual pays for the purchase either out-of-pocket or with pre-tax dollars accumulated in a tax deferred vehicle. While reciprocity agreements exist in which retirement systems in the same state transfer the value of a pension benefit, no cases of interstate reciprocity agreements have been located.

Survey of Interstate Reciprocity Statutes

Between March and April of 2003, NCTR conducted a survey of its 70 members about interstate reciprocity. NCTR members were asked the following question:

Does your retirement system have the power, through statute or other authority, to enter into an agreement with a retirement system of another state for the

⁴ Pre-tax dollars are deferred from tax until an individual takes a distribution of his/her pension. An individual likely has pre-tax dollars in rolled-over pension amounts from previous jobs and also in any 403(b) and 457 accounts.
purpose of transferring and receiving a sum of money that represents the value of a teacher’s (or other public employee’s) retirement service credit? If so, please provide the relevant citation.

Forty-three of the members responded to the survey. The survey showed that 38 members do not have authority to provide for interstate reciprocity. Of the remaining responders, four have statutory authority. One studied the feasibility of such agreements in the early 1990’s.5

**Analysis of Existing Interstate Reciprocity Statutes and Description of Model Legislation**

The Louisiana Teachers’ Retirement System, the Missouri Public School Retirement System, the New York State Teachers’ Retirement System, and the Rhode Island Employees’ Retirement System have authority to enter into interstate pension reciprocity agreements.

Generally speaking, the statutes address how an eligible individual may request his/her previous retirement plan (“the transferring plan”) to transfer the value of his/her pension benefit to a new retirement plan (“the receiving plan”). The statutes differ in two principal ways: 1) how the transferring plan values the pension benefit to be transferred; and 2) what the eligible individual receives in the receiving plan. A comparison of the statutes follows. More detailed information appears in Appendix A of this report.

The Rhode Island statute authorizes the state to enter into an interstate compact with other states for the portability of educator pensions. Under the compact, the retirement plans of the participating states would use a standard formula to determine the value of the pension benefits to be transferred on behalf of a member. The transferring plan would send the lesser of the following two amounts to the receiving plan: (1) The accumulated employer and employee contributions from the transferring plan or (2) the accumulated employer and employee contributions calculated as if the employee had always been a participant in the receiving plan. The compact would also require the contribution amounts to be determined by the actual return on investment of assets in the relevant plan. The eligible educator could elect to make supplementary payments to the receiving plan up to the amount of difference between the sum transferred and the difference between (1) and (2) in the above formula. No state has entered into an agreement with Rhode Island pursuant to the compact authority.

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5 The Florida Retirement System (FRS) conducted a study as directed by its legislature to examine the feasibility of such agreements. The study was part of Chapter 90-281, enacted during the 1990 session of the Florida legislature. The FRS engaged Milliman & Robertson, Inc. to carry out the study. Milliman & Robertson prepared “Florida Retirement System, 1992 Special Study Report 91-8, Portability Study,” which was released in September 1992. The study found that few states were interested in entering into interstate pension reciprocity agreements. It recommended purchase of service credit (described elsewhere in this report) as the simplest method for providing portability of pensions between states. No further action was taken on the reciprocity issue. Under Florida Statutes §§ 121.1115 and .1122, FRS members may purchase credit for out-of-state service. As noted elsewhere in this report, these purchases provide pension portability.
Missouri, New York, and Louisiana take a different approach in valuing the transfer. The Missouri statute requires the transferring plan to send an amount equal to the eligible individual’s pension obligation. The transferring plan calculates the value of the transfer using the same assumptions contained in its last regular actuarial valuation. The receiving plan determines, using accepted actuarial methods, the value of the individual’s transferred service. It then recognizes the amount of the individual’s creditable service by means of the actuarial value of the funds transferred. If the actuarial value of the funds transferred to the receiving plan is less than that required to fund the liability created by the actual number of years of creditable service in the transferring plan, the employee may purchase additional creditable service in the receiving plan up to the actual number of years of creditable service in the transferring plan by paying the amount required by the receiving plan. The provision has not been used for interstate agreements. An intrastate agreement covering all the retirement systems in Missouri that cover school employees is close to completion.

Under the New York statute, the transferring plan sends the member’s accumulated contributions (employee contributions and any purchases of service credit), interest, and an amount from the pension reserve fund. After the transfer, the member is credited with the amount of service in the receiving plan that he/she had in the transferring plan. The provision is used for transfers between NYSTRS and the New York City Teachers’ Retirement System. It has not been used for transfers between NYSTRS and a system of another state.

Under the Louisiana statute, the transferring plan sends to the Teachers’ Retirement Plan of Louisiana all employee and employer contributions and other funds in its possession that are held for the member’s account. If the amount of funds transferred is less than the increase in the actuarial present value of benefits provided by the transfer, the retirement plan calculates the difference, which the member may pay. If the member does not do so, the amount of service credit granted is reduced. The provision has not been used.

Missouri, New York, and Louisiana look to their respective funding practices to determine the value of the transaction. Rhode Island, by contrast, sets a standard formula. A standard formula may, at first glance, seem like an advantage. Every retirement plan is required to use the same methodology for valuing the transfer. A standard formula, however, fails to account for the different funding levels and funding methodologies of retirement plans. If plans use their own methodologies to value transfers, the likelihood of an adverse effect on their funding is lower.

Model Legislation I, therefore, draws on approaches of the Missouri, New York, and Louisiana statutes. (See Appendix B for the text.) The Model Legislation sets out

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6 Under this method, the receiving plan might receive an amount that is either more or less than what is needed.
cooperative agreements for making such transfers. Once a state entered into an agreement, any of its retirement plans subject to the agreement would be empowered as “transferring plans” to send members’ benefits to participating plans. The retirement plans would also be able as “receiving plans” to accept the transfers of benefits that members have earned in participating plans. Members would have to meet several requirements in order to be eligible for transfers, including having vested pension rights in both the transferring and receiving plans.

The Model Legislation provides definitions for the amount (called a “transferred amount”) sent by the “transferring plan,” and the service credit (based on the “equivalent benefit value”) that the member receives after the “receiving plan” accepts the transfer. The “transferred amount” is the actuarial present value of the member’s benefit accruals in the transferring plan, using the transferring plan’s actuarial assumptions, years of service credit, benefit formula, and other provisions. The amount is in the form of a cash equivalent asset. The receiving plan accepts the transferred amount and credits the member with the amount of service that is equal to the equivalent benefit value transferred from the transferring plan. The “equivalent benefit value” is the actuarially equivalent value of a benefit in the receiving plan, expressed in years of service credit, using the receiving plan’s actuarial assumptions, benefit formulas, and other provisions that may be purchased by the transferred amount.

As explained in the notes of the Model Legislation, the equivalent benefit value is whatever number of years of service purchased in the receiving plan by the transferred amount. This means that a member’s transferred amount could purchase more or less years of service in the receiving plan than the member had in the transferring plan. Although the Model Legislation does not specifically so provide, a legislature adopting the Model Legislation could authorize members to purchase credit for any service that the transferred amount does not cover.

Model Legislation II (located in Appendix C) provides a mechanism that allows interstate portability through purchases of service credit. Many state and local government retirement plans already have authority to allow such purchases. The Model Legislation will be useful in states in which the retirement plans do not have such authority. In addition, it will help states in which such authority does exist, but could be expanded. The Model Legislation contains the Federal Internal Revenue Code provisions affecting purchases of service credit, including the various sources of pre-tax funds available to a member who wishes to purchase service credit. Such sources include eligible rollover distributions from certain types of retirement plans and transfers from a member’s 403(b) or 457 plan. Because purchases of service credit can be costly, states that authorize these types of pre-tax sources of funds give their retirement plan members a greater opportunity to make the purchases.

Pension Enhancements for Short-Service Employees as Alternatives to Portability

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7 The cooperative agreements could provide for interstate, intrastate, or both types of reciprocity.
Many teachers and other public employees work a full career in government service, while others work for a shorter period of time. The reasons for working a shorter period of time are numerous, but the most common are changing jobs or intermittent work periods due to family responsibilities. States provide portability to meet the needs of short-service employees to help them preserve the value of their future benefit. States recognize that other approaches can also assist such employees. Accordingly, many have enacted provisions that provide alternatives to portability, examples of which follow.

**Maintaining the Value of Future Pension Benefits for Inactive Employees**

**Colorado.** The benefit of a vested inactive member with 25 or more years of service credit is indexed at the same rate as the cost of living adjustment (COLA) received by pension benefit recipients. Since March 2001, the rate has been 3.5 percent per year and is compounded. The accumulated indexing occurs from the date of termination of employment to the date of retirement.

**Idaho.** The benefit of a vested inactive member is indexed at the same rate as the postretirement increase of pension benefit recipients. The accumulated indexing occurs from the date of termination of employment to the date of retirement.

**South Dakota.** If a member of the state’s retirement system terminates employment before eligibility for a retirement benefit and leaves his/her accumulated contributions in the system, his/her benefit is indexed from termination of employment until receipt of his/her retirement benefit. The indexation is 3.1 percent per year.

**Washington.** Plan Three of the Teachers’ Retirement System increases the value of a member’s benefit. Specifically, if a member separates from service with at least 20 years of service, his/her benefit is compounded at 0.25 percent per month from the time of separation to the date the retirement allowance begins. The annual rate is, therefore, slightly higher than three percent. The same feature applies to members in Plan Three of the School Employees’ Retirement System (which covers educational support personnel) and Plan Three of the Public Employees’ Retirement System (which covers certain state and local government workers).

**Allowing an Enhanced Benefit upon Termination**

A member of the South Dakota Retirement System (SDRS) is entitled to receive his/her accumulated contributions under the portable retirement option if he/she terminates employment before attaining three years of credited service. The accumulated contributions are the member’s contributions and 75 percent of his/her employer contributions plus credited interest. If a member leaves after three years of credited service, he/she has the choice of taking his/her accumulated contributions or keeping them in SDRS. If the member takes the accumulated contributions, he/she receives 100 percent of the employer contributions, his/her member contributions, and credited interest.
Providing a Matching Employer Contribution

In Colorado, the legislature enhanced the benefits of short-service employees, i.e., employees who will be eligible for a benefit under the Public Employees’ Retirement Association (PERA), but terminate service before reaching retirement age. Under the provision, these short-service employees have two options when they end employment. First, they can withdraw their contributions before becoming eligible for retirement, and PERA will pay them a matching amount of 50 percent of their contributions plus interest. Second, they can leave their employee contributions with PERA until they reach retirement age and then withdraw their account and either receive a matching amount of 100 percent of their contributions plus interest or receive a lifetime benefit. The match is especially helpful for individuals with a fair number of years between termination and retirement.

Attachments:

Appendix A: Details about Interstate Reciprocity Statutes Identified in Survey
Appendix B: Model Legislation I
Appendix C: Model Legislation II
Appendix D: NCTR’s Involvement in Pension Portability Issue
Appendix A

Details about Interstate Reciprocity Statutes Identified in Survey

Section 11-733 of the Louisiana Revised Statutes Annotated

Louisiana’s transfer provision requires the out-of-state public retirement system to agree and pay to the Teachers’ Retirement System of Louisiana (TRSL) all employee and employer contributions and other funds in its possession which are held for the member’s account. The credit must be based on teaching service.

The statute provides for the possibility that the transfer may not provide the same amount of service credit that the individual had in the previous state: “[If] the amount of funds transferred is less than the increase in the actuarial present value of benefits, computed using the actuarial assumptions used in the most recent actuarial valuation of this system, created by the transfer of the additional service credit, the member transferring the service credit” pays the difference. If the member does not wish to pay the difference, he/she will be granted an amount of service credit in TRSL that is based on the amount of funds actually received by TRSL for the transfer. The provision has not been used.

Section 169.576 of the Revised Statutes of Missouri

Section 169.576 authorizes cooperative agreements with retirement systems of other states to transfer creditable service. The section applies to retirement systems in Missouri that cover teachers. It does not set out a reciprocity process. Instead, it refers to the process in Section 105.691. Section 105.691 provides for the following.

An individual works in a job covered by a Transferring System (T). He/she terminates the job and begins to work in a job covered by the Receiving System (R). The individual wishes to transfer his/her credit in T to R. Upon application by the individual, T transfers on the individual’s behalf an amount equal to his/her pension benefit obligation. T uses, at the time of transfer, the same assumptions used in performing its last regular actuarial valuation. In no event shall the transferred amount be less than the individual’s accumulated contributions on deposit with the transferring plan. R shall determine, using accepted actuarial methods, the value of the individual’s transferred service. R shall recognize the amount of the individual’s creditable service by means of the actuarial value of the funds transferred. In no event shall the creditable service exceed the actual number of years of creditable service from T. If the actuarial value of the funds transferred to R is less than that required to fund the liability created by the actual number of years of creditable service in T, the individual may purchase additional creditable service in R up to the actual number of years of creditable service in T by paying the amount required by R.
Section 169.576 has not been used for interstate agreements. An intrastate agreement covering all the retirement systems in Missouri that cover school employees is close to completion.

**Article 11, Section 522 of the Education Law of New York**

Article 11, Section 522 of the Education Law of New York provides a method for an intrastate and interstate transfer of contributions between the New York State Teachers’ Retirement System (NYSTRS) and another retirement system. A member who is withdrawing from NYSTRS may request a transfer. If approved, the system transfers the member’s accumulated contributions (employee contributions and any purchases of service credit), interest, and an amount from the pension reserve fund of NYSTRS.

By the same token, a new NYSTRS member who was previously in another system may have his/her former system make a transfer to NYSTRS (assuming the former system has similar authority). The transfer consists of two parts. First, his/her accumulated contributions from the former system are sent to NYSTRS. Second, the pension reserve to his/her credit in such other system is transferred to NYSTRS’ pension accumulation fund. The new member is credited with the amount of service he/she had in his/her former system.

Section 522 is used for transfers between NYSTRS and the New York City Teachers’ Retirement System. It has not been used for transfers between NYSTRS and a system of another state.

**Section 16-17.2-1 of the Rhode Island General Laws**

Section 16-17.2-1 authorizes Rhode Island to enter into an interstate compact with respect to pension portability for educators. It uses the term “exporting plan (E Plan)” as the plan that transfers a member’s future pension benefits and “importing plan (I Plan)” as the plan that accepts the benefits. The statute sets out a detailed methodology for determining the value transferred. A summary follows.¹

The E Plan transfers the lesser of the following two amounts to the I Plan:

- The accumulated employer and employee contributions from the E Plan (the “E Amount”) or the accumulated employer and employee contributions calculated as if the employee had always been a participant in the I Plan (the “I Amount”).

In each case, the contribution amounts are determined by using the actual return on investment of assets in the relevant plan (presumably at market value). If the “I Amount” is the lesser amount and is transferred, the difference between the “E Amount” and the “I Amount” remains in the E Plan for later use by the member where appropriate. Creditable service from the E Plan is used for all purposes (eligibility, vesting, and benefit calculation) in the I Plan. If the “E Amount” is the lesser amount and is transferred, the member may pay an amount up to the difference between the “E

¹ The summary appeared in the 1992 Florida study referenced in the Report.
Appendix B

MODEL LEGISLATION I:
AUTHORIZING COOPERATIVE AGREEMENTS
FOR TRANSFERS OF EQUIVALENT BENEFIT VALUE

I. SYSTEM X MAY ENTER INTO A COOPERATIVE AGREEMENT FOR TRANSFERS
   OF EQUIVALENT BENEFIT VALUE

   A. Authorizes Cooperative Agreements

      State X Teachers' Retirement System ("XTRS") may enter into a cooperative
      agreement with a qualified governmental retirement plan to make transfers of a member's
      benefit and the underlying assets and liabilities between the plans. The transfer of a
      member's equivalent benefit value may be made on behalf of a member who has been
      employed in a position covered by one plan and is subsequently employed in a position
      covered by another plan when both plans have entered into a cooperative agreement.

   B. Cooperative Agreements

      The agreement must meet the requirements of Section II. The agreement covers
      the transfer of equivalent benefit value between two plans that are signatories to the
      agreement such that the transferred assets representing the equivalent benefit value may
      be transferred between plans, in accordance with a member's election of such a transfer.
      After a transfer pursuant to an agreement, a member making a transfer is eligible for
      benefits as provided in Section III.

      [Note: If adopted as model legislation, Section I authorizes the State X
      Teachers' Retirement System to enter into agreements with governmental qualified
      retirement plans (in-state and out-of-state) to transfer the member's Equivalent
      Benefit Value between plans. Some states already have intrastate reciprocity, in
      which case this provision would have to be coordinated with existing arrangements.]

II. TERMS OF COOPERATIVE AGREEMENT

   A. Definitions

      For purposes of Section I, II, and III,

      "Agreement" means the cooperative agreement authorized by Section I.

      "Eligible Member" means the individual whose Equivalent Benefit Value is
      transferred between plans, and who meets the following requirements:

      a. The individual is not receiving retirement benefits from the
         Transferring Plan or Receiving Plan.
b. The individual has not taken a refund of employee contributions from the Transferring Plan, or the individual has repaid any refund of employee contributions in accordance with the terms of the Transferring Plan.

c. The individual is vested in a benefit from the Receiving Plan without regard to any transfer made under Section II.

d. The individual is vested in a benefit from the Transferring Plan.

[Note: The system should consider whether use of the term "vested" would be consistent with existing state statutes.]

[Note: Consider whether a fifth requirement should be added to limit transfers to active members of the Receiving Plan. Some systems may not want to permit post-separation purchases.]

"Equivalent Benefit Value" means the actuarially equivalent value of a benefit in the Receiving Plan, expressed in years of service credit, using the Receiving Plan's actuarial assumptions, benefit formulas, and other provisions that may be purchased by the Transferred Amount.

"Receiving Plan" means the plan accepting the Transferred Amount on behalf of an Eligible Member.

"Transferred Amount" means the actuarial present value of the member's benefit accruals in the Transferring Plan, using the Transferring Plan's actuarial assumptions, years of service credit, benefit formula, and other provisions.

"Transferring Plan" means the plan transferring the Transferred Amount on behalf of an Eligible Member.

[Note: Section II(A) contains the definitions for the model legislation. It limits the ability to elect a transfer to members who are not receiving benefits from either plan, have not withdrawn (or have repaid) their contributions to the Transferring Plan, and are vested in a benefit from the Receiving Plan and Transferring Plan.]

B. Eligible Members May Elect to Transfer Benefits

An Eligible Member may file a written election to transfer benefits from the Transferring Plan to the Receiving Plan, and, upon such transfer, shall be credited with the Equivalent Benefit Value under the Receiving Plan.

[Note: Section II(B) gives an eligible member the right to elect to make a transfer of benefits with no additional restrictions. A plan could consider revising this to tie to existing service purchase provisions in the Receiving Plan.]
C. **Assets and Liabilities Transferred**

1. **Transfer of Assets**

On behalf of an Eligible Member, the Transferring Plan will transfer to the Receiving Plan cash equivalent assets in an amount equal to the Transferred Amount. This plan to plan transfer shall be completed as soon as is administratively feasible. [Note: This could simply specify a time period (e.g. 120 days) after the receipt of a written election.]

2. **Transfer of Liabilities**

By accepting the Transferred Amount, the Receiving Plan also accepts any liabilities associated with the Eligible Member's Equivalent Benefit Value. [Note: Section II(C) provides for the transfer of the actuarial present value of the accrued benefits between the plans. To determine the amount to send, the Transferring Plan will use its own actuarial assumptions. This section also provides that the liabilities, as valued by the Receiving Plan, are transferred as well.]

III. **Benefits Under Receiving Plan**

A. **Entitlement to Equivalent Benefit Value**

Upon the completion of a transfer pursuant to this Section, an Eligible Member shall be credited with service credit in the Receiving Plan that is equal to the Equivalent Benefit Value transferred from the Transferring Plan pursuant to the Agreement. The transfer may result in an Eligible Member receiving more or less service in the Receiving Plan.

[Note: Section III(A) gives the Equivalent Benefit Value to a member who makes a transfer under this statute. The Equivalent Benefit Value is whatever number of years of service that are purchased in the Receiving Plan by the Transferred Amount. This means that a member's Transferred Amount could purchase more or less years of service in the Receiving Plan than the member had in the Transferring Plan.]

B. **Payment of Benefits**

Benefits will be calculated and paid pursuant to the actuarial assumptions, statutory provisions, and forms of benefit available under the Receiving Plan.

[Note: Section III(B) provides that after transfer, the member's benefit will be calculated solely by reference to the Receiving Plan's actuarial assumptions, statutory provisions, and forms of benefits.]
C. **No Double Credit**

An Eligible Member may not be entitled to receive credit or benefits for the same period of service under more than one retirement plan as a consequence of a transfer under this Section.

[Note: Section III(C) prevents a member from receiving credit under more than one retirement system after making a transfer under the model legislation.]

IV. **Effective Date**

These provisions shall be effective for transfers initiated on or after [DATE.]
Appendix C

MODEL LEGISLATION II:
COVERING SERVICE PURCHASE BY ROLLOVER, TRUSTEE TO TRUSTEE TRANSFER, OR PLAN TO PLAN TRANSFER FOR
OUT-OF-STATE SERVICE

I. SYSTEM X TO ACCEPT TRANSFERS/ROLLOVERS FOR OUT-OF-STATE SERVICE

A. Definition for Out-of-State Service:

A member of the State X Teachers' Retirement System ("XTRS") may elect to purchase out-of-state service. Out-of-state service means service [in a position that would be creditable service under XTRS if performed in State X.]

[Note: This could be structured (i) by reference to the existing XTRS service purchase provisions and thereby incorporate all of the underlying base requirements (e.g., limits on years that can be purchased, conditions such as minimum number of in-state years that must be earned before an out-of-state purchase can be made, mechanism for measuring service purchase cost), or (ii) as a separate general purchase provision that would permit a member to make the purchase in any position that would be service if it were performed in State X (or any governmental service) without reference to the existing conditions on service purchases.]

B. Cost

In order to receive credit for a purchase of out-of-state service, a member must make contributions, or have contributions made on the member's behalf, equal to the cost of the out-of-state service, [as determined under XTRS statutes.] In order for a member to receive credit for out-of-state service, payments must be completed by the member's actual retirement date. [Note: The cost would be tailored to match the approach taken in Section I(A) (i.e., whether the general cost and service purchase rules apply to this purchase, or whether this provision is an overarching purchase provision that stands alone)].

C. Methods of Payment

1. Accept Trustee to Trustee Transfer

On behalf of a member purchasing out-of-state service, XTRS may accept a direct trustee to trustee transfer from an out-of-state qualified retirement plan to purchase all or part of a member's out-of-state service.

2. Accept Rollovers

On behalf of a member purchasing out-of-state service and to the extent permitted by the Code and federal regulations, XTRS will accept participant rollover contributions.
or direct rollovers of an eligible rollover distribution that consists of pre-tax dollars made from:

a. A qualified plan described in section 401(a) (including 401(k)) or 403(a) of the Code.
b. An annuity contract described in section 403(b) of the Code.
c. An eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.
d. An individual retirement account or annuity described in section 408 of the Code that is eligible to be rolled over and would otherwise be included in the participant's gross income.

3. **403(b) and 457 Trustee to Trustee Transfers**

To the extent permitted under the Code and federal regulations, XTRS will accept a trustee to trustee transfer for the purchase of out-of-state service that constitutes permissive service from an annuity contract or account described in section 403(b) of the Code or an eligible deferred compensation plan under section 457(b) of the Code.

[Note: This Section permits a member to purchase out-of-state service in the adopting plan. Under Section I(C), the member may pay for the service purchase through a plan to plan transfer (if that is authorized by the out-of-state plan). This plan to plan transfer could constitute both employer and employee contributions, if the transferring plan is set up to make a transfer of both. Additionally, a member could elect to pay for the service purchase with employee contributions through a direct rollover or through a trustee to trustee transfer from a 403(b) or 457 (as long as the service being purchased constitutes permissive service credit).]

II. **Effective Date**

These provisions shall be effective for service purchases initiated on or after [DATE.]
Appendix D

NCTR’s Involvement in Pension Portability Issue

NCTR provides a national forum for policy discussion about teacher retirement issues and works with federal and state policymakers on these issues. For example, NCTR persuaded Congress to amend the Internal Revenue Code to improve teachers’ opportunities to purchase service credit thereby enhancing portability. NCTR has also published the following surveys on portability of teacher pensions:

- Survey on whether teachers may purchase service credit for out-of-state teaching (1995). Forty-five out of 50 states allow some or all teachers to do so.
- Update of 1995 study (1998). Two more states authorized such purchases, for a total to 47.
- “A Special Report on Portability” (1999). As in 1995 and 1998, the survey looked at purchase of service credit options. It revealed the many options available to teachers to pay for purchases of service credit (e.g., payroll deduction). The survey also represented the first time that NCTR gathered data on the reciprocity of teacher retirement benefits. It showed that state law frequently allows an individual who has credit in both a teacher retirement system and another public employee retirement system in the same state to consolidate, in effect, the credit through various reciprocity mechanisms. It also revealed that a few interstate reciprocity agreements exist, but they are not used.
- Survey about the reciprocity of teacher retirement benefits between a state teacher retirement system and one or more local teacher retirement systems in the same state (2001). The survey revealed that if a teacher has taught in a position covered by a state teachers’ retirement system at one point and, at another time, in a position covered by a local system, he/she usually has the right to purchase service credit. In addition, reciprocity is also available in certain cases.

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