

▣ Resolutions 2001

ALL RESOLUTIONS LISTED IN THIS DOCUMENT WERE APPROVED AT THE BUSINESS MEETING OF THE NATIONAL COUNCIL ON TEACHER RETIREMENT ON OCTOBER 3, 2001

IN APPRECIATION

SYBLE GOODWIN

WHEREAS, Syble Goodwin has served as NCTR's Administrative Assistant for the past 10 years and has been responsible for office operations and convention registrations; and
WHEREAS, Syble Goodwin will be ending her NCTR duties on December 31, 2001 with the retirement of the Executive Director; and
WHEREAS, Syble Goodwin's friendly greetings and efficient handling of her NCTR duties will be sorely missed; and
WHEREAS, her husband, Robert Goodwin, has been a most helpful assistant during the annual conventions; now therefore be it
RESOLVED, that delegates at the 79th Annual NCTR convention express their sincere appreciation to Syble and Robert Goodwin for their decade of dedicated service to NCTR members; and be it further
RESOLVED, that a copy of this Resolution be presented to the Goodwins and printed in the official proceedings of the 79th convention.

IN APPRECIATION

ELIZABETH THWEATT

WHEREAS, Liz Thweatt has been assisting the NCTR staff with the annual convention for the past 9 years; and
WHEREAS, Liz Thweatt will be ending her duties at the convention due to the retirement of the Executive Director in December; and
WHEREAS, Liz Thweatt's warm and friendly personality and efficient handling of her duties have helped greatly in the smooth and speedy registration of convention attendees; and
WHEREAS, her husband, Herbert Thweatt, has also been a willing helper at the conventions; now therefore be it
RESOLVED, that NCTR's delegates applaud Liz and Herb Thweatt for their dedicated service to NCTR for the past nine years; and be it further
RESOLVED, that a copy of this Resolution be presented to the Thweatts and printed in the official proceedings of the 79th convention.

IN APPRECIATION

BRUCE HINEMAN

WHEREAS, Bruce Hineman will be retiring as the Executive Director of the National Council on Teacher Retirement (NCTR) on December 31, 2001; and
WHEREAS, Bruce Hineman began a career in public education when he was appointed director of the instructional media center for the San Angelo public schools in 1961 having earned both a bachelor's and master's degree from East Texas State University; and
WHEREAS, Bruce Hineman had a distinguished career with the Teacher Retirement System of Texas that began in 1967 with the development of a communication program for the System and culminated with his appointment as Executive Director on November 7, 1980, a position that he held until August of 1991; and

WHEREAS, Bruce Hineman has shared his confident leadership, tremendous energy, limitless creativity, personal dedication and boundless good humor with members of the NCTR as Secretary-Treasurer from 1983 to 1991 and as Executive Director from 1991 to date; and **WHEREAS**, as NCTR's first Executive Director, Bruce Hineman has initiated and strengthened a wide-range of educational programs, publications, professional services, and industry relationships that have established NCTR as the preeminent association within the public pension industry, thereby contributing to the retirement security of teachers and other public employees throughout the United States of America; now therefore be it **RESOLVED**, that delegates to the 79th Annual NCTR Convention, acting on behalf of every member of the NCTR, congratulate Bruce Hineman on the occasion of his retirement and express their most sincere appreciation and admiration for his leadership and be it further **RESOLVED**, that delegates wish Bruce Hineman and his wife, Jane, continued success, happiness and health and that a copy of the Resolution be presented to Bruce Hineman and be included in the proceedings of the 79th Annual Convention of the National Council on Teacher Retirement, 2001.

IN MEMORIAM

THOMAS F. TERRELL

WHEREAS, T.F. (Tommy) Terrell II, served as the Executive Director of the Public Employee Retirement System of Idaho (PERSI), serving from the inception of the system in 1965 as director until his retirement in 1983.

WHEREAS, Tommy Terrell served as President of both the National Council on Teacher Retirement (1976-1977) and the National Association of State Retirement Administrators during that time.

WHEREAS, Tommy Terrell started the Public Employee Retirement System of Idaho which now is recognized as a leader among national public retirement plans; and

WHEREAS, Tommy Terrell gained the respect and friendship of everyone who had the privilege of knowing him; and

WHEREAS, Tommy Terrell passed away on April 9, 2001; therefore be it

RESOLVED, that with deep sadness and a sense of loss, the members of the National Council on Teacher Retirement extends their sincere sympathy to Tommy Terrell's wife, Betty and their three children, T.F. (Tobe) Terrell III, Philip R. Terrell, and Patricia (Trish) Charlton and their grandchildren; and be it further

RESOLVED, that a copy of this Resolution be presented to Betty Terrell and be included in the proceedings of the 79th Annual National Council on Teacher Retirement, 2001.

General Policy Resolutions

1. Resolution Urging Money Managers to Recognize the Fundamental Role of Defined Benefit Plans and the Need for Plan Member and Trustee Input and Concurrence on any Change in Plan Design.

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 that any conversion to a defined contribution or a defined benefit/defined contribution hybrid plan must have the input and concurrence of the plan members and Trustees.

2. Public Pension Systems - Statement of Key Investment Risks and Common Practices To Address Those Risks

WHEREAS, public pension systems face an increasing number of risks in undertaking necessary investment activities; and

WHEREAS, controlling or eliminating these risks has become a topic of great interest as well-publicized errors by investment funds have captured public and professional attention; and

WHEREAS, in response, a number of organizations have discussed or promulgated risk principles, guidelines, standards, and other directives for various professional organizations, but very few have been specifically oriented to the public pension fund community, or have approached the issue from the perspective of the basic disciplines and purposes of public pension funds; and

WHEREAS, the public pension community has expressed a desire for general guidance in identifying key investment risks and common practices and procedures used to address those risks; and

WHEREAS, a number of public pension system chief investment officers and representatives of the Association of Public Pension Fund Auditors (APPFA) have developed a document titled, "*Public Pension Systems – Statements of Key Investment Risks and Common Practices to Address those Risks*," that identifies key investment risks associated with public pension funds and common practices to address, manage, and to the extent possible, control those risks, with the understanding that the document is not intended to be an exhaustive checklist of all risks that public pension systems may potentially encounter or a comprehensive checklist of all the procedures a public pension system should incorporate to address the identified risks; and

WHEREAS, APPFA and several public pension system chief investment officers are officially on record as being in support of the risk management concepts identified in "*Public Pension Systems – Statements of Key Investment Risks and Common Practices to Address those Risks*;" now therefore be it

RESOLVED, that the National Council on Teacher Retirement endorses "*Public Pension Systems – Statements of Key Investment Risks and Common Practices to Address those Risks*;" and be it further

RESOLVED, that the National Council on Teacher Retirement encourages retirement system plan fiduciaries to consider these practices in adopting or revising their own investment risks guidelines, with the aim of furthering the confidence public plan

participants have in the financial workings of the retirement systems on which they rely for an important part of their future financial security.

3. 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.

4. Support for Social Security and the Need to Ensure its Solvency

WHEREAS, Social Security has successfully provided basic retirement and other benefits to Americans since the 1930's; and

WHEREAS, Social Security has raised many older Americans out of poverty and allowed them to spend their retirement years in dignity; and

WHEREAS, Social Security is the primary source of retirement income for many senior citizens in this country; and

WHEREAS, Social Security is not only a retirement program, but also a family protection plan that provides benefits for spouses and dependent children of wage earners who die during their working lives, as well as adults and children with disabilities and other Americans with special needs; and

WHEREAS, the Social Security System can currently pay benefits, but the forthcoming retirement of the 77 million Baby Boomers is projected to exhaust the Social Security Trust Fund; and

WHEREAS, if the Trust Fund is depleted, Social Security recipients will receive only 75% of their promised benefits; and

WHEREAS, even though the Social Security System does not cover all participants in state and local government retirement systems, the System may touch their lives in other ways; and

WHEREAS, state and local government retirement systems provide models for federal reform of Social Security; now therefore be it

RESOLVED, that the National Council on Teacher Retirement calls upon the President and the Congress to take action that will:

- Guarantee at least the current level of Social Security benefits;
- Ensure the long-term solvency of the Social Security Trust Fund by maintaining the economic security of current and future Social Security beneficiaries; and
- Continue to guarantee inflation-adjusted retirement income as well as to continue to provide guaranteed inflation-adjusted survivor benefits for the families of deceased workers, as well as disabled workers and their families; and be it further

RESOLVED, that the National Council on Teacher Retirement encourages Congress to invest the social Security trust fund in a diversified portfolio of assets in the public and private markets, and such investment must:

- • Be administered through an independent board that is well insulated from political interference and that includes Social Security beneficiaries as board trustees;
- • Be made for the exclusive benefits of Social Security beneficiaries as under state pension law;
- • Be protected from excessive administrative costs; and
- • Be used solely for retirement, survivor, and disability benefits.

5. Support for Voluntary Participation in Social Security

WHEREAS, many states and localities, based upon provisions of the Social Security Act, have affiliated with the Social Security System and developed excellent retirement and related programs that include both Social Security benefits and benefits from the respective state or local government pension plan; and

WHEREAS, other states and localities, in reliance upon the voluntary affiliation provisions, have not elected to participate in Social Security and have developed independent and excellent programs of retirement and related benefits; and

WHEREAS, imposition of mandated Social Security coverage upon states, localities, and their employees would create substantial cost pressures, necessitating rapid and ill-considered changes in plan design, including the possible abandonment of existing programs; and

WHEREAS, the inclusion of states, localities, and their employees in the Social Security System would not solve the System's long-range funding problems; and

WHEREAS, serious constitutional questions are raised by the imposition of mandatory Social Security coverage of states, localities, and their employees; now therefore be it

RESOLVED, that the National Council on Teacher Retirement records its strong opposition to mandatory Social Security coverage for public employees of state and local governments; and be it further

RESOLVED, that the National Council on Teacher Retirement supports the affiliation of states, localities, and their employees with Social Security and Medicare only by means of a voluntary referendum.

6. 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.

7. 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, 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 the regulation and protection of state and local government retirement plans by the respective state or local government.

8. Support for Pension Simplification Proposals

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 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 simplify the Internal Revenue Code pension qualification rules that will improve the administration of state and local government retirement plans for the exclusive benefit of plan participants.

9. Support for Defined Benefit Plans

WHEREAS, efforts to convert state and local government retirement plans from defined benefit to defined contribution have taken place; and

WHEREAS, state and local government employees traditionally participate in defined benefit plans that provide a pension benefit based on the employee's length of service and salary at retirement; and

WHEREAS, some state and local government employees have in addition to defined benefit plan coverage a supplementary defined contribution plan, such as a Section 403(b) tax sheltered annuity, a Section 457 deferred compensation plan, or a Section 401(k) plan, in which they may voluntarily participate; and

WHEREAS, state and local government defined benefit plans help to attract and retain productive employees, which helps produce a high performance work force for taxpayers; and

WHEREAS, such plans provide employees with an effective means of building retirement income; and

WHEREAS, such plans offer a predictable lifetime retirement benefit that can never be reduced; and

WHEREAS, such plans are long-term investors and average the bad periods against the good, therefore, the amount of a retiree's benefit is not reliant on the health of the stock market as could be the case with defined contribution plans; and

WHEREAS, such plans frequently offer plan participants the opportunity to purchase service credit which affords portability; and

WHEREAS, the funding policy of such plans is intended to produce relatively level rates of funding that will accumulate sufficient assets to meet the cost of promised benefits; and

WHEREAS, some changes have been made recently in state and local retirement plans to address the issue of short service employees and to enhance portability within the structure of the existing defined benefit plan and not by converting to a defined contribution plan; now therefore be it

RESOLVED, that the National Council on Teacher Retirement supports the prevailing system of retirement benefits in the public sector, namely, a defined benefit plan and a supplementary defined contribution plan into which the employee voluntarily contributes.

10. Support for Increased Retirement Savings and Enhanced Education on the Subject.

WHEREAS, employees of state and local governments as well as large companies usually have pension coverage; and

WHEREAS, only 20% of small business workers have pension coverage; and
WHEREAS, women and minorities are less likely to have pension coverage than other groups; and

WHEREAS, Americans' savings rate is very low; and

WHEREAS, the number of Americans reaching retirement age will accelerate in the next few decades; and

WHEREAS, NCTR is working through its LIFEPLAN website to educate teachers, other state and local government employees, and members of the public about the need for retirement savings; and

WHEREAS, many other organizations, individual employers, and employee associations are also conducting campaigns to educate Americans about retirement savings; now therefore be it

RESOLVED, that the National Council on Teacher Retirement urges Congress to provide incentives to ensure pension coverage for all Americans, including the encouragement of programs that educate the public about the need to save for retirement.

11. Private Retirement Accounts in the Social Security System

WHEREAS, individual private retirement accounts in Social Security place in jeopardy the guaranteed benefits promised those covered by the Social Security system; and

WHEREAS, diverting funds from the Social Security Trust Fund places the entire Social Security system in jeopardy and utilizes funds for transition costs that should be used for benefits; and

RESOLVED, that the National Council on Teacher Retirement goes on record in opposition to the establishment of individual private retirement accounts within the Social Security system; and therefore be it

RESOLVED, that the National Council on Teacher Retirement supports reforms to improve the financial security and stability of the Social Security system without the establishment of individual private retirement accounts.

12. 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 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, 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 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 resist taking actions that impair the systems' stability, place in jeopardy the guaranteed rights of plan participants to their benefits, or both.

13. Resolution Regarding the Attacks on the World Trade Center and the Pentagon on September 11, 2001

WHEREAS, the World Trade Center in New York City and the Pentagon in Washington, D.C. were brutally attacked by terrorists on September 11, 2001; and

WHEREAS, the passengers and crew on United flight #93 over Pennsylvania heroically gave their lives thwarting another attack on an unknown site; and

WHEREAS, thousands of people died in the attacks and many more were injured; and

WHEREAS, many of those lost were fire, police, and emergency personnel who performed heroically in the rescue and recovery efforts; and

WHEREAS, some of the victims were colleagues in the financial community; now therefore be it **RESOLVED**, that the National Council on Teacher Retirement mourns the loss of the victims, both known and unknown to us; and be it further

RESOLVED, that we express our deepest sympathy to the families who lost loved ones and to the workers who lost colleagues; and be it further

RESOLVED, that we thank the valiant fire, police, and emergency personnel whose courage in the face of unspeakable conditions saved many victims; and be it further

RESOLVED, that we express heartfelt sorrow, but deepest gratitude to the fire, police, and emergency personnel who made the ultimate sacrifice to their fellow men and women; and be it further

RESOLVED, that together we will triumph over the tragedy that our nation has endured; and be it further

RESOLVED, that NCTR support the United States and other peace-loving countries of the world in their fight against terrorism.

14. 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 available to mitigate such impact.

15. 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, Congress appears to be working toward providing additional protection for retirement interests in the pending Bankruptcy Reform bills which have passed both houses, specifically in sections 224 and 323 of HR 333 and sections 224 and 322 of S 420; and

WHEREAS, the additional protections provided under these sections would, 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, a House/Senate conference is to be held to reconcile HR 333 and S 420 and it is anticipated that a conference bill including the above protections will be presented to the Congress for its approval prior to the end of the current legislative session; and **WHEREAS**, the enactment of the above 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 protective provisions for retirement savings in sections 224 and 323 of HR 333 and 224 and 322 of S 420 in any Bankruptcy Reform conference bill which emerges from the House/Senate conference of these bills.

16. Support for Changing Sunset for Pension Provisions Enacted in the Economic Growth and Tax Relief Reconciliation Act of 2001 (“EGATRRRA”)

WHEREAS, the Economic Growth and Tax Relief Reconciliation Act of 2001 (“EGATRRRA”) greatly simplified the regulation of state and local government retirement systems, including the elimination of barriers to portability; and

WHEREAS, the Economic Growth and Tax Relief Reconciliation Act of 2001, EGATRRRA, will sunset on December 31, 2010, at which time prior law, including the barriers to portability, will be effective again; and

WHEREAS, the return to prior law, if it were to occur, 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 sunset provisions as they relate to the pension provisions in the Economic Growth and Tax Relief Reconciliation Act of 2001, EGATRRRA.

17. 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 recently liberalized by the Economic Growth and Tax Relief Reconciliation Act of 2001 (“EGATRRRA”); and

WHEREAS, as a result of the enactment of EGATRRRA, 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 EGATRRRA 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 EGATRRRA; and
WHEREAS, implementation of the “sunset” provision in EGATRRRA, 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 EGATRRRA, 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.

18. 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 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, supplementary plans for education employees are known as 403(b) tax sheltered annuities and are called 457 deferred compensation plans for non-education employees; 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-deferred 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-deferred annuities and 457 deferred compensation plans, and not conditioned on the restriction or closing of these savings vehicles.

Resolutions Committee

Karen Kilberg, *Chair*

Minneapolis Teachers' Retirement Fund Association

Chris DeRose

Michigan Public Schools Employees' Retirement System

Tom Mann

Wyoming Retirement System

Sandra March

Teachers' Retirement System of City of New York

George McSherry

Massachusetts Teachers' Retirement System

Michael Nehf

Public School Teachers' Pension and Retirement Fund of Chicago

Michael Smith

Omaha School Employees' Retirement System

Melva Vogler

Pennsylvania Public School Employees' Retirement System

Iris Wolfson

New York State Teachers' Retirement System