

# RESOLUTIONS

**Adopted at the**

82<sup>nd</sup> Annual NCTR Convention  
Business Meeting  
October 13, 2004

## Resolutions Committee Members

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**I. STATEMENTS OF APPRECIATION**

**IN APPRECIATION  
NANCY J. GAINES**

**WHEREAS**, Nancy J. Gaines served as a member of the Board of Trustees of The Public School and Non-Teacher School Employee Retirement Systems of Missouri from July 1, 1991 until June 30, 2004, and as Chair of the Board from July 1, 2000, until June 30, 2002; and

**WHEREAS**, during the period of this tenure Ms. Gaines served the interests of teachers and school support personnel of Missouri with loyalty, dedication and integrity; and

**WHEREAS**, through her dedication Ms. Gaines was able to lead and counsel wisely in the enactment of legislation and the formulation of policies and regulations bringing continued improvement in the retirement systems; now therefore be it

**RESOLVED**, that the National Council on Teacher Retirement expresses its appreciation to Nancy J. Gaines for her distinguished service to the Board of Trustees of The Public School and Non-Teacher School Employee Retirement Systems of Missouri; and be it further

**RESOLVED that** a copy of this resolution be presented to Nancy J. Gaines and be included in the proceedings of the 82<sup>nd</sup> Annual Convention of the National Council on Teacher Retirement, 2004.

Submitted by: The Public School Retirement System of Missouri.

**IN APPRECIATION  
MARY GLASS**

**WHEREAS**, Mary Glass served as School Board Representative on the Board of Trustees of the Duluth Teachers' Retirement Fund Association (DTRFA) with distinction for approximately eight years, from February 1996 to December 2003, her term ending due to her departure from the Duluth School Board; and

**WHEREAS**, during Ms. Glass' tenure on the DTRFA Board of Trustees, the Association operated on a sound actuarial and financial basis, experienced tremendous growth in assets (from \$198 million to over \$271 million), achieved broad diversification of assets, and attained a funding level of over 96%, which have benefited the educators and the public school system of Duluth, Minnesota; and

**WHEREAS**, during Ms. Glass' tenure as School Board Representative on the DTRFA Board of Trustees, benefit formulas were increased for all three benefit plans, retirees received some of the highest cost of living adjustments in the history of the Association, and communication was enhanced between the Duluth School Board and Superintendent and the DTRFA Board of Trustees, all for the benefit of the educators and public school system of Duluth, Minnesota; and

**WHEREAS**, Ms. Glass brought high standards of leadership, honesty, loyalty, and integrity to her position at all times in working to provide a better retirement and investment program for all Duluth public school teachers and retirees; and

**WHEREAS**, Ms. Glass regularly attended NCTR annual conventions for the eight years she was a trustee for the DTRFA; now therefore be it

**RESOLVED**, that the National Council on Teacher Retirement extends its appreciation to Mary Glass, and extends its best wishes to her and her husband, Barry, for good health, good fishing, and for success and happiness in all their future endeavors; and be it further

**RESOLVED**, that a copy of this resolution be presented to Mary Glass and be included in the proceedings of the 82<sup>nd</sup> Annual Convention of the National Council on Teacher Retirement, 2004.

Submitted by: The Duluth Teachers' Retirement Fund Association.

**IN APPRECIATION  
ANNA J. HARBISON**

**WHEREAS**, Anna J. Harbison served as a Member Trustee of the Board of the Arkansas Teacher Retirement System from May 1, 1996, until her resignation on December 23, 2003, and

**WHEREAS**, Ms. Harbison faithfully and eagerly performed her duties of Trustee, giving unselfishly of her time to serve on the Investment and Legislative Committees of the Board, greatly impacting critical issues of the educators' profession in the state of Arkansas; and

**WHEREAS**, Mr. Harbison's involvement was instrumental in legislation establishing the option of retirement after 28 years of service, enhancing member benefits for both active and retired members, and handling a critical personnel issue, the hiring of a new Executive Director during her tenure; and

**WHEREAS**, Ms. Harbison's knowledge and succinct appraisals of issues will be sorely missed by the Board and staff alike, her service proving invaluable in insuring the stability and progress of the System, now therefore be it

**RESOLVED**, that the National Council on Teacher Retirement extends its appreciation to Anna J. Harbison for her distinguished service to the Arkansas Teacher Retirement System; and be it further

**RESOLVED**, that a copy of this resolution be presented to Anna J. Harbison and be included in the proceedings of the 82<sup>nd</sup> Annual Convention of the National Council on Teacher Retirement, 2004.

Submitted by: The Arkansas Teacher Retirement System

**IN APPRECIATION  
LYNN A. HARMON**

**WHEREAS**, Lynn A. Harmon served as a member of the Board of Trustees of The Public School and Non-Teacher School Employee Retirement Systems of Missouri from September 23, 1998 until May 31, 2004; and

**WHEREAS**, during the period of this tenure Mr. Harmon served the interests of teachers and school support personnel of Missouri with loyalty, dedication and integrity; and

**WHEREAS**, through his experience and dedication Mr. Harmon was able to lead and counsel wisely in the enactment of legislation and the formulation of policies and regulations bringing continued improvement in the retirement systems; now therefore be it

**RESOLVED**, that the National Council on Teacher Retirement expresses its appreciation to Lynn A. Harmon for his distinguished service to the Board of Trustees of The Public School and Non-Teacher School Employee Retirement Systems of Missouri; and be it further

**RESOLVED**, that a copy of this resolution be presented to Lynn A. Harmon and be included in the proceedings of the 82<sup>nd</sup> Annual Convention of the National Council on Teacher Retirement, 2004.

Submitted by: The Public School Retirement System of Missouri.

**IN APPRECIATION  
WILLIAM J. SUDOL**

**WHEREAS**, for the last 34 years William J. Sudol tirelessly served the teachers of Connecticut through the Connecticut Teachers' pension plan, including the last six years as the Administrator of the Connecticut Teachers' Retirement Board; and

**WHEREAS**, Mr. Sudol has brought his high standards of leadership, honesty, loyalty, dedication, and integrity to the position at all times in working to provide a better retirement program for the public school teachers of Connecticut; and

**WHEREAS**, Mr. Sudol achieved enhancements to various benefits for plan members; and

**WHEREAS**, Mr. Sudol was responsible for the implementation of new technology to build a client-oriented service organization committed to quality; now therefore be it

**RESOLVED**, that the National Council on Teacher Retirement expresses its appreciation to William J. Sudol for all of his years of service to the retirement plan and to the teachers and school administrators of Connecticut; and be it further

**RESOLVED**, that a copy of this resolution be presented to William J. Sudol and be included in the proceedings of the 82<sup>nd</sup> Annual Convention of the National Council on Teacher Retirement, 2004.

Submitted by: Connecticut Teachers' Retirement Board

**IN APPRECIATION  
VIC UNTALAN**

**WHEREAS**, for the last 28 years Vic Untalan tirelessly served the citizens of Indiana through the State's pension plans, including the last five years as the Deputy Director of Operations for the Indiana State Teachers' Retirement Fund (ISTRF); and

**WHEREAS**, Mr. Untalan was responsible for the supervision of the employees at ISTRF and the operations of one of the large pension funds in the United States; and

**WHEREAS**, Mr. Untalan made it his highest priority to ensure that ISTRF continued to meet the pension promise to its members who have dedicated their lives to educating children in Indiana; and

**WHEREAS**, Mr. Untalan led ISTRF through a very challenging period in its history and has positioned the Fund to continue to serve its members in the years to come; and

**WHEREAS**, Mr. Untalan is appreciated by his colleagues as a man meticulous in his honesty, integrity, trustworthiness, and professionalism; and therefore be it

**RESOLVED**, that the National Council on Teacher Retirement hereby acknowledges Vic Untalan for all of his devoted efforts on behalf of the Indiana State Teachers' Retirement Fund and its members, his outstanding service to the State of Indiana; and offers best wishes to him in all his future endeavors; and be it further

**RESOLVED**, that a copy of this resolution be presented to Vic Untalan and be included in the proceedings of the 82<sup>nd</sup> Annual Convention of the National Council on Teacher Retirement, 2004.

Submitted by: Indiana State Teachers' Retirement Fund

**IN APPRECIATION  
WAYNE WHEELER**

**WHEREAS**, Wayne Wheeler served as a member of the Board of Trustees of The Public School and Non-Teacher School Employee Retirement Systems of Missouri from July 1, 1996 until June 30, 2004, and as Chair of the Board from July 1, 2003, until June 30, 2004; and

**WHEREAS**, during the period of this tenure, Mr. Wheeler served the interests of teachers and school support personnel of Missouri with loyalty, dedication and integrity; and

**WHEREAS**, through his experience and dedication, Mr. Wheeler was able to lead and counsel wisely in the enactment of legislation and the formulation of policies and regulations bringing continued improvement in the retirement systems; and now therefore be it

**RESOLVED**, that the National Council on Teacher Retirement expresses its appreciation to Wayne Wheeler for his distinguished service to the Board of Trustees of The Public School and Non-Teacher School Employee Retirement Systems of Missouri; and be it further

**RESOLVED THAT** a copy of this resolution be presented to Wayne Wheeler and be included in the proceedings of the 82<sup>nd</sup> Annual Convention of the National Council on Teacher Retirement, 2004.

Submitted by: The Public School Retirement System of Missouri.

## II. MEMORIAL RESOLUTIONS

### IN MEMORIAM JOHN A. HULSEY, JR.

**WHEREAS**, Dr. John A. Hulsey, Jr., Chair of the Teachers Retirement System of Georgia Board of Trustees passed away on July 9, 2004; and

**WHEREAS**, Dr. Hulsey served for 13 years on the Board of Trustees of the Teachers Retirement System of Georgia and served as its Chair for the past 3 years; and

**WHEREAS**, Dr. Hulsey retired in 1989 after a distinguished 34 year career in the education field starting as an elementary school teacher and ending as chair of secondary education teacher training at Georgia Southern University; and

**WHEREAS**, Dr. Hulsey served as the Executive Director of the Georgia Retired Educators Association for 13 years after his retirement and also served as the National President of the Executive Directors of Retired Educators Association; and

**WHEREAS**, Dr. Hulsey was a long time supporter of NCTR and served on several committees throughout his association with NCTR most recently on the Trustee Education Committee; and

**WHEREAS**, during his tenure on the TRS Board, Dr. Hulsey was very protective of the system for all members whether active or retired and was deeply concerned that the system remain fiscally healthy and vibrant in its service to its membership; now therefore be it

**RESOLVED**, that the National Council on Teacher Retirement, with deep sadness and sense of loss, extends its sympathy to John's wife, Betty Ann, and their children, John and Ashley; and be it further

**RESOLVED**, that a copy of this resolution be presented to Mrs. Betty Ann Hulsey and be included in the proceedings of the 82nd Annual Convention of the National Council on Teacher Retirement, 2004.

Submitted by: The Teachers Retirement System of Georgia.

**IN MEMORIAM  
RAY LILLYWHITE**

**WHEREAS**, Ray Lillywhite, a pioneer in public pension administration and a key figure in activities of the National Council on Teacher Retirement (NCTR) for over 60 years, passed away on July 3, 2004; and

**WHEREAS**, Ray Lillywhite was appointed as the first Executive Director of the Utah Retirement Pension System in 1937 at the age of 25; and

**WHEREAS**, Ray Lillywhite also served eleven years as the Executive Director of the Wisconsin Retirement System and seven years as Assistant Director of the Ohio State Retirement System; and

**WHEREAS**, Ray Lillywhite was actively involved in NCTR many ways over the years in including serving as NCTR President in 1948 and later as Secretary-Treasurer from 1955 until 1967; and

**WHEREAS**, after a 28 year career in public service, Ray Lillywhite joined Alliance Capital Management Corporation in 1970 and worked for another 22 years until his retirement in 1992 at the age of 80; and

**WHEREAS**, in honor of his distinguished career, the Ray Lillywhite National Award is now given annually to individuals who have distinguished careers in the investment management and employee benefits fields; and

**WHEREAS**, Ray Lillywhite epitomized all that is considered good and honorable in pension management and served as a mentor and role model for many in the field today; now therefore be it

**RESOLVED**, that the National Council on Teacher Retirement, with deep sadness and sense of loss, extends its sympathy to Ray's family, friends and professional acquaintances; and be it further

**RESOLVED**, that a copy of this resolution be presented to the Lillywhite family and be included in the proceedings of the 82<sup>nd</sup> Annual Convention of the National Council on Teacher Retirement, 2004.

Submitted by: The Executive Committee of the National Council on Teacher Retirement.

**IN MEMORIAM  
NORMAN E. STUHMILLER**

**WHEREAS**, Norman E. Stuhmiller retired in 1988, after completing a distinguished professional career of 38 years as a teacher of Music and English at Killdeer, Wishek, Garrison, and Devils Lake, North Dakota; and

**WHEREAS**, Mr. Stuhmiller became a relentless advocate for retired teachers, serving as a Trustee on the North Dakota Teachers' Fund for Retirement and State Investment Boards with distinction from July, 1995 until his untimely death on August 21, 2004; and

**WHEREAS**, Mr. Stuhmiller faithfully served the teachers of North Dakota with dignity, loyalty, and dedication, and championed the improvement of benefits for retirees; and

**WHEREAS**, Mr. Stuhmiller was active in the National Council on Teacher Retirement and served on the NCTR Trustee Education Committee; and

**WHEREAS**, Mr. Stuhmiller demonstrated the highest level of excellence, enthusiasm, and Accomplishments in his many years of public service, and has been an inspiration to all who have the pleasure to serve with him; now therefore be it

**RESOLVED**, that with sadness and a sense of tremendous loss, the North Dakota Teachers' Fund for Retirement Board extend their heartfelt sympathy to his wife, Norma, and other family members; and be it further

**RESOLVED**, that a copy of this resolution be presented to Mrs. Norma Stuhmiller and be included in the proceedings of the 82<sup>nd</sup> Annual Convention of the National Convention on Teacher Retirement, 2004.

Submitted by: The North Dakota Retirement and Investment Office

### **III: RESOLUTIONS RECOMMENDED FOR CONTINUATION**

#### **A-1. Support for All Governmental Employers to Have Authority to Offer 401(k) Plans, in Addition to Defined Benefit Plans and Existing Supplementary Pension Plans, to Their Employees**

**WHEREAS**, defined benefit plans provide the basic retirement income for most state and local government employees; and

**WHEREAS**, some employees also contribute to a supplementary pension plan in which they voluntarily defer a portion of their income (subject to limits) on a tax-favored basis; and

**WHEREAS**, supplemental savings plans for education employees are known as 403(b) tax sheltered annuities and/or 457 deferred compensation plans; and

**WHEREAS**, private sector employees have 401(k) plans available to them, but only a few state and local employees have the same opportunity to participate because Congress, in the Tax Reform Act of 1986, terminated the right of states and localities to offer any new 401(k) plans after that time; and

**WHEREAS**, allowing states and localities to offer 401(k) plans to their employees in addition to other types of voluntary supplemental retirement savings vehicles would give the governmental employers desirable additional flexibility in assisting their employees in preparing for retirement; and

**WHEREAS**, granting such authority to the states and localities will restore the status quo that was in effect before the Tax Reform Act of 1986; and

**WHEREAS**, states and localities should be allowed to offer 401(k) plans if desirable for their employees; and

**WHEREAS**, the extension of 401(k) plans to the public sector should not be based on conditions that restrict or eliminate the use of other existing tax favored vehicles, such as 403(b) tax sheltered annuities and 457 deferred compensation plans; and

**WHEREAS**, 401(k) and other supplemental pension programs complement defined benefit plans, but are not a substitute for them; now therefore be it

**RESOLVED**, that the National Council on Teacher Retirement supports the enactment of legislation authorizing the use of 401(k) plans by public sector employers as a complement, not a substitute for defined benefit plans; and be it further

**RESOLVED**, that the extension of the availability of 401(k) plans to public sector employees pursuant to the foregoing should be in addition to existing tax favored arrangements, such as 403(b) tax sheltered annuities and 457 deferred compensation plans, and not conditioned on the restriction or closing of these savings vehicles.

**A-2 Resolution Urging Money Managers to Recognize the Fundamental Role of Defined Benefit Plans**

**WHEREAS**, virtually all retirement systems that belong to NCTR are structured as defined benefit plans; and

**WHEREAS**, defined benefit plans provide the basic retirement income for state and local government employees; and

**WHEREAS**, many money managers offer services to defined benefit plans; and

**WHEREAS**, some money managers are actively lobbying state legislatures to set up a defined contribution plan that either would directly supplant the defined benefit plan, if it replaces the defined benefit plan, or compete with it, if it is an alternative to the defined benefit plan; and

**WHEREAS**, this lobbying activity directly conflicts with NCTR's support for defined benefit plans as an effective means of building retirement income, the best means of offering a predictable lifetime retirement benefit that can never be reduced, and a proven method of attracting and retaining productive employees; now therefore be it

**RESOLVED**, that the National Council on Teacher Retirement calls upon money managers involved in such lobbying efforts to recognize the fundamental role of defined benefit plans for state and local government employees; and be it further

**RESOLVED**, that the National Council on Teacher Retirement opposes any efforts by money managers that are detrimental to defined benefit plans.

**A-3. Effect on Retirement Systems of Policies that Encourage Veteran Educators to Remain in Workforce**

**WHEREAS**, a teacher shortage in certain geographic areas and in certain disciplines has prompted discussion about ways to retain veteran educators; and

**WHEREAS**, school districts may wish to encourage veteran teachers to remain in the workforce to expand the available labor supply; and

**WHEREAS**, veteran educators may wish to work after retirement or, alternatively, transition from full-time work to retirement by reducing hours and/or responsibilities; and

**WHEREAS**, under current law, some employment provisions act as incentives while others create barriers to veteran teachers remaining in the workforce; and

**WHEREAS**, some state laws provide an incentive by allowing retired teachers to return to work without losing retirement benefits, although such laws usually impose a limit on the amount of earnings or hours worked; and

**WHEREAS**, other state laws allow individuals who have retired to remain on the job through deferred retirement option plans (DROPs); and

**WHEREAS**, federal law creates a barrier to veteran educators transitioning from full-time work to retirement through reduced hours and/or responsibilities because the “in service distribution” rule prohibits an individual from drawing a pension while continuing to work unless he/she has reached normal retirement age; and

**WHEREAS**, the issue has been discussed in relation to its potential effect on school districts and veteran educators, but not on the funding of the retirement systems that serve teachers; and

**WHEREAS**, consideration of any policy that encourages teachers to remain in the workforce must include the effect on retirement system funding; and

**WHEREAS**, without such consideration, policies could be adopted that raise retirement system costs without adequate funding being made available; now therefore be it

**RESOLVED**, that the National Council on Teacher Retirement recommends that an actuarial study be conducted as a precondition to considering any proposal that encourages veteran educators to remain in the work force; and be it further

**RESOLVED**, that any proposal be adopted only if it is determined that it will either have no adverse actuarial impact on the retirement system’s funding or adequate funding is provided to mitigate such impact.

**A-4. Support for Proposals that Streamline Internal Revenue Code Regulation of Existing State and Local Government Plans**

**WHEREAS**, the federal government is involved to a degree in the regulation of state and local government plans through the pension qualification rules of the federal Internal Revenue Code; and

**WHEREAS**, the federal Internal Revenue Code grants state and local government retirement plans and their participants tax-deferred treatment; and

**WHEREAS**, in exchange for this tax-deferred treatment, state and local government retirement plans must comply with a series of complicated qualification rules; and

**WHEREAS**, many of these rules have little application to the operation of state and local government retirement plans; and

**WHEREAS**, many of these rules interfere with an employee's ability to save for retirement; and

**WHEREAS**, many of these rules impose great administrative cost with little or no corresponding benefit; now therefore be it

**RESOLVED**, that the National Council on Teacher Retirement supports proposals to streamline the Internal Revenue Code pension qualification rules to facilitate the administration of state and local government retirement plans and benefit plan participants.

## **A-5. Maintaining Fiscal Integrity of State and Local Government Retirement Systems**

**WHEREAS**, the assets in state and local government retirement systems are dedicated to provide retirement and other benefits to current and future plan participants; and

**WHEREAS**, benefits under most state and local government law are contractually guaranteed; and

**WHEREAS**, responsible funding practices are critical to carry out these guarantees and ensure the continued stability of the systems; and

**WHEREAS**, sufficient funding is especially critical now as “Baby Boomers” begin retirement; and

**WHEREAS**, insufficient funding will unduly burden future generations of taxpayers; and

**WHEREAS**, some state and local governments have diminished the stability of retirement systems by reducing or deferring employer contributions, taking control of actuarial matters, invading the corpus of a system’s trust fund, and intervening in a system’s daily operation; and

**WHEREAS**, defined benefit plans operate pursuant to best practices and standards; and

**WHEREAS**, state and local governments should, in principle and practice, recognize that retirement administrators and trustees are fiduciaries whose unwavering duty is to act for the exclusive benefit of plan participants; now therefore be it

**RESOLVED**, that the National Council on Teacher Retirement urges all state and local governments to guarantee pensions that participants earn or accrue; and be it further

**RESOLVED**, that the National Council on Teacher Retirement urges state and local governments to respect and maintain the fiscal integrity of their retirement systems; and be it further

**RESOLVED**, that the National Council on Teacher Retirement calls upon state and local governments to avoid taking actions that impair the systems’ stability and/or place in jeopardy the guaranteed rights of plan participants to their benefits.

## **A-6. Support for Liberalizing the IRC §415(b) Defined Benefit "Dollar" Limitations**

**WHEREAS**, state and local retirement systems are primarily defined benefit plans subject to the so-called "dollar" limitations of section 415(b) of the Internal Revenue Code; and

**WHEREAS**, the enforcement of the dollar limitations pose cumbersome administrative burdens for public sector pension plans because it is often difficult to predict in advance whether the 415(b) limitations will impact a given participant's benefit and the overwhelming majority of public employees are ultimately not affected by the dollar limitations in any event; and

**WHEREAS**, the uncertainties created by the 415(b) dollar limitations also present potential traps for plan participants considering retirement who cannot be expected to be familiar with the complexities of the Federal tax laws but because of their particular age and circumstances may have their promised benefits capped by an unforeseen application of the IRC §415(b) dollar limitations; and

**WHEREAS**, the 415(b) dollar limitations were liberalized by the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA"); and

**WHEREAS**, as a result of the enactment of EGTRRA, even fewer participants in public sector defined benefit plans will be actually affected by the 415(b) dollar limitations; and

**WHEREAS**, the changes in the 415(b) dollar limitations made by EGTRRA will sunset on December 31, 2010 and throw plan participants back under the 415(b) dollar limitations as they existed prior to the enactment of EGTRRA; and

**WHEREAS**, implementation of the "sunset" provision in EGTRRA, if it were to occur, would be substantially detrimental to the interests of participants in governmental plans and create enormous administrative problems for public sector plans; and

**WHEREAS**, instead of a roll-back of the beneficial changes made by EGTRRA, further liberalization of the 415(b) dollar limitations, or a complete exemption from them for governmental plans, would be greatly welcomed by public sector pension plans as a way of easing or eliminating the administrative burdens of complying with the limitations and by participants as a means of assuring they will be able to predict with confidence the benefit they will receive in retirement; now therefore be it

**RESOLVED**, that the National Council on Teacher Retirement supports the enactment of legislation eliminating the "sunset" of the positive changes in the IRC §415(b) dollar limitations made by the Economic Growth and Tax Relief Reconciliation Act of 2001; and be it further

**RESOLVED**, that the National Council on Teacher Retirement supports the enactment of further legislation liberalizing the IRC §415(b) dollar limitations or exempting governmental plans from the IRC §415(b) dollar limitations altogether.

**A-7. Support for a Social Security Reform Initiative that Ensures the Long-term Solvency of the System, that Guarantees at least the Benefits of the Current Program, that Preserves Voluntary Participation for State and Local Governmental Employees, and that Provides All Americans, including All Public Employees and Their Survivors, with a Benefit Commensurate with Their Contributions**

**WHEREAS**, the National Council on Teacher Retirement recognizes that Social Security has successfully provided basic retirement and other benefits since 1935, raising countless older Americans out of poverty while serving as the primary source of retirement income for many senior citizens thereby allowing them to live out their retirement years with dignity; and

**WHEREAS**, Social Security is more than a retirement program, it is a family protection plan that provides benefits to survivors, including spouses and dependent children, as well as disabled adults and children and other Americans with special needs; and

**WHEREAS**, many state and local governments established independent retirement systems to provide comprehensive and actuarially-sound retirement and related benefit programs for their employees prior to the enactment of the Social Security Act, an act that initially prohibited the inclusion of state and local governmental employees and the mandating of which would seriously threaten, if not destroy, these and other public retirement programs that have been initiated since its enactment; and

**WHEREAS**, the anticipated retirement of the estimated 77 million so-called “Baby Boomers” will seriously deplete the Social Security Trust Fund leaving funding for only 75% of the promised benefit beginning in 2042; and

**WHEREAS**, the National Council on Teacher Retirement believes that some of the reform initiatives that have been advanced would actually reduce the retirement security of millions of Americans and jeopardize the guaranteed benefits promised to those covered by the Social Security system, such as proposals to divert funds from the Social Security Trust Fund to establish private accounts and to impose mandatory Social Security coverage on over five million public employees; and

**WHEREAS**, the Congress has previously enacted ill-conceived provisions, such as the Windfall Elimination Provision and the Government Pension Offset that actually deprive certain public employees of Social Security benefits that they have rightfully earned and/or those that have been earned by their spouses, thereby breaking the promise of Social Security and further weakening the retirement security of millions of Americans; and

**WHEREAS**, the National Council on Teacher Retirement includes state and local retirement systems that provide excellent retirement and other related benefits that are actuarially funded, that address the unique needs of their members and their survivors, and that provide models for reform of the Social Security system; now therefore be it

**RESOLVED**, that the National Council on Teacher Retirement calls upon the President and the Congress of the United States of America to enact comprehensive Social Security reform legislation that will:

- Guarantee and fully fund the current level of promised Social Security benefits, thereby ensuring the long-term solvency of the Social Security Trust Fund and the guaranteed inflation-adjusted

benefits currently promised to American workers, retirees and their survivors;

- Establish an investment program for the Social Security Trust Fund that insulates investment decisions from political interference, that empowers an independent investment committee that includes Social Security beneficiaries as trustees, that requires a transition to a diversified portfolio of assets that are invested in public and private markets for the exclusive benefit of Social Security beneficiaries and that can be used solely for retirement, survivor, and disability benefits;
- Protect the rights of state and local governments and their employees to decide whether to affiliate with the Social Security system, thereby protecting the retirement security of millions of American public employees, saving state and local taxpayers unnecessary federally mandated expenses, and preventing costly and ill-considered design changes to financially secure and well designed public retirement systems; and
- Address those provisions of prior amendments to Social Security, such as the Government Pension Offset and Windfall Elimination Provision, that actually deprive certain public employees of Social Security benefits that they have rightfully earned and/or those that have been earned by their spouses, thereby breaking the promise of Social Security and further weakening the retirement security of millions of Americans; and be it further

**RESOLVED**, that the National Council on Teacher Retirement actively opposes any Social Security reform, which undermines the long-term solvency of the Social Security Trust Fund, reduces the current level of Social Security benefits, establishes individual private accounts, or that jeopardizes the guaranteed inflation-adjusted retirement income currently promised to American workers, retirees, and their survivors.

**A-8. Support for Enabling Phased Retirement as a Matter of Plan Design**

**WHEREAS**, the National Council on Teacher Retirement recognizes that the retirement of the so-called, “Baby Boomers,” represents a fundamental shift in the demographics of America that will inevitably impact an individual’s traditional transition from his/her working life to retirement; and

**WHEREAS**, these demographic realities, when combined with the inevitability of longer life expectancy due to ongoing medical advances that continue to extend the quality of life for retirees, will result in a greater need for financial security amongst retirees for a much longer time than historically projected; and

**WHEREAS**, many workers expect, either for economic, social or other reasons, to work for compensation after retirement; and

**WHEREAS**, it must be recognized that these changes in retirement trends are occurring at a time when the teaching profession, as well as countless other occupations, is anticipating a major worker shortage that may threaten the quality of public education and other public and private services; and

**WHEREAS**, retired teachers, school administrators and other public sector professionals represent an available, highly skilled potential workforce that may be utilized for mentoring, job sharing opportunities, professional development, and part-time or short-term employment, thereby addressing the individual’s need for transitional employment while providing the employer with an invaluable human resource; and

**WHEREAS**, public pension plans may wish to design benefit programs that are responsive to these changing retirement and workforce issues but are inhibited from doing so due to tax code provisions that prevent partial retirement distributions while a plan member remains employed at any level; now therefore be it

**RESOLVED**, that the National Council on Teacher Retirement calls upon the Internal Revenue Service to enable qualified retirement plans to offer benefit programs that may allow for the payment of partial retirement benefits in order to design a transitional or “phased retirement” program that addresses the changing needs of our members and their employers without endangering the plans’ tax qualification and be it further

**RESOLVED**, that the National Council on Teacher Retirement recommends that an actuarial study be conducted as a precondition to considering any proposal that encourages veteran educators to remain in the work force; and be it further

**RESOLVED**, that any proposal be adopted only if it is determined that it will either have no adverse actuarial impact on the retirement system’s funding or adequate funding is provided to mitigate such impact.

**A-9. Support for Flexibility in Compliance with IRC Section 401 (a)(9), the Minimum Distribution Rules.**

**WHEREAS**, IRC Section 401 (a) (9) regulates how retirement benefits are distributed; and

**WHEREAS**, IRC Section 401 (a) (9) sets out broad rules about such distributions; and

**WHEREAS**, state and local governments generally provide retirement benefits to broad groups of individuals; and

**WHEREAS**, such benefit designs usually include post-retirement increases to offset the decline over time in the value of retirement benefits due to inflation; and

**WHEREAS**, many of these post-retirement increases and the benefit distribution options have been in law for many years; and

**WHEREAS**, these post-retirement increases and the benefit distribution options are critically important to retirees and have enhanced their financial security; and

**WHEREAS**, the U.S. Department of Treasury and Internal Revenue Service have issued a final regulation that will limit the authority of state and local governments to offer new types of post retirement increases and benefit distribution options; now therefore be it

**RESOLVED**, that the National Council on Teacher Retirement commends the House and Senate sponsors of legislation to give more flexibility for governmental plans to comply with Section 401 (a)(9); and be it further

**RESOLVED**, that the National Council on Teacher Retirement urges Congress to consider other action, such as exempting governmental plans altogether from Section 401 (a)(9) to assure that state and local governments can offer new types of post-retirement increases and flexible benefit distribution options without the current regulatory restrictions.

## **B. Investment of Assets**

### **B-1. Prudent Investment of State and Local Government Pension Plan Assets**

**WHEREAS**, the exclusive purpose of state and local government pension plans is to provide benefits to their participants; and

**WHEREAS**, state and local pension plan administrators and trustees must invest plan assets according to fiduciary standards which include the duty to invest the assets in a prudent manner; and

**WHEREAS**, in investing prudently, state and local pension plan administrators and trustees seek investments that provide an appropriate risk adjusted market rate of return; and

**WHEREAS**, if state and local pension plan administrators and trustees do not invest according to these standards, they violate their fiduciary duties and responsibilities to the plan participants and are subject to personal liability; and

**WHEREAS**, some policy makers are interested in using pension funds as a source of program funding in violation of these duties and responsibilities; and

**WHEREAS**, other policy makers would like plan administrators and trustees to make investments that advance certain social concerns, which are not directly related to investment returns; now therefore be it

**RESOLVED**, that the National Council on Teacher Retirement vigorously opposes any mandate that requires state and local pension plan administrators and trustees to make investment decisions that violate their fiduciary duties and responsibilities.

## **B-2. Support for Increased Investor Protection**

**WHEREAS**, the members of National Council on Teacher Retirement invest in and are shareholders of all or most of the publicly held companies in the United States; and

**WHEREAS**, as investors in and shareholders of publicly held domestic companies, National Council on Teacher Retirement members must rely on the vigilance and integrity of the boards of directors, officers, and independent auditors of portfolio companies to assure: 1) the companies are operated on a sound financial basis; 2) their reports on the financial condition and operating results of those companies are truthful and accurate; and 3) the companies are managed solely in the interest of shareholders;

**WHEREAS**, the magnitude of corporate disasters has demanded vigorous and appropriate response in order to restore investor confidence in publicly held domestic companies, assure the truthfulness and reliability of corporate financial statements, and assure the proper accountability of corporate boards, management, and independent auditors to their shareholders; and

**WHEREAS**, Congress approved and the President signed into law the Sarbanes-Oxley Act of 2002 that includes such important reforms as:

-Assuring meaningful auditor independence by limiting non-audit services that auditors may perform for their audit clients; and

-Making meaningful reform in the oversight of auditors by establishing a new body consisting of a majority of non-accountants with independent funding and meaningful disciplinary powers; now therefore be it

**RESOLVED**, that the National Council on Teacher Retirement urges the appropriate regulatory bodies, exchanges, and Congress to continue to develop policy, procedures, and controls that promote the interest of shareholders; and be it further

**RESOLVED**, that the National Council on Teacher Retirement strongly urges corporate boards of directors and officers to make decisions in all matters in the interest of shareholders.

## **C. Plan Governance**

### **C-1. Support for Current Governance of State and Local Government Retirement Plans**

**WHEREAS**, most state and local government retirement plans have been in operation for decades, some having been in existence since the beginning of the 20th century; and

**WHEREAS**, over 90% of full-time state and local government employees are covered by a defined benefit pension plan; and

**WHEREAS**, state and local government retirement plans are funded by revenues provided by the employees themselves, state and local taxpayers, and/or earnings from investments managed by the pension board of trustees; and

**WHEREAS**, most state and local governments have a strong contractual, and in some cases, constitutional commitment to guarantee their pension liabilities; and

**WHEREAS**, the political process ensures that state and local government employees and retirees have meaningful input regarding legislative decisions affecting retirement plans; and

**WHEREAS**, state and local government retirement plans operate pursuant to an array of state laws, including statutory and common law trust principles, conflict of interest laws, codes of ethics, and sunshine laws; and

**WHEREAS**, the boards of trustees of state and local government retirement plans have diverse memberships that frequently are made up of representatives of employees, retirees, investment professionals, elected officials, and members of the public; and

**WHEREAS**, state and local government retirement plans have a long history of success in providing retirement security to their participants under the current regulatory structure; now therefore be it

**RESOLVED**, that the National Council on Teacher Retirement advocates appropriate regulation that provides protection of state and local government retirement plans by the respective state or local government.

## **C-2. Pension Security Legislation**

**WHEREAS**, the National Council on Teacher Retirement supports the rights of employees to receive from their employer timely notifications about their pension benefits and the status of their defined contribution pension plan investments; and

**WHEREAS**, employees should receive timely notifications when their ability to make withdrawals or secure loans from their pension account is temporarily suspended; and

**WHEREAS**, employee pension benefits should be protected when these funds are invested in employer stock and employees are prohibited from selling these securities in self-directed accounts when the corporation is experiencing financial difficulties and executives of the corporation are allowed to sell the securities and employees are not; and

**WHEREAS**, employees should be provided with appropriate investment information so they can make informed decisions about self-directed investment accounts and maximize their pensions; and

**WHEREAS**, participants in state and local government plans do not have the option to invest in employer's stock; and

**WHEREAS**, public employees are currently being provided with notifications, reports, and investment education as required by state and local statute and regulations; and

**WHEREAS**, making state and local public plans duplicate reporting, notification, and investment education to comply with federal regulations is not only unnecessary but would be costly, with the cost being passed onto the plan participants; and

**WHEREAS**, the application of a monetary penalty or excise tax by the federal government on state and local government pension plans for failure to comply with additional federal requirements violates a long-standing precedent of exempting such plans from federal taxation as well as forcing the cost of such penalty or tax to be passed onto the plan participants; now therefore be it

**RESOLVED**, that the National Council on Teacher Retirement calls on the Congress to exclude public plans from pension security legislation because they comply with the reporting, notification, and investment education requirements governed by state and local statute and regulations; and be it further

**RESOLVED**, that the National Council on Teacher Retirement calls on the Congress to oppose the application of any penalty or tax to state and local government plans as a violation of long-standing precedent of exempting such plans from federal taxation.

## **D. Taxation**

### **D-1. Opposition to Tax on the Assets and Income of Public Pension Plans and Opposition to Elimination of Tax-Exempt Status of Public Pension Plan Assets**

**WHEREAS**, the administrators and trustees of a public pension plan invest the plan's assets to earn income as part of the overall funding process; and

**WHEREAS**, any tax on these assets and income whether in the form of a securities transfer excise tax or any other form, or the elimination of the tax-exempt status of these assets, will erode the financial integrity of the plans as well as raise the cost of these programs to the employees, employers, and taxpayers; and

**WHEREAS**, this result would be contrary to the retirement objectives embodied in the Internal Revenue Code; now therefore be it

**RESOLVED**, that the National Council on Teacher Retirement vigorously opposes any effort to enact any tax on the assets and income of public pension plans or any effort to eliminate the tax-exempt status of such plans.

**D-2. Support for Deleting Sunset Provision for Pension Provisions Enacted in the Economic Growth and Tax Relief Reconciliation Act of 2001 (“EGTRRA”)**

**WHEREAS**, the Economic Growth and Tax Relief Reconciliation Act of 2001 (“EGTRRA”) greatly simplified the regulation of state and local government retirement systems; and

**WHEREAS**, EGTRRA significantly improved the portability of various types of tax sheltered retirement savings plans for public employees; and

**WHEREAS**, over each of the next few years, EGTRRA increases the dollar limits that public employees may contribute annually to their tax deferred retirement savings accounts, thereby encouraging them to provide for their own financial well-being after retirement; and

**WHEREAS**, EGTRRA, will sunset on December 31, 2010, at which time prior law, including the complex and burdensome regulations, barriers to portability, and lower annual contribution limitations will be effective again; and

**WHEREAS**, the potential return of prior law makes financial planning for retirement very confusing and difficult, and if the return of prior law were to occur, it would be substantially detrimental to the interests of participants in state and local government retirement systems and create enormous problems for plan administrators; now therefore be it

**RESOLVED**, that the National Council on Teacher Retirement urges Congress to delete the sunset provisions as they relate to the pension provisions in the Economic Growth and Tax Relief Reconciliation Act of 2001.

**D-3. Support for Participants to Fund Retiree Health Insurance and Other Medical Expenses on a Pre-Tax Basis**

**WHEREAS**, health care costs are dramatically rising each year; and

**WHEREAS**, many state and local governments provide health insurance programs for both their employees and retirees; and

**WHEREAS**, these programs allow employees and retirees access to health care at a reasonable cost; and

**WHEREAS**, some of the programs allow employees to pay for their health insurance premiums and other medical expenses on a pre-tax basis through cafeteria plans or flexible spending accounts, as authorized by the federal Internal Revenue Code; and

**WHEREAS**, current federal law fails to provide the same mechanism for retirees to pay for their health insurance premiums and other medical expenses on a pre-tax basis; and

**WHEREAS**, retirees are disproportionately affected by rising health care costs; and

**WHEREAS**, this disparity of tax treatment between employees and retirees violates simple notions of fairness; now therefore be it

**RESOLVED**, that the National Council on Teacher Retirement calls upon the President and Congress to support provisions that modify the federal Internal Revenue Code so that participants may fund retiree health insurance premiums and other medical expenses on a pre-tax basis.

## **E. Other Issues**

### **E-1. Support for Pension Provisions in Pending Bankruptcy Reform Bill**

**WHEREAS**, preserving the security of the interests of state and local government employees, including teachers, in their retirement systems, IRC §403(b) tax deferred annuities, IRC §457 deferred compensation plans, and other tax favored retirement savings vehicles is a matter of overriding interest and concern to the National Council on Teacher Retirement; and

**WHEREAS**, in line with that interest and concern, the National Council on Teacher Retirement has welcomed the trend in court decisions affording increasing protection from creditor claims for the retirement interests of state and local government employees, including teachers, who are compelled by circumstances to file for bankruptcy; and

**WHEREAS**, legislation has been introduced to provide additional protections including, among other things, establish a new exemption in bankruptcy for tax favored retirement savings vehicles not protected from creditor claims under current law, assure continued ability of state and local government employees, including teachers, to repay their plan loans after filing for bankruptcy under Chapter 13 of the Bankruptcy Code, and assure contributions can continue to be made to tax favored plans by and for the benefit of state and local government employees, including teachers, notwithstanding their filing for bankruptcy under Chapter 13; and

**WHEREAS**, the enactment of the additional protections would be of substantial benefit to state and local government employees, including teachers; now therefore be it

**RESOLVED**, that the National Council on Teacher Retirement supports the inclusion of the additional protections for retirement savings in the Federal Bankruptcy Code.

## **E-2. Support for Governmental 403 (b) Programs**

**WHEREAS**, a number of governmental retirement plans that serve public school teachers administer supplementary Section 403(b) programs; and

**WHEREAS**, these programs serve thousands of public school employees around the country; and

**WHEREAS**, these programs have various structures that range from allowing products from selected 403(b) providers to being entirely self-insured; and

**WHEREAS**, the U.S. Department of the Treasury is undertaking a revision of the rules that apply to all types of 403(b) programs; and

**WHEREAS**, these programs provided by governmental retirement plans offer their members lower costs, management by retirement professionals, and unique investment options not available in the public market; and

**WHEREAS**, a number of these programs were granted a grandfather rule upon which the programs and their members have relied; now therefore be it

**RESOLVED**, that the National Council on Teacher Retirement urges the U.S. Department of the Treasury, as part of the revision of the 403(b) rules, to preserve these supplementary programs offered to public school teachers by governmental plans; and be it further

**RESOLVED**, that the National Council on Teacher Retirement urges the U.S. Department of the Treasury, as part of the revision of the 403(b) rules, to take other steps that maintain the value and utility of these programs.

**E-3. Support for Clarification of State and Local Government Retirement Systems' Use of Social Security Numbers**

**WHEREAS**, for decades many state and local government retirement systems have used the social security number of the member as the main numeric identification number in the administration of the member accounts; and

**WHEREAS**, the member's social security number has been used by state and local government retirement systems and health insurance providers in administering retiree health insurance plans; and

**WHEREAS**, social security numbers are required extensively by the federal government in tax, Social Security and Medicare reporting; and

**WHEREAS**, proposals have been made by the Congress that would prohibit the display, sale, or purchase of social security numbers; and

**WHEREAS**, such proposals do not make clear that state and local government retirement systems' use of social security numbers do not constitute display, sale, or purchase of such numbers; and

**WHEREAS**, many state and local government retirement systems are already required by state law to have extensive safeguards in place to prevent public release of member social security numbers and other personal member information; and

**WHEREAS**, converting to different member identification systems will result in significant cost and disruptions in the administration of state and local government retirement systems; now therefore be it

**RESOLVED**, that the National Council on Teacher Retirement urges Congress to make clear in any relevant legislation that state and local government retirement systems' use of social security numbers does not constitute display, sale, or purchase of such numbers.

#### **IV. NEW OR SUBSTANTIALLY REVISED RESOLUTIONS FOR 2004-2005**

##### **1. Support for Defined Benefit Plans**

**WHEREAS**, most state and local governments (SLGs) provide a defined benefit plan as the principal retirement program for their employees; and

**WHEREAS**, defined benefit plans provide a pension benefit based on a formula that usually consists of an employee's length of service and final average salary multiplied by a percentage; and

**WHEREAS**, many SLGs offer, as a supplement to the defined benefit plan, a voluntary, tax-advantaged retirement savings vehicle such as a 403(b) tax sheltered annuity, a 457 deferred compensation plan, and a 401(k) plan; and

**WHEREAS**, efforts have been undertaken that would convert defined benefit plans into defined contribution plans; and

**WHEREAS**, defined benefit plans provide strength and stability for SLGs, their employees, the taxpaying public, and the economy as a whole in such ways as --

-Fueling the economy: The investment of defined benefit pension assets and the flow of benefit payments to retirees create a continuous, predictable, and growing source of economic stimulus;

-Boosting economic growth: Defined benefit plans are large pools of assets, the investment of which adds billions of dollars each year to the nation's economy through higher returns than what would be earned if the assets were in defined contribution plans;

-Creating needed capital: Defined benefit plans offer a major source of entrepreneurial capital that would not be otherwise widely available;

-Keeping administrative costs low: Defined benefit plans, because they amass large pools of assets, can negotiate lower fees and distribute expenses over a large number of participants. A defined contribution plan as an account held by a single person cannot benefit from such economies of scale and is, accordingly, more costly to administer;

-Using reserve funding to reduce costs: Defined benefit plans use the advantage of advance funding that accumulates sufficient funds to pay future promised benefits. The funding derives from three sources: 1) employees – unlike private sector employees who are rarely required to contribute; 2) employers – the taxpaying public; and 3) investment earnings – which generally provide more than half of the funds needed to pay benefits. Thus, employees and the public pay only a portion of the total funding;

-Creating a high performance workforce: Defined benefit plans help SLGs attract and retain employees, thereby assisting in creating a high performance workforce;

-Offering secure retirement benefits for workers: Defined benefit plans offer a predictable benefit over the life of the retiree that can never be reduced. Accordingly, such plans help assure retirees' financial self-sufficiency;

-Permitting flexible design: Defined benefit plans are sufficiently flexible to address the needs of employees with short careers through portability. They can also incorporate other features such as disability retirement, death benefits, and cost of living adjustments; now therefore be it

**RESOLVED**, that the National Council on Teacher Retirement unequivocally supports the continuation of defined benefit plans; and be it further

**RESOLVED**, that the National Council on Teacher Retirement vigorously opposes the conversion of defined benefit plans into defined contribution plans.

Submitted by: The NCTR Legislative Committee

Resolutions Committee recommends adoption.

## **2. NCTR Policy Regarding System Investments**

**WHEREAS**, the National Council on Teacher Retirement is an association comprised of state and local retirement systems in the United States; and

**WHEREAS**, the actual governance structure of each retirement system varies in each jurisdiction in accordance with applicable state or local law and the authority to invest the assets of the plan also varies from system to system; and

**WHEREAS**, in many systems the board of trustees or the sole trustee of the plan has full fiduciary responsibility for investment decisions regarding plan assets; and

**WHEREAS**, for systems which have the responsibility for investment decisions, these decisions are critically important to the funding of the pension plan and often require that extensive due diligence be performed before execution; and

**WHEREAS**, system trustees should take the necessary steps to monitor the performance of portfolio investments on a regular basis including providing guidance on the voting of proxies for corporate holdings; and

**WHEREAS**, system trustees should be cognizant of the actions of the federal government and state and local governments which may impact the decision to buy, hold or sell a particular investment; and

**WHEREAS**, certain social and economic factors may cause system trustees to review an investment in order to determine whether it belongs in the investment portfolio and whether it will potentially harm or improve investment performance; now therefore be it

**RESOLVED**, that the Board of Trustees or Sole Trustee of a member system of the National Council on Teacher Retirement with the applicable fiduciary responsibility must retain the authority to make investment decisions which will serve the best interests of the members of the plan; and be it further

**RESOLVED**, that the National Council on Teacher Retirement will take the necessary steps to preserve and protect the authority of state and local retirement systems to make investment decisions which serve the best interests of their members.

Submitted by: The NCTR Executive Committee

Resolutions Committee recommends adoption.

### 3. Support for Health Care Reform

**WHEREAS**, national health care spending, according the Centers for Medicare and Medicaid Services (CMS) rose 9.3% in 2002, reaching nearly \$1.6 trillion; and

**WHEREAS**, the growth of the U.S. economy in general was 3.6% during the same period; and

**WHEREAS**, 2002 is the second consecutive year in which health spending grew much faster than the U.S. economy in general with rising prescription drug costs a particular concern; and

**WHEREAS**, access to medical care become more vital and more expensive as people age; and

**WHEREAS**, retirees are particularly vulnerable to these increases because they cannot easily access affordable health care unless offered to them by a former employer; and

**WHEREAS**, Medicare is the primary source of health care coverage for most Americans age 65 and over; and

**WHEREAS**, the National Coalition on Health Care, of which NCTR is a part, advocates:

- Health Care for all
- Cost Containment
- Quality Improvement
- Equitable financing;
- Simplified administration; and

**WHEREAS**, not all NCTR members administer a health care program, but all NCTR members are indirectly affected because rising costs erode the purchasing power of the retirees to whom they provide pension benefits; now therefore be it

**RESOLVED**, that the National Council on Teacher Retirement supports health care reform that will provide health care for all, contain costs, improve quality, ensure equitable financing, and simplified administration; and be it further

**RESOLVED**, that the National Council on Teacher Retirement supports special efforts to concentrate health care dollars so that retirees can access affordable health care; and be it further

**RESOLVED**, that the National Council on Teacher Retirement working with other organizations continue to fight for laws that make prescription drug coverage available and affordable to all citizens on a voluntary basis; and be it further

**RESOLVED**, that the National Council on Teacher Retirement urges Congress to work to strengthen Medicare, including stabilizing its financial position.

Submitted: NCTR Legislative Committee

Resolutions Committee recommends adoption.