



1 certain members misidentified; establishing requirements for  
2 repurchase of certain service in the State Teachers Retirement  
3 System by transferring members against whom a qualified  
4 domestic relations order has been entered; and clarifying that  
5 any transferring member shall be fully credited for the  
6 member's years of service in the Teachers' Defined  
7 Contribution Retirement System.

8 *Be it enacted by the Legislature of West Virginia:*

9 That §18-7B-7a of the Code of West Virginia, 1931, as amended,  
10 be amended and reenacted; that §18-7D-2, §18-7D-5, §18-7D-6, §18-  
11 7D-7 and §18-7D-9 of said code be amended and reenacted; and that  
12 said code be amended by adding thereto a new section, designated  
13 §18-7D-12, all to read as follows:

14 **ARTICLE 7B. TEACHERS' DEFINED CONTRIBUTION RETIREMENT SYSTEM.**

15 **§18-7B-7a. Plan closed to persons employed for the first time**  
16 **after June, 2005; former employees.**

17 The retirement system created and established in this article  
18 shall be closed and no new members accepted in the system after the  
19 thirtieth day of June, two thousand five. Notwithstanding the  
20 provisions of sections seven and eight of this article, all persons  
21 who are regularly employed for full-time service as a member or an  
22 employee whose initial employment commences after the thirtieth day  
23 of June, two thousand five, shall become a member of the State  
24 Teachers' Retirement System created and established in article

1 seven-a of this chapter: *Provided*, That any person rehired after  
2 the thirtieth day of June, two thousand five, shall become a member  
3 of the Teachers' Defined Contribution Retirement System created and  
4 established in this article, or of the Teachers Retirement System  
5 created and established in article seven-a of this chapter,  
6 depending upon which system he or she last contributed to while he  
7 or she was employed with an employer mandating membership and  
8 contributions to one of those plans: *Provided, however*, That a  
9 rehired person who thereby becomes a member of the Teachers'  
10 Defined Contribution Retirement System may become a member of the  
11 Teachers Retirement System within the applicable time periods and  
12 upon meeting the requirements provided in article seven-d of this  
13 chapter: *Provided further*, That any person rehired after the  
14 thirty-first day of December, two thousand seven, who did not have  
15 at least one dollar in the Teachers Defined Contribution Retirement  
16 System on the thirty-first day of December, two thousand seven, and  
17 for whom the Teachers Defined Contribution Retirement System was  
18 the system to which he or she last contributed while employed by an  
19 employer who required membership and contributions to one of the  
20 two teachers retirement plans, shall, within ten days of returning  
21 to employment, affirmatively choose to reenter the Teachers Defined  
22 Contribution Retirement System or to become a contributing member  
23 of the Teachers Retirement System. Those rehired prior to the  
24 first day of July, two thousand eight, and who did not have at

1 least one dollar in the Teachers Defined Contribution Retirement  
2 System on the thirty-first day of December, two thousand seven, as  
3 determined by the Consolidated Public Retirement Board, shall be  
4 permitted to voluntarily elect to transfer effective the first day  
5 of August, two thousand eight, upon written request to the  
6 Consolidated Public Retirement Board received no later than the  
7 fifteenth day of July, two thousand eight.

8 **ARTICLE 7D. VOLUNTARY TRANSFER FROM TEACHERS' DEFINED CONTRIBUTION**  
9 **RETIREMENT SYSTEM TO STATE TEACHERS RETIREMENT**  
10 **SYSTEM.**

11 **§18-7D-2. Definitions.**

12 As used in this article, unless the context clearly requires  
13 a different meaning:

14 (1) "Actively contributing member of the Teachers' Defined  
15 Contribution Retirement System" means a member of that retirement  
16 system who was actively contributing to the Teachers' Defined  
17 Contribution Retirement System on the thirty-first day of December,  
18 two thousand seven.

19 (2) "Actuarial Reserve" means the Actuarial Reserve Lump Sum  
20 Value of the additional service credit being purchased by a member  
21 so electing in accordance with the provisions of section six of  
22 this article.

23 (3) "Actuarial Reserve Adjusted Salary" means either:

24 (A) For a member with a full year service credit in the fiscal

1 year ending the thirtieth day of June, two thousand seven, the  
2 member's two thousand seven fiscal year salary increased by seven  
3 percent;

4 (B) For a member with less than a full year service credit in  
5 the fiscal year ending the thirtieth day of June, two thousand  
6 seven, the member's two thousand seven fiscal year salary  
7 annualized to a full year based on the partial year service credit  
8 increased by seven percent; or

9 (C) For a member without service credit in the fiscal year  
10 ending the thirtieth day of June, two thousand seven, the member's  
11 annualized contract salary in effect on the thirty-first day of  
12 December, two thousand seven increased by seven percent, or the  
13 member's annual contract salary on the date of rehire if after the  
14 thirty-first day of December, two thousand seven.

15 (4) "Actuarial Reserve Benefit Date" means the first day of  
16 the month coincident with or next following the date at which the  
17 member attains the age of sixty, or the thirtieth day of June, two  
18 thousand nine, whichever is later.

19 (5) "Actuarial Reserve Benefit Date Factors" mean the  
20 actuarial lump sum value factors based on a life only annuity  
21 starting on the Actuarial Reserve Benefit Date applying the 1983  
22 Group Annuity Mortality Tables on a seventy-five percent female and  
23 a twenty-five percent male blended Unisex basis and interest at  
24 seven and one-half percent.

1           (6) "Actuarial Reserve Discount Factor" means the annual  
2 discount factor applied for the period between the thirtieth day of  
3 June, two thousand nine and the Actuarial Reserve Benefit Date, if  
4 any. Such factor based on the State Teachers Retirement System  
5 actuarial valuation assumptions shall estimate the impact of  
6 mortality, disability, and economic factors for such discount  
7 period by application of a net four percent discount rate.

8           (7) "Actuarial Reserve Lump Sum Value" means a single sum  
9 amount calculated as: A benefit of two percent multiplied by the  
10 Defined Contribution Retirement System service credit being  
11 purchased multiplied by the Actuarial Reserve Adjusted Salary; such  
12 benefit multiplied by the Actuarial Reserve Benefit Date Factors to  
13 determine the lump sum value multiplied by the Actuarial Reserve  
14 Discount Factor.

15           (8) "Affirmatively elect to transfer" means the voluntary  
16 execution and delivery to the Consolidated Public Retirement Board,  
17 by a member of the Teachers' Defined Contribution Retirement System  
18 of a document in a form prescribed by the board that irrevocably  
19 authorizes the board to transfer the member and all the member's  
20 assets in the Teachers' Defined Contribution Retirement System to  
21 the State Teachers Retirement System: *Provided*, That delivery of  
22 the document to the Consolidated Public Retirement Board may be  
23 accomplished through submission of the document to the supervisor  
24 of a work site pursuant to section seven of this article:

1 *Provided, however,* That any previous member of the state Teachers  
2 Retirement System who voluntarily elected to terminate his or her  
3 membership in the State Teachers Retirement System to become a  
4 member of the Teachers' Defined Contribution Retirement System and  
5 signed an irrevocable transfer request also may affirmatively elect  
6 to transfer notwithstanding the prior transfer request.

7 (9) "Assets" means all member contributions and employer  
8 contributions made on the member's behalf to the Defined  
9 Contribution Retirement System and earnings thereon, less any  
10 applicable fees as approved by the board: *Provided,* That if a  
11 member has withdrawn or cashed out any amounts, the amounts must  
12 have been repaid.

13 (10) "Board" means the Consolidated Public Retirement Board  
14 established in article ten-d, chapter five of this code, and its  
15 employees.

16 (11) "Date of transfer" means, in the event that sixty-five  
17 percent or more of the actively contributing members of the Defined  
18 Contribution Retirement System affirmatively elect to transfer to  
19 the State Teachers Retirement System within the period provided in  
20 section seven of this article, the first day of July, two thousand  
21 eight: *Provided,* That for any member whose election to transfer  
22 was received by the board after the twelfth day of May, two  
23 thousand eight, but on or before the twentieth day of May, two  
24 thousand eight, and has not been certified as accepted by the board

1 on or before the effective date of the amendments to this section  
2 enacted during the second extraordinary session of the Legislature,  
3 two thousand eight, "date of transfer" means the first day of  
4 August, two thousand eight.

5 (12) "Defined Contribution Retirement System" means the  
6 Teachers' Defined Contribution Retirement System established in  
7 article seven-b of this chapter.

8 (13) "Member" means any person who has an account balance  
9 standing to his or her credit in the Teachers' Defined Contribution  
10 Retirement System.

11 (14) "Salary" means:

12 (A) For a member contributing to the Defined Contribution  
13 Retirement System during the two thousand seven fiscal year, the  
14 actual salary earned for the two thousand seven fiscal year divided  
15 by the employment service earned in the two thousand seven fiscal  
16 year.

17 (B) For a member not contributing to the Defined Contribution  
18 Retirement System during the two thousand seven fiscal year, the  
19 contract salary on the date of rehire.

20 (15) "State Teachers Retirement System" means the State  
21 Teachers Retirement System established in article seven-a of this  
22 chapter.

23 **§18-7D-5. Conversion of assets from Defined Contribution**  
24 **Retirement System to State Teachers Retirement**

1                   **System; contributions; loans.**

2           (a) If at least sixty-five percent of actively contributing  
3 members of the Teachers' Defined Contribution Retirement System  
4 affirmatively elect to transfer to the State Teachers Retirement  
5 System within the period provided in section seven of this article,  
6 then the Consolidated Public Retirement Board shall transfer the  
7 members and all properties held in the Teachers' Defined  
8 Contribution Retirement System's Trust Fund in trust for those  
9 members who affirmatively elected to do so during that period to  
10 the State Teachers Retirement System, effective on the first day of  
11 July, two thousand eight: *Provided*, That the board shall, for any  
12 member whose election to transfer was received by the board after  
13 the twelfth day of May, two thousand eight, but on or before the  
14 twentieth day of May, two thousand eight, and has not been  
15 certified as accepted by the board on or before the effective date  
16 of the amendments to this section enacted during the second  
17 extraordinary session of the Legislature, two thousand eight,  
18 effectuate the transfer as provided in this subsection on the first  
19 day of August, two thousand eight.

20           (b) The board shall make available to each member a loan for  
21 the purpose of paying all or part of the Actuarial Reserve, or if  
22 available in accordance with the provisions of subsection (d),  
23 section six of this article, the one and one-half percent  
24 contribution for service in the Teachers' Defined Contribution

1 System to receive additional service credit in the State Teachers  
2 Retirement System for service in the Teachers' Defined Contribution  
3 Retirement System pursuant to section six of this article. The  
4 loan shall be offered in accordance with the provisions of section  
5 thirty-four, article seven-a of this chapter.

6 (1) Notwithstanding any provision of this code, rule or policy  
7 of the board to the contrary, the interest rate on any loan may not  
8 exceed seven and one-half percent per annum. The total amount  
9 borrowed may not exceed forty thousand dollars: *Provided*, That the  
10 loan may not exceed the limitations of the Internal Revenue Code  
11 Section 72(p).

12 (2) In the event a loan made pursuant to this section is used  
13 to pay the Actuarial Reserve or the one and one-half percent  
14 contribution, as the case may be, the board shall make any  
15 necessary adjustments at the time the loan is made.

16 (3) The board shall make this loan available until the  
17 thirtieth day of June, two thousand nine.

18 (c) The board shall develop and institute a payroll deduction  
19 program for repayment of the loan established in this section.

20 (d) If at least sixty-five percent of actively contributing  
21 members of the Teachers' Defined Contribution Retirement System  
22 affirmatively elect to transfer to the State Teachers Retirement  
23 System within the period provided in section seven of this article:

24 (1) As of the first day of July, two thousand eight, or the

1 first day of August, two thousand eight, as the case may be, the  
2 transferred members' contribution rate becomes six percent of his  
3 or her salary or wages; and

4       (2) All transferred members who work one hour or more and who  
5 make a contribution into the State Teachers Retirement System on or  
6 after the first day of July, two thousand eight, are governed by  
7 the provisions of article seven-a of this chapter, subject to the  
8 provisions of this article.

9       (e) Subject to the provisions of subdivision (1) of this  
10 subsection, if a member has withdrawn or cashed out part of his or  
11 her assets, that member will not receive credit for those moneys  
12 cashed out or withdrawn. The board shall make a determination as  
13 to the amount of credit a member loses based on the periods of time  
14 and the amounts he or she has withdrawn or cashed out, which shall  
15 be expressed as a loss of service credit.

16       (1) A member may repay those amounts he or she previously  
17 cashed out or withdrew, along with interest as determined by the  
18 board, and receive the same credit as if the withdrawal or cash-out  
19 never occurred. To receive full credit for the cashed-out or  
20 withdrawn amounts being repaid to the State Teachers Retirement  
21 System, the member also shall pay the actuarial reserve, or the one  
22 and one-half percent contribution, as the case may be, pursuant to  
23 section six of this article.

24       (2) The loan provided in this section is not available to

1 members to repay previously cashed out or withdrawn moneys.

2 (3) If the repayment occurs five or more years following the  
3 cash-out or withdrawal, the member also shall repay any forfeited  
4 employer contribution account balance along with interest  
5 determined by the board.

6 (f) Notwithstanding any provision of subsection (e) to the  
7 contrary, if a member has cashed out or withdrawn any of his or her  
8 assets after the last day of June, two thousand three, and that  
9 member chooses to repurchase that service after the thirtieth day  
10 of June, two thousand eight, the member shall repay the previously  
11 distributed amounts and any applicable interest to the State  
12 Teachers Retirement System.

13 (g) Any service in the State Teachers Retirement System a  
14 member has before the date of the transfer is not affected by the  
15 provisions of this article.

16 (h) The board shall take all necessary steps to see that the  
17 voluntary transfers of persons and assets authorized by this  
18 article do not affect the qualified status with the Internal  
19 Revenue Service of either retirement plan.

20 **§18-7D-6. Service credit in State Teachers Retirement System**  
21 **following transfer; conversion of assets;**  
22 **adjustments.**

23 (a) Any member who has affirmatively elected to transfer to  
24 the State Teachers Retirement System within the period provided in

1 section seven of this article whose assets have been transferred  
2 from the Teachers' Defined Contribution Retirement System to the  
3 State Teachers Retirement System pursuant to the provisions of this  
4 article and who has not made any withdrawals or cash-outs from his  
5 or her assets is, depending upon the percentage of actively  
6 contributing members affirmatively electing to transfer, entitled  
7 to service credit in the State Teachers Retirement System in  
8 accordance with the provisions of subsections (c) or (d) of this  
9 section.

10 (b) Any such member who has made withdrawals or cash-outs will  
11 receive service credit based upon the amounts transferred. The  
12 board shall make the appropriate adjustment to the service credit  
13 the member will receive.

14 (c) If at least sixty-five percent but less than seventy-five  
15 percent of actively contributing members of the Teachers' Defined  
16 Contribution Retirement System affirmatively elect to transfer to  
17 the State Teachers Retirement System within the period provided in  
18 section seven of this article, for any member of the Defined  
19 Contribution Retirement System who elects to transfer to the State  
20 Teachers Retirement System, his or her service credit in the State  
21 Teachers Retirement System is determined as follows:

22 (1) For any member affirmatively electing to transfer, the  
23 member's State Teachers Retirement System credit shall be  
24 seventy-five percent of the member's Teachers' Defined Contribution

1 Retirement System service credit, less any service previously  
2 withdrawn by the member or due to a qualified domestic relations  
3 order and not repaid;

4 (2) To receive full credit in the State Teachers Retirement  
5 System for service in the Teachers' Defined Contribution Retirement  
6 System for which assets are transferred, transferring members shall  
7 have the option to pay into the State Teachers Retirement System  
8 the Actuarial Reserve, as defined in section two of this article,  
9 by no later than the thirtieth day of June, two thousand nine.

10 (d) If at least seventy-five percent of actively contributing  
11 members of the Teachers' Defined Contribution Retirement System  
12 affirmatively elect to transfer to the State Teachers Retirement  
13 System within the period provided in section seven of this article,  
14 for any member of the Defined Contribution Retirement System who  
15 elects to transfer to the State Teachers Retirement System, his or  
16 her service credit in the State Teachers Retirement System is  
17 determined as follows:

18 (1) For any member affirmatively electing to transfer, the  
19 member's State Teachers Retirement System credit shall be  
20 seventy-five percent of the member's Teachers' Defined Contribution  
21 Retirement System service credit , less any service previously  
22 withdrawn by the member or due to a qualified domestic relations  
23 order and not repaid;

24 (2) To receive full credit in the State Teachers Retirement

1 System for service in the Teachers' Defined Contribution Retirement  
2 System for which assets are transferred, members who affirmatively  
3 elected to transfer shall pay into the State Teachers Retirement  
4 System a one and one-half percent contribution by no later than the  
5 thirtieth day of June, two thousand nine. This contribution shall  
6 be calculated as one and one-half percent of the member's estimated  
7 total earnings for which assets are transferred, plus interest of  
8 four percent per annum accumulated from the date of the member's  
9 initial participation in the Defined Contribution Retirement  
10 System.

11 (A) For a member contributing to the Defined Contribution  
12 Retirement System at any time during the two thousand eight fiscal  
13 year and commencing membership in the State Teachers Retirement  
14 System on the first day of July, two thousand eight, or the first  
15 day of August, two thousand eight, as the case may be:

16 (i) The estimated total earnings shall be calculated based on  
17 the member's salary and the member's age nearest birthday on the  
18 thirtieth day of June, two thousand eight;

19 (ii) This calculation shall apply both an annual backward  
20 salary scale from that date for prior years' salaries and a forward  
21 salary scale for the salary for the two thousand eight fiscal year.

22 (B) The calculations in paragraph (A) of this subdivision are based  
23 upon the salary scale assumption applied in the West Virginia  
24 Teachers Retirement System Actuarial Valuation as of the first day

1 of July, two thousand seven, prepared for the Consolidated Public  
2 Retirement Board. This salary scale shall be applied regardless of  
3 breaks in service.

4 (e) All service previously transferred from the State Teachers  
5 Retirement System to the Teachers' Defined Contribution Retirement  
6 System is considered Teachers' Defined Contribution Retirement  
7 System service for the purposes of this article.

8 (f) Notwithstanding any provision of this code to the  
9 contrary, the retirement of a member who becomes eligible to retire  
10 after the member's assets are transferred to the State Teachers  
11 Retirement System pursuant to the provisions of this article may  
12 not commence prior to the first day of September, two thousand  
13 eight: *Provided*, That the Consolidated Public Retirement Board may  
14 not retire any member who is eligible to retire during the calendar  
15 year two thousand eight during the calendar year two thousand eight  
16 unless the member has provided a written notice to his or her  
17 county board of education by the first day of July, two thousand  
18 eight, of his or her intent to retire.

19 **§18-7D-7. Period for affirmative election to transfer; board may**  
20 **contract for professional services.**

21 (a) The board shall provide the members of the Teachers'  
22 Defined Contribution Retirement System an opportunity to  
23 voluntarily execute and deliver to the Consolidated Public  
24 Retirement Board, or its designee, a written document in a form

1 prescribed by the board that irrevocably authorizes the board to  
2 transfer the member and all the member's assets in the Teachers'  
3 Defined Contribution Retirement System to the State Teachers  
4 Retirement System in accordance with the provisions of this  
5 article.

6 (b) If at least sixty-five percent of actively contributing  
7 members of the Teachers' Defined Contribution Retirement System  
8 affirmatively elect to transfer to the State Teachers Retirement  
9 System:

10 (1) The Consolidated Public Retirement Board shall, for each  
11 member who affirmatively elected to transfer as provided in this  
12 section, transfer the assets held in the Teachers' Defined  
13 Contribution Retirement System's Trust Fund in trust for that  
14 member to the State Teachers Retirement System on the first day of  
15 July, two thousand eight: *Provided*, That the board shall, for each  
16 member whose election to transfer was received by the board after  
17 the twelfth day of May, two thousand eight, but on or before the  
18 twentieth day of May, two thousand eight, and has not been  
19 certified as accepted by the board on or before the effective date  
20 of the amendments to this section enacted during the second  
21 extraordinary session of the Legislature, two thousand eight,  
22 transfer the assets of such member as provided in this subdivision  
23 on the first day of August, two thousand eight;

24 (2) On the first day of July, two thousand eight, or the first

1 day of August, two thousand eight, as the case may be, each member  
2 who so elected becomes a member of the State Teachers Retirement  
3 System and after working one or more hours and contributing to the  
4 State Teachers Retirement System is entitled to the benefits of the  
5 State Teachers Retirement System; and

6 (3) Each such member is governed by the provisions of the  
7 State Teachers Retirement System subject to the provisions of this  
8 article.

9 (c) If fewer than sixty-five percent of actively contributing  
10 members of the Teachers' Defined Contribution Retirement System  
11 affirmatively elect to transfer to the State Teachers Retirement  
12 System, the transfers described in this section shall not occur.

13 (d) Any person who has one dollar or more in assets in the  
14 Teachers' Defined Contribution Retirement System on the last day of  
15 December, two thousand seven, may and is eligible to affirmatively  
16 elect to transfer to the State Teachers Retirement System as  
17 provided in this section. For purposes of this article:

18 (1) The tabulation of the percentage required for transfer as  
19 required in this article shall only include documents affirmatively  
20 electing to transfer submitted under the provisions of this  
21 subsection by those who are actively contributing members of the  
22 Teachers' Defined Contribution Retirement System as that term is  
23 defined in section two of this article; and

24 (2) Notwithstanding the opportunity to submit documents

1 affirmatively electing to transfer extended by this article to  
2 members other than those who are actively contributing members of  
3 the Teachers' Defined Contribution Retirement System, there shall  
4 be no duty or other obligation on the part of the board to provide  
5 any education, information or notice regarding matters contained in  
6 this article to members who are not actively contributing members  
7 of the Teachers' Defined Contribution Retirement System regarding  
8 any matter described in this article, nor any right on the part of  
9 those other members to receive the same.

10 (e) Notwithstanding any other provision of this code to the  
11 contrary, the board may do all things necessary and convenient to  
12 maintain the Teachers' Defined Contribution Retirement System and  
13 the State Teachers Retirement System during the transitional period  
14 and may retain the services of the professionals it considers  
15 necessary to do so. The board may also retain the services of  
16 professionals necessary to:

17 (1) Assist in the preparation of educational materials;

18 (2) Assist in the educational process;

19 (3) Assist in the process for submission of the documents  
20 whereby members may affirmatively elect to transfer; and

21 (4) Ensure compliance with all relevant state and federal  
22 laws.

23 (f) Due to the time constraints inherent in the initial  
24 processes established for the submission of documents affirmatively

1 electing to transfer set forth in this article in specific, and due  
2 to the nature of the professional services required by the  
3 Consolidated Public Retirement Board in general, the provisions of  
4 article three, chapter five-a of this code, do not apply to any  
5 materials, contracts for any actuarial services, investment  
6 services, legal services or other professional services authorized  
7 under the provisions of this article and the provisions of article  
8 six, chapter twenty-nine do not apply to any employment of or  
9 contracting for personnel by the board for the purposes of  
10 implementing the provisions of this article.

11 (g) The submission of the documents whereby members may  
12 affirmatively elect to transfer may be held through any method the  
13 board determines is in the best interest of the members: *Provided,*  
14 That for members of the Teachers' Defined Contribution Retirement  
15 System, the submission of the documents whereby those members elect  
16 to transfer shall be pursuant to the procedure established by the  
17 Consolidated Public Retirement Board set forth in subsection (j) of  
18 this section.

19 (h) The period for submission of the documents whereby members  
20 may affirmatively elect to transfer shall begin not later than the  
21 first day of April, two thousand eight. The board shall ascertain  
22 the results of the submissions not later than the last day of May,  
23 two thousand eight. The board shall certify the results of the  
24 submissions to the Governor, the Legislature and the members not

1 later than the fifth day of June, two thousand eight.

2 (i) The submission period terminates and elections to transfer  
3 may not be accepted from a member after the twelfth day of May, two  
4 thousand eight, subject to the following:

5 (1) If elections to transfer are permitted through the mail,  
6 any submission postmarked later than the twelfth day of May, two  
7 thousand eight, is void and may not be counted: *Provided*, That  
8 notwithstanding the provisions of this subdivision, any submission  
9 received by the board on or before the twentieth day of May, two  
10 thousand eight shall be counted;

11 (2) If elections to transfer are delivered to a supervisor on  
12 selection day or on or before the ninth day of May, two thousand  
13 eight, any submission postmarked or deposited with a commercial  
14 carrier later than the thirteenth day of May, two thousand eight,  
15 is void and may not be counted: *Provided*, That notwithstanding the  
16 provisions of this subdivision, any submission received by the  
17 board on or before the twentieth day of May, two thousand eight  
18 shall be counted: *Provided, however*, That delivery by mail must be  
19 by certified mail, return receipt requested or delivery by  
20 commercial courier that requires written confirmation by the board  
21 of delivery;

22 (3) The fifth day of May, two thousand eight, is selection day  
23 upon which each county board and superintendent shall provide an  
24 opportunity in each school within the county for members of the

1 Teachers' Defined Contribution System to affirmatively elect to  
2 transfer.

3       (j) The Consolidated Public Retirement Board shall collaborate  
4 with the state superintendent, the Chancellor for Higher Education  
5 and the Chancellor for Community and Technical College Education to  
6 establish a procedure whereby all actively contributing members of  
7 the Teachers' Defined Contribution Retirement System may deliver to  
8 the Consolidated Public Retirement Board or its designee the  
9 written document authorizing transfer through a supervisor at each  
10 work site where any contributing member of the Defined Contribution  
11 Retirement System is employed. The procedure shall include at  
12 least the following:

13       (1) The supervisor at each work site is responsible for  
14 collecting the written documents authorizing the transfer from all  
15 actively contributing members of the Teachers' Defined Contribution  
16 Retirement System employed at the work site who choose to submit  
17 the written document. The supervisor shall record the receipt of  
18 all written documents authorizing transfer, shall direct the member  
19 submitting the written document to initial a receipt log and shall  
20 issue a receipt to the member submitting the written document.

21       (2) On and after the sixth day of May, two thousand eight, but  
22 on or before the ninth day of May, two thousand eight, the  
23 supervisor at the work site shall make reasonable efforts to  
24 contact verbally and in writing all actively contributing members

1 of the Teachers' Defined Contribution Retirement System employed at  
2 the work site that have not submitted their written documents as of  
3 that date to remind those members of the upcoming deadline for  
4 submitting their written document authorizing transfer: *Provided*,  
5 That failure of the supervisor to make contact with any of those  
6 members shall not be a basis for a cause of action to allow a  
7 member to transfer after the period provided in this section or for  
8 any other cause of action.

9       (3) The supervisor at each work site shall forward all of the  
10 written documents to the Consolidated Public Retirement Board, or  
11 its designee, through certified mail, or delivery by commercial  
12 courier that requires written confirmation by the board of  
13 delivery, no later than the thirteenth day of May, two thousand  
14 eight: *Provided*, That notwithstanding the provisions of this  
15 subdivision, any submission received by the board on or before the  
16 twentieth day of May, two thousand eight, shall be counted. The  
17 work site supervisor shall inform the Consolidated Public  
18 Retirement Board of all of the written documents received each day  
19 so that the board, or its designee, can record which members of the  
20 Teachers' Defined Contribution Retirement System have submitted  
21 their written documents authorizing transfer pursuant to subsection  
22 (k) of this section.

23       (4) For the purposes of this subdivision, the principal of a  
24 school with any of grades prekindergarten through twelve is the

1 work site supervisor. For the purposes of this subdivision, for  
2 any work site under the jurisdiction of the Higher Education Policy  
3 Commission or the West Virginia Council for Community and Technical  
4 College Education, the human resource administrator or other  
5 designee may be considered the work site supervisor. In any case  
6 where the person who is the work site supervisor is in question,  
7 the state board, the Chancellor for Higher Education or the  
8 Chancellor for Community and Technical College Education, whichever  
9 entity has jurisdiction over the work site, shall designate the  
10 supervisor.

11 (5) The state board, the Chancellor for Higher Education and  
12 the Chancellor for Community and Technical College Education shall  
13 ascertain the names of all work site supervisors under their  
14 jurisdiction and transmit a list of the names of the work site  
15 supervisors to the Consolidated Public Retirement Board on or  
16 before the thirty-first day of March, two thousand eight.

17 (k) The Consolidated Public Retirement Board, or its designee,  
18 shall record the receipt of all written documents authorizing the  
19 transfer so that it knows the percentage of contributing members of  
20 the Teachers' Defined Contribution Retirement System that have  
21 submitted the written documents by work site and by county.

22 (l) Notwithstanding any other provision of this article to the  
23 contrary, any member of the Teachers Defined Contribution  
24 Retirement System who was erroneously identified by the employer as

1 being a member of the Teachers Retirement System and who did not  
2 have at least one dollar in the Teachers Defined Contribution  
3 Retirement System on the thirty-first day of December, two thousand  
4 seven and therefore was denied an opportunity to select transfer as  
5 determined by the Consolidated Public Retirement Board, shall be  
6 provided promptly with an opportunity to select membership in the  
7 Teachers Retirement System. The Consolidated Public Retirement  
8 Board is authorized to establish procedures and time periods to  
9 provide notice, education, selection opportunity and transfer for  
10 these members to correct the erroneous assignment to the Teachers  
11 Retirement System.

12 **§18-7D-9. Qualified domestic relations orders.**

13 Any transferring member having a qualified domestic relations  
14 order against his or her defined contribution account is allowed to  
15 repurchase service in the State Teachers Retirement System. The  
16 member shall repay any moneys previously distributed to the  
17 alternate payee along with the interest as set by the board. To  
18 receive full credit for the previous distribution to the alternate  
19 payee pursuant to a qualified domestic relations order being repaid  
20 to the State Teachers Retirement System, the member shall also pay  
21 the Actuarial Reserve, or the one and one-half percent  
22 contribution, as the case may be, pursuant to section six of this  
23 article. The member shall repay by the last day of June, two  
24 thousand fourteen. The provisions of this section are void and of

1 no effect if there is no transfer from the Teachers' Defined  
2 Contribution Retirement System to the State Teachers Retirement  
3 System. An alternate payee is not, solely as a result of that  
4 status, a member of either the Teachers' Defined Contribution  
5 Retirement System or the State Teachers Retirement System for any  
6 purpose under the provisions of this article and no interest held  
7 by the alternate payee is transferred to the State Teachers  
8 Retirement System pursuant thereto.

9 **§18-7D-12. Transferees' eligibility to retire.**

10 (a) For purposes of determining a transferring member's  
11 eligibility for retirement in accordance with section twenty-five,  
12 article seven-a of this chapter, any member who has affirmatively  
13 elected to transfer to the State Teachers Retirement System  
14 pursuant to the provisions of this article shall be fully credited  
15 for his or her years of service in the Teachers' Defined  
16 Contribution Retirement System: *Provided*, That the calculation of  
17 any transferring member's service credit in the State Teachers'  
18 Retirement System following the transfer shall be determined in  
19 accordance with the provisions of section six of this article.

20 (b) For purposes of this section, "years of service" shall  
21 mean all years as a member of the Teachers' Defined Contribution  
22 Retirement System and, in addition thereto, credits for any prior  
23 service, if any: *Provided*, That service previously withdrawn by a  
24 member may not be included in "years of service" unless repaid.

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