

1 **ENROLLED**

2 **H. B. 101**

3  
4 (By Mr. Speaker, Mr. Thompson, and Delegate Armstead)

5 [By Request of the Executive]

6 [Passed March 16, 2008; in effect from passage.]  
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10 AN ACT to repeal §18-7C-1, §18-7C-2, §18-7C-3, §18-7C-4, §18-7C-5,  
11 §18-7C-6, §18-7C-7, §18-7C-8, §18-7C-9, §18-7C-10, §18-7C-11,  
12 §18-7C-12, §18-7C-13, and §18-7C-14 of the Code of West  
13 Virginia, 1931, as amended; to amend and reenact §18-7A-14,  
14 §18-7A-18, §18-7A-34 and §18-7A-40 of said code; to amend and  
15 reenact §18-7B-7, §18-7B-7a and §18-7B-8 of said code; and to  
16 amend said code by adding thereto a new article, designated  
17 §18-7D-1, §18-7D-2, §18-7D-3, §18-7D-4, §18-7D-5, §18-7D-6,  
18 §18-7D-7, §18-7D-8, §18-7D-9, §18-7D-10, and §18-7D-11, all  
19 relating to the State Teachers Retirement System and the  
20 Teachers' Defined Contribution System generally; relating to  
21 the voluntary transfer of assets from the Teachers' Defined  
22 Contribution Retirement System to the State Teachers  
23 Retirement System; computing teachers' service; authorizing  
24 certain loans; providing legislative findings and purpose;

1 providing definitions; providing opportunities for members of  
2 the State Teachers' Defined Contribution Retirement System to  
3 affirmatively elect to transfer their assets to the State  
4 Teacher's Retirement System; establishing requirements and  
5 processes for members to affirmatively elect to transfer;  
6 providing responsibilities of the Consolidated Public  
7 Retirement Board; setting forth dates and time periods for  
8 members to affirmatively elect to transfer; providing for  
9 education about the opportunity to affirmatively elect to  
10 transfer; requiring notice to members; allowing Consolidated  
11 Public Retirement Board to contract directly for professional  
12 services for purposes of performing its responsibilities  
13 related to the voluntary transfer; providing for voluntary  
14 transfer from the Teachers Defined Contribution Retirement  
15 System to the State Teachers Retirement System if sixty-five  
16 percent or more of the actively contributing members  
17 affirmatively elect to transfer; providing for transfer of  
18 assets from the Teachers Defined Contribution Retirement  
19 System to the State Teachers Retirement System upon the  
20 affirmative election of sixty-five percent or more of the  
21 actively contributing members; providing for service credit in  
22 the State Teachers Retirement System; permitting transferring  
23 members to pay an Actuarial Reserve in order to receive full  
24 credit upon transfer if at least sixty-five percent but less

1 than seventy-five percent of actively contributing members  
2 affirmatively elect to transfer; permitting transferring  
3 members to pay a one and one-half percent contribution plus  
4 interest in order to receive full credit upon transfer if  
5 seventy-five percent or more of actively contributing members  
6 affirmatively elect to transfer; addressing withdrawals and  
7 cash outs; addressing qualified domestic relations orders;  
8 providing for vesting and minimum guarantees of benefits for  
9 members affirmatively electing to transfer; and prohibiting  
10 retirement without appropriate notice.

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

12 That §18-7C-1, §18-7C-2, §18-7C-3, §18-7C-4, §18-7C-5, §18-7C-  
13 6, §18-7C-7, §18-7C-8, §18-7C-9, §18-7C-10, §18-7C-11, §18-7C-12,  
14 §18-7C-13, and §18-7C-14 of the Code of West Virginia, 1931, as  
15 amended, be repealed; that §18-7A-14, §18-7A-18, §18-7A-34 and §18-  
16 7A-40 of said code be amended and reenacted; that §18-7B-7, §18-7B-  
17 7a and §18-7B-8 of said code be amended and reenacted; and that  
18 said code be amended by adding thereto a new article, designated  
19 §18-7D-1, §18-7D-2, §18-7D-3, §18-7D-4, §18-7D-5, §18-7D-6, §18-7D-  
20 7, §18-7D-8, §18-7D-9, §18-7D-10, and §18-7D-11, all to read as  
21 follows:

22 **ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.**

23 **§18-7A-14. Contributions by members; contributions by employers.**

24 (a) At the end of each month every member of the retirement

1 system shall contribute six percent of that member's monthly gross  
2 salary to the retirement board: *Provided*, That any member employed  
3 by a state institution of higher education shall contribute on the  
4 member's full earnable compensation, unless otherwise provided in  
5 section fourteen-a of this article. The sums are due the Teachers  
6 Retirement System at the end of each calendar month in arrears and  
7 shall be paid not later than fifteen days following the end of the  
8 calendar month. Each remittance shall be accompanied by a detailed  
9 summary of the sums withheld from the compensation of each member  
10 for that month on forms, either paper or electronic, provided by  
11 the Teachers Retirement System for that purpose.

12 (b) Annually, the contributions of each member shall be  
13 credited to the member's account in the Teachers Retirement System  
14 Fund. The contributions shall be deducted from the salaries of the  
15 members as prescribed in this section and every member shall be  
16 considered to have given consent to the deductions. No deductions,  
17 however, shall be made from the earnable compensation of any member  
18 who retired because of age or service and then resumed service  
19 unless as provided in section thirteen-a of this article.

20 (c) The aggregate of employer contributions, due and payable  
21 under this article, shall equal annually the total deductions from  
22 the gross salary of members required by this section. Beginning the  
23 first day of July, one thousand nine hundred ninety-four, the rate  
24 shall be seven and one-half percent; beginning on the first day of

1 July, one thousand nine hundred ninety-five, the rate shall be nine  
2 percent; beginning on the first day of July, one thousand nine  
3 hundred ninety-six, the rate shall be ten and one-half percent;  
4 beginning on the first day of July, one thousand nine hundred  
5 ninety-seven, the rate shall be twelve percent; beginning on the  
6 first day of July, one thousand nine hundred ninety-eight, the rate  
7 shall be thirteen and one-half percent; and beginning on the first  
8 day of July, one thousand nine hundred ninety-nine and thereafter,  
9 the rate shall be fifteen percent: *Provided*, That the rate shall be  
10 seven and one-half percent for any individual who becomes a member  
11 of the Teachers Retirement System for the first time on or after  
12 the first day of July, two thousand five, or any individual who  
13 becomes a member of the Teachers Retirement System as a result of  
14 the voluntary transfer contemplated in article seven-d of this  
15 chapter.

16 (d) Payment by an employer to a member of the sum specified in  
17 the employment contract minus the amount of the employee's  
18 deductions shall be considered to be a full discharge of the  
19 employer's contractual obligation as to earnable compensation.

20 (e) Each contributor shall file with the retirement board or  
21 with the employer to be forwarded to the retirement board an  
22 enrollment form showing the contributor's date of birth and other  
23 data needed by the retirement board.

24 **§18-7A-18. Teachers Employers Contribution Collection Account;**

1                                   **Teachers Retirement System Fund; transfers.**

2           (a) There is hereby created in the State Treasury a special  
3 revenue account designated the "Teachers Employers Contribution  
4 Collection Account" to be administered by the Consolidated Public  
5 Retirement Board. The Teachers Employers Contribution Collection  
6 Account shall be an interest-bearing account with interest credited  
7 to and deposited in the account and transferred in accordance with  
8 the provisions of this section.

9           (b) There shall be deposited into the Teachers Employers  
10 Contribution Collection Account the following:

11           (1) Contributions of employers, through state appropriations,  
12 and such amounts shall be included in the budget bill submitted  
13 annually by the Governor;

14           (2) Beginning on the first day of July, two-thousand five,  
15 contributions from each county in an amount equal to fifteen  
16 percent of all salary paid in excess of that authorized for minimum  
17 salaries in sections two and eight-a, article four, chapter  
18 eighteen-a of this code and any salary equity authorized in section  
19 five of said article or any county supplement equal to the amount  
20 distributed for salary equity among the counties for each  
21 individual who was a member of the Teachers' Retirement System  
22 before the first day of July, two-thousand five: *Provided*, That  
23 the rate shall be seven and one-half percent for any individual who  
24 becomes a member of the Teachers Retirement System for the first

1 time on or after the first day of July, two-thousand five or any  
2 individual who becomes a member of the Teachers' Retirement System  
3 as a result of the transfer contemplated in article seven-d of this  
4 chapter;

5 (3) The amounts transferred pursuant to section eighteen-a of  
6 this article; and

7 (4) Any other moneys, available and not otherwise expended,  
8 which may be appropriated or transferred to this account.

9 (c) Moneys on deposit in the Teacher Employers Contribution  
10 Collection Account shall be transferred monthly in the following  
11 order:

12 (1) To the Teachers' Retirement System Fund the amount  
13 certified by the Consolidated Public Retirement Board as the  
14 actuarially required contribution; and

15 (2) The balance, if any, to the Employee Pension and Health  
16 Care Benefits Fund established under section thirty-nine, article  
17 seven-a of this chapter.

18 (d) There is hereby continued in the State Treasury a separate  
19 irrevocable trust designated the Teachers' Retirement System Fund.  
20 The Teachers' Retirement System Fund shall be invested as provided  
21 in section nine-a, article six, chapter twelve of this code.

22 (e) There shall be deposited into the Teachers' Retirement  
23 System Fund, the following:

24 (1) Moneys transferred from the Teachers Employers

1 Contribution Collection Account;

2 (2) Member contributions provided for in section fifteen of  
3 this article;

4 (3) Gifts and bequests to the fund and any accretions and  
5 accumulations which may properly be paid into and become a part of  
6 the fund;

7 (4) Specific appropriations to the fund made by the  
8 Legislature;

9 (5) Interest on the investment of any part or parts of the  
10 fund; and

11 (6) Any other moneys, available and not otherwise expended,  
12 which may be appropriated or transferred to the Teachers Retirement  
13 System or the Fund.

14 (f) The Teachers Retirement System Fund shall be the fund from  
15 which annuities shall be paid.

16 (g) The Consolidated Public Retirement Board has sole  
17 authority to direct and approve the making of any and all fund  
18 transfers as provided in this section, anything in this code to the  
19 contrary notwithstanding.

20 (h) References in the code to the Teachers Accumulation Fund,  
21 the Employers Accumulation Fund, the Benefit Fund, the Reserve Fund  
22 and the Expense Fund mean the Teachers Retirement System Fund.

23 **§18-7A-34. Loans to members.**

24 (a) An actively contributing member of the retirement system

1 upon written application may borrow from his or her individual  
2 account in the Teachers Retirement System, subject to these  
3 restrictions:

4 (1) Loans shall be made in multiples of ten dollars, the  
5 minimal loan being one hundred dollars and the maximum being eight  
6 thousand dollars: *Provided*, That the maximum amount of any loan  
7 when added to the outstanding balance of all other loans shall not  
8 exceed the lesser of the following: (A) Eight thousand dollars  
9 reduced by the excess (if any) of the highest outstanding balance  
10 of loans during the one-year period ending on the day before the  
11 date on which the loan is made, over the outstanding balance of  
12 loans to the member on the date on which the loan is made; or (B)  
13 fifty percent of the member's contributions to his or her  
14 individual account in the Teachers Retirement System: *Provided*,  
15 *however*, That if the total amount of loaned money outstanding  
16 exceeds forty million dollars, the maximum shall not exceed three  
17 thousand dollars until the Retirement Board determines that loans  
18 outstanding have been reduced to an extent that additional loan  
19 amounts are again authorized: *Provided further*, That the amount of  
20 any loan made pursuant to article seven-d of this chapter is not  
21 included for the purposes of determining if the forty million  
22 dollar threshold has been exceeded.

23 (2) Interest charged on the amount of the loan shall be six  
24 percent per annum, or a higher rate as set by the Board: *Provided*,

1 That interest charged shall be commercially reasonable in  
2 accordance with the provisions of section 72(p)(2) of the Internal  
3 Revenue Code, and the federal regulations issued thereunder. If  
4 repayable in installments, the interest shall not exceed the annual  
5 rate so established upon the principal amount of the loan, for the  
6 entire period of the loan, and such charge shall be added to the  
7 principal amount of the loan. The minimal interest charge shall be  
8 for six months.

9 (3) No member is eligible for more than one outstanding loan  
10 at any time: *Provided*, That the foregoing provision does not apply  
11 to any loan made pursuant to article seven-d of this chapter. Upon  
12 full payment of a loan, a member may apply for a subsequent loan  
13 after sixty days beginning the first day of the month following  
14 receipt of final payment.

15 (4) If a refund is payable to the borrower or his or her  
16 beneficiary before he or she repays the loan with interest, the  
17 balance due with interest to date shall be deducted from the  
18 refund.

19 (5) From his or her monthly salary as a teacher or a  
20 nonteacher the member shall pay the loan and interest by deductions  
21 which will pay the loan and interest in substantially level  
22 payments in not more than sixty nor less than six months. Upon  
23 notice of loan granted and payment due, the employer is responsible  
24 for making the salary deductions and reporting them to the

1 Retirement Board. At the option of the board, loan deductions may  
2 be collected as prescribed herein for the collection of members'  
3 contribution, or may be collected through issuance of warrant by  
4 employer. If the borrower is no longer employed as a teacher or  
5 nonteaching member, the borrower must make monthly loan payments  
6 directly to the Consolidated Public Retirement Board and the Board  
7 must accept the payments.

8 (6) The entire unpaid balance of any loan, and interest due  
9 thereon, shall, at the option of the board, become due and payable  
10 without further notice or demand upon the occurrence with respect  
11 to the borrowing member of any of the following events of default:  
12 (A) Any payment of principal and accrued interest on a loan remains  
13 unpaid after it becomes due and payable under the terms of the loan  
14 or after the grace period established in the discretion of the  
15 Board; (B) the borrowing member attempts to make an assignment for  
16 the benefit of creditors of his or her refund or benefit under the  
17 retirement system; or (C) any other event of default set forth in  
18 rules promulgated by the board in accordance with the authority  
19 granted pursuant to section one, article ten-d, chapter five of  
20 this code: *Provided*, That any refund or offset of an unpaid loan  
21 balance shall be made only at the time the member is entitled to  
22 receive a distribution under the retirement system.

23 (7) Loans shall be evidenced by such form of obligations and  
24 shall be made upon such additional terms as to default, prepayment,

1 security, and otherwise as the board determines.

2       (8) Notwithstanding anything herein to the contrary, the loan  
3 program authorized by this section shall comply with the provisions  
4 of Section 72(p)(2) and Section 401 of the Internal Revenue Code,  
5 and the federal regulations issued thereunder, and accordingly, the  
6 Retirement Board is authorized to: (A) Apply and construe the  
7 provisions of this section and administer the plan loan program in  
8 such a manner as to comply with the provisions of Section 72(p)(2)  
9 and Section 401 of the Internal Revenue Code and the federal  
10 regulations issued thereunder; (B) adopt plan loan policies or  
11 procedures consistent with these federal law provisions; and (C)  
12 take such actions as it deems necessary or appropriate to  
13 administer the plan loan program created hereunder in accordance  
14 with these federal law provisions. The Retirement Board is further  
15 authorized in connection with the plan loan program to take any  
16 actions that may at any time be required by the Internal Revenue  
17 Service regarding compliance with the requirements of Section  
18 72(p)(2) or Section 401 of the Internal Revenue Code, and the  
19 federal regulations issued thereunder, notwithstanding any  
20 provision in this article to the contrary.

21       (b) Notwithstanding anything in this article to the contrary,  
22 the loan program authorized by this section shall not be available  
23 to any teacher or nonteacher who becomes a member of the Teachers  
24 Retirement System on or after the first day of July, two thousand

1 five: *Provided*, That a member is eligible for a loan under article  
2 seven-d of this chapter to pay all or part of the Actuarial  
3 Reserve, or if available in accordance with the provisions of  
4 subsection (d), section six, article seven-d of this chapter, the  
5 one and one-half percent contribution for service in the Teachers'  
6 Defined Contribution System for the purpose of receiving additional  
7 service credit in the State Teachers Retirement System pursuant to  
8 section six, article seven-d, of this chapter.

9 **§18-7A-40. Higher education employees.**

10 Nothing in this article or article seven-b of this chapter  
11 shall be construed:

12 (1) To be in conflict with section four-a, article  
13 twenty-three, chapter eighteen of this code; or

14 (2) To affect the membership of higher education employees who  
15 are currently members of either the State Teachers Retirement  
16 System created in this article or the Teachers' Defined  
17 Contribution Retirement System created in article seven-b of this  
18 chapter: *Provided*, That any higher education employees who are  
19 currently members of the Teachers' Defined Contribution Retirement  
20 System may become members of the Teachers Retirement System upon  
21 meeting the requirements of article seven-d of this chapter.

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

23 **§18-7B-7. Participation in Teachers' Defined Contribution**  
24 **Retirement System; limiting participation in**

1                                   **existing Teachers Retirement System.**

2           (a) Beginning the first day of July, one thousand nine hundred  
3 ninety-one, and except as provided in this section, the Teachers'  
4 Defined Contribution Retirement System shall be the single  
5 retirement program for all new employees whose employment commences  
6 on or after that date and all new employees shall be required to  
7 participate. No additional new employees except as may be provided  
8 in this section may be admitted to the existing Teachers Retirement  
9 System.

10          (b) Members of the existing Teachers Retirement System whose  
11 employment continues beyond the first day of July, one thousand  
12 nine hundred ninety-one, and those whose employment was terminated  
13 after the thirtieth day of June, one thousand nine hundred  
14 ninety-one, under a reduction in force are not affected by  
15 subsection (a) of this section and shall continue to contribute to  
16 and participate in the existing Teachers Retirement System without  
17 a change in plan provisions or benefits.

18          (c) Any person who was previously a member of the Teachers  
19 Retirement System and who left participating employment before the  
20 creation of the Teachers' Defined Contribution Retirement System on  
21 the first day of July, one thousand nine hundred ninety-one, and  
22 who later returns to participating employment after the effective  
23 date of this section shall return to the existing Teachers  
24 Retirement System.

1 (d) Any person who was, prior to the first day of July, one  
2 thousand nine hundred ninety-one, a member of the existing Teachers  
3 Retirement System who left participating employment before the  
4 creation of the Teachers' Defined Contribution Retirement System on  
5 the first day of July, one thousand nine hundred ninety-one, and  
6 who later returned to participating employment after that date and  
7 who was precluded from returning to the existing Teachers  
8 Retirement System as a result of prior provisions of this section,  
9 may become a member of the Teachers Retirement System upon meeting  
10 the requirements provided in article seven-d of this chapter.

11 (e) Any employee whose employment with an employer was  
12 suspended or terminated while he or she served as an officer with  
13 a statewide professional teaching association, is eligible for  
14 readmission to the existing retirement system in which he or she  
15 was a member.

16 (f) An employee whose employment with an employer or an  
17 existing employer is suspended as a result of an approved leave of  
18 absence, approved maternity or paternity break in service or any  
19 other approved break in service authorized by the Board is eligible  
20 for readmission to the existing retirement system in which he or  
21 she was a member.

22 (g) In all cases in which a question exists as to the right of  
23 an employee to readmission to membership in the existing Teachers  
24 Retirement System, the Consolidated Public Retirement Board shall

1 decide the question.

2       (h) Any individual who is not a "member" or "employee" as  
3 defined by section two of this article and any individual who is a  
4 leased employee is not eligible to participate in the Teachers'  
5 Defined Contribution Retirement System. For purposes of this  
6 section, a "leased" employee means any individual who performs  
7 services as an independent contractor or pursuant to an agreement  
8 with an employee leasing organization or other similar  
9 organization. In all cases in which a question exists as to  
10 whether an individual is eligible for membership in this system,  
11 the Consolidated Public Retirement Board shall decide the question.

12       (i) Effective the first day of July, two thousand five and  
13 continuing through the first day of two thousand six, any employee  
14 of River Valley Child Development Services, Inc., who is a member  
15 of the Teachers' Defined Contribution Retirement System may elect  
16 to withdraw from membership and join the private pension plan  
17 provided by River Valley Child Development Services, Inc.

18       (j) River Valley Child Development Services, Inc., and its  
19 successors in interest shall provide for their employees a pension  
20 plan in lieu of the Teachers' Defined Contribution Retirement  
21 System on or before the first day of July, two thousand five, and  
22 continuing thereafter during the existence of the River Valley  
23 Child Development Services, Inc., and its successors in interest.  
24 All new employees hired after the thirtieth day of June, two

1 thousand five, shall participate in the pension plan in lieu of the  
2 Teachers' Defined Contribution Retirement System.

3 (k) The administrative body of River Valley Child Development  
4 Services, Inc., shall, on or before the first day of June, two  
5 thousand five, give written notice to each employee who is a member  
6 of the Teachers' Defined Contribution Retirement System of the  
7 option to withdraw from or remain in the system. The notice shall  
8 include a copy of this section and a statement explaining the  
9 member's options regarding membership. The notice shall include a  
10 statement in plain language giving a full explanation and actuarial  
11 projection figures, prepared by an independent actuary, in support  
12 of the explanation regarding the individual member's current  
13 account balance, vested and nonvested, and his or her projected  
14 return upon remaining in the Teacher's Defined Contribution  
15 Retirement System until retirement, disability or death, in  
16 comparison with the projected return upon withdrawing from the  
17 Teachers' Defined Contribution Retirement System and joining a  
18 private pension plan provided by River Valley Child Development  
19 Center, Inc., and remaining therein until retirement, disability or  
20 death. The administrative body shall keep in its records a  
21 permanent record of each employee's signature confirming receipt of  
22 the notice.

23 **§18-7B-7a. Plan closed to persons employed for the first time**  
24 **after June, 2005; former employees.**

1           The retirement system created and established in this article  
2 shall be closed and no new members accepted in the system after the  
3 thirtieth day of June, two thousand five. Notwithstanding the  
4 provisions of sections seven and eight of this article, all persons  
5 who are regularly employed for full-time service as a member or an  
6 employee whose initial employment commences after the thirtieth day  
7 of June, two thousand five, shall become a member of the State  
8 Teachers' Retirement System created and established in article  
9 seven-a of this chapter: *Provided*, That any person rehired after  
10 the thirtieth day of June, two thousand five, shall become a member  
11 of the Teachers' Defined Contribution Retirement System created and  
12 established in this article, or of the Teachers Retirement System  
13 created and established in article seven-a of this chapter,  
14 depending upon which system he or she last contributed to while he  
15 or she was employed with an employer mandating membership and  
16 contributions to one of those plans: *Provided, however*, That a  
17 rehired person who thereby becomes a member of the Teachers'  
18 Defined Contribution Retirement System may become a member of the  
19 Teachers Retirement System within the applicable time periods and  
20 upon meeting the requirements provided in article seven-d of this  
21 chapter.

22 **§18-7B-8. Voluntary participation in system; expiration of right**  
23 **to elect membership in defined contribution system.**

24           (1) Any employee who is a member of the existing retirement

1 system may, upon written election, voluntarily elect membership in  
2 the Teachers' Defined Contribution Retirement System, on a  
3 prospective basis, on or after the first day of July, one thousand  
4 nine hundred ninety-one. All benefits earned by any employee  
5 making a voluntary election under the existing retirement system  
6 prior to the voluntary election shall be frozen and made available  
7 to that employee upon retirement as provided by the existing  
8 retirement system. A member of the existing retirement system who  
9 has less than five years of contributing service in the existing  
10 retirement system may elect to withdraw his or her contribution  
11 plus interest thereon as if the member is terminating employment  
12 and upon withdrawal shall deposit the funds in the defined  
13 contribution system: *Provided*, That the member's years of  
14 contributing service in the existing system shall be applied toward  
15 the years of employment service required under section eleven of  
16 this article: *Provided, however*, That this election is allowed on  
17 a retroactive basis to the first day of July, one thousand nine  
18 hundred ninety-one. For the purposes of this section, "frozen"  
19 means that the member's salary, years of service and any other  
20 factor to determine benefits shall be calculated as of the date  
21 that the member elected membership in the defined contribution  
22 system and after that date no increase in salary, years of service  
23 or any other factor may be used to increase the retirement benefit  
24 above that which it would be if a person retired upon the date that

1 the election is made. After having made the election, the employee  
2 may not change such election or again become a member of the  
3 existing retirement system.

4 (2) Notwithstanding any provision of this section to the  
5 contrary, after the thirtieth day of June, two thousand five, no  
6 person who is a member of the State Teachers Retirement System may  
7 elect membership in the Teachers' Defined Contribution Retirement  
8 System.

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

12 **§18-7D-1. Legislative findings and purpose.**

13 (a) The Legislature hereby finds and declares as follows:

14 (1) That the quality of this state's education system is  
15 largely dependent upon the quality of its teachers and educational  
16 service personnel;

17 (2) That many West Virginia teachers and education service  
18 personnel who currently are members of the Teachers' Defined  
19 Contribution Retirement System desire to join a defined benefit  
20 system, which relieves participants of bearing the risk of  
21 investment performance and offers the security of providing  
22 participants with advanced knowledge of their anticipated  
23 retirement benefit;

24 (3) That other members of the Teachers' Defined Contribution

1 Retirement System remain comfortable with bearing the attendant  
2 market risks and performance of their investments associated with  
3 managing the individual retirement accounts of that system;

4 (4) That it is in the best interests of the teachers and  
5 education service personnel in this state, as well as the state's  
6 system of public education as a whole, to permit members of the  
7 Teachers' Defined Contribution Retirement System to voluntarily  
8 elect membership in the State Teachers Retirement System pursuant  
9 to the provisions of this article; and

10 (5) That the prudent and fiscally sound management of the  
11 State Teachers Retirement System necessitates that a sufficient  
12 number of members of the Teachers' Defined Contribution Retirement  
13 System elect to voluntarily transfer their assets to the State  
14 Teachers Retirement System in accordance with the provisions of  
15 this article.

16 **§18-7D-2. Definitions.**

17 As used in this article, unless the context clearly requires  
18 a different meaning:

19 (1) "Actively contributing member of the Teachers' Defined  
20 Contribution Retirement System" means a member of that retirement  
21 system who was actively contributing to the Teachers' Defined  
22 Contribution Retirement System on the thirty-first day of December,  
23 two thousand seven.

24 (2) "Actuarial Reserve" means the Actuarial Reserve Lump Sum

1 Value of the additional service credit being purchased by a member  
2 so electing in accordance with the provisions of section six of  
3 this article.

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

5 (A) For a member with a full year service credit in the fiscal  
6 year ending the thirtieth day of June, two thousand seven, the  
7 member's two thousand seven fiscal year salary increased by seven  
8 percent;

9 (B) For a member with less than a full year service credit in  
10 the fiscal year ending the thirtieth day of June, two thousand  
11 seven, the member's two thousand seven fiscal year salary  
12 annualized to a full year based on the partial year service credit  
13 increased by seven percent; or

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

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

24 (5) "Actuarial Reserve Benefit Date Factors" mean the

1 actuarial lump sum value factors based on a life only annuity  
2 starting on the Actuarial Reserve Benefit Date applying the 1983  
3 Group Annuity Mortality Tables on a seventy-five percent female and  
4 a twenty-five percent male blended Unisex basis and interest at  
5 seven and one-half percent.

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

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

20 (8) "Affirmatively elect to transfer" means the voluntary  
21 execution and delivery to the Consolidated Public Retirement Board,  
22 by a member of the Teachers' Defined Contribution Retirement System  
23 of a document in a form prescribed by the board that irrevocably  
24 authorizes the board to transfer the member and all the member's

1 assets in the Teachers' Defined Contribution Retirement System to  
2 the State Teachers Retirement System: *Provided*, That delivery of  
3 the document to the Consolidated Public Retirement Board may be  
4 accomplished through submission of the document to the supervisor  
5 of a work site pursuant to section seven of this article: *Provided*,  
6 *however*, That any previous member of the State Teachers Retirement  
7 System who voluntarily elected to terminate his or her membership  
8 in the State Teachers Retirement System to become a member of the  
9 Teachers' Defined Contribution Retirement System and signed an  
10 irrevocable transfer request also may affirmatively elect to  
11 transfer notwithstanding the prior transfer request.

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

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

21 (11) "Date of transfer" means, in the event that sixty-five  
22 percent or more of the actively contributing members of the Defined  
23 Contribution Retirement System affirmatively elect to transfer to  
24 the State Teachers Retirement System within the period provided in

1 section seven of this article, the first day of July, two thousand  
2 eight.

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

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

9 (14) "Salary" means:

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

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

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

21 **§18-7D-3. Voluntary transfers.**

22 (a) In accordance with the provisions of this article, the  
23 Consolidated Public Retirement Board shall effect the voluntary  
24 transfer of members of the Teachers' Defined Contribution

1 Retirement System to the State Teachers Retirement System.

2 (b) If at least sixty-five percent of actively contributing  
3 members of the Teachers' Defined Contribution System affirmatively  
4 elect to transfer to the State Teachers Retirement System within  
5 the period provided in section seven of this article, then the  
6 Consolidated Public Retirement Board shall transfer to the State  
7 Teachers Retirement System, effective the first day of July, two  
8 thousand eight, all members who affirmatively elected to do so  
9 during that period. If at least sixty-five percent of actively  
10 contributing members of the Teachers' Defined Contribution  
11 Retirement System do not affirmatively elect to transfer to the  
12 State Teachers Retirement System within that period, the Defined  
13 Contribution Retirement System continues as the retirement system  
14 for all members in that system as of the thirtieth day of June, two  
15 thousand eight.

16 **§18-7D-4. Notice, education, record-keeping requirements.**

17 (a) Commencing not later than the first day of April, two  
18 thousand eight, the board shall begin an educational program with  
19 respect to the voluntary transfer of actively contributing members  
20 of the Teachers' Defined Contribution Retirement System and their  
21 assets to the State Teachers Retirement System.

22 (1) This educational program shall address, at a minimum:

23 (A) The law providing for the transfer;

24 (B) The mechanics of the transfer;

1 (C) The process by which an actively contributing member may  
2 affirmatively elect to transfer;

3 (D) Relevant dates and time periods;

4 (E) The benefits, potential advantages and potential  
5 disadvantages if members fail or refuse to affirmatively elect to  
6 transfer;

7 (F) The benefits, potential advantages and potential  
8 disadvantages of becoming a member of the State Teachers Retirement  
9 System;

10 (G) Potential state and federal tax implications attendant to  
11 the various options available to the members;

12 (H) For each member, a summary to include his or her most  
13 recent account balance; the average rate of return of the Standard  
14 and Poor's and the Lehman U. S. Corporate/Government Index for the  
15 previous ten years; the average rate of return of an indexed  
16 balanced fund for the previous ten years; the member's projected  
17 account balance if he or she retires at age sixty and age sixty-  
18 five; the current cost of purchasing a monthly annuity under the  
19 Teachers' Defined Contribution Retirement System; the monthly  
20 annuity that the member would receive under the Teachers Retirement  
21 System if the member chooses to purchase the full service credit  
22 and retire at age sixty and age sixty-five; the monthly annuity  
23 under the Teachers Retirement System if the participant chooses not  
24 to purchase the full service credit and retires at age sixty and

1 age sixty-five, and the potential cost to the member of purchasing  
2 the Actuarial Reserve or the one and one-half percent contribution  
3 plus accrued interest, as the case may be, not including the cost  
4 of obtaining a loan under section five of this article.

5 (I) Any other pertinent information considered relevant by the  
6 board.

7 (2) The board shall disseminate the information through:

8 (A) Its website;

9 (B) Computer programs;

10 (C) Written or electronic materials, or both;

11 (D) Classes or seminars, pursuant to subdivision (3) of this  
12 subsection;

13 (E) At the discretion of the board, through a program of  
14 individual counseling which is optional on the part of the member;  
15 and

16 (F) Through any other educational program considered necessary  
17 by the board.

18 (3) The Consolidated Public Retirement Board shall provide the  
19 information set forth in subdivision (1) of this subsection through  
20 classes or seminars in accordance with the following:

21 (A) The Consolidated Public Retirement Board shall provide  
22 training for conducting the classes or seminars for employees of  
23 county boards, for employees of state institutions of higher  
24 education or for any other person that the county board or the

1 institution of higher learning determines, with the approval of the  
2 Consolidated Public Retirement Board, would be appropriate to  
3 conduct the classes or seminars;

4 (B) Each county board shall require at least two  
5 representatives to attend the training. The representatives must  
6 be approved by the Consolidated Public Retirement Board prior to  
7 attending the Board's training class;

8 (C) Each county board shall ensure that each employee of that  
9 county board who is a member of the Teachers' Defined Contribution  
10 Retirement System has had an opportunity to attend a class or a  
11 seminar on the topics set forth in subdivision (1) of this  
12 subsection at his or her work site during his or her workday;

13 (D) The class or seminar shall be conducted by any person who  
14 attended the training or by a representative of a school personnel  
15 organization that the Consolidated Public Retirement Board  
16 considers qualified to conduct the class or seminar;

17 (E) The classes or seminars may be conducted at the time  
18 allocated for professional activities for teachers on instructional  
19 support and enhancement days, before school, after school and at  
20 any other time during an employee's work day: *Provided*, That the  
21 classes or seminars may interfere with instructional time only if  
22 no other time is available to conduct the classes or seminars;

23 (F) Each county board shall ensure that informational booths  
24 are set up at each work site under the jurisdiction of the county

1 board and that the booths are attended on a rotating basis by an  
2 person trained to conduct the classes or seminars or by a  
3 representative of a school personnel organization that the  
4 Consolidated Public Retirement Board considers qualified to attend  
5 the booth;

6 (G) During the period provided by this section for the  
7 educational program, each county board and its superintendent shall  
8 allow representatives of the Consolidated Public Retirement Board  
9 entry upon the premises of each school in this state where the  
10 Consolidated Public Retirement Board determines appropriate on at  
11 least one occasion for the duration of at least sixty minutes  
12 during regular school hours to provide educational programs as the  
13 Consolidated Public Retirement Board determines appropriate for  
14 members of the Teachers' Defined Contribution Retirement System;

15 (b) The board shall provide each actively contributing member  
16 with a copy of the written or electronic educational materials and  
17 with a copy of the notice of the opportunity to affirmatively elect  
18 to transfer, to the extent deliverable, by mailing a copy thereof,  
19 first class postage prepaid, through the United States mails to the  
20 most current mailing address provided by the member to the board.  
21 The board is not required to deliver, nor is any member entitled to  
22 delivery of, these materials by any other means. The notice shall  
23 provide full and appropriate disclosure regarding the process by  
24 which a member may affirmatively elect to transfer, including the

1 period of the opportunity to affirmatively elect to transfer.

2 (c) It is the responsibility of each member of the Teachers'  
3 Defined Contribution Retirement System to keep the board informed  
4 of his or her current address. A member who does not is considered  
5 to have waived his or her right to receive any information from the  
6 board with respect to the purposes of this article.

7 (d) Once the board has complied with the provisions of this  
8 section, each actively contributing member of the Teachers' Defined  
9 Contribution Retirement System is considered to have actual notice  
10 of the opportunity to affirmatively elect to transfer and all  
11 matters pertinent thereto.

12 (e) The executive director of the Consolidated Public  
13 Retirement Board shall report to the Governor, the President of the  
14 Senate, and the Speaker of the House of Delegates no later than  
15 April, 1, two thousand eight, a plan for the execution of the  
16 education and outreach requirements set forth in this section.

17 **§18-7D-5. Conversion of assets from Defined Contribution**  
18 **Retirement System to State Teachers Retirement**  
19 **System; contributions; loans.**

20 (a) 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 then the Consolidated Public Retirement Board shall transfer the

1 members and all properties held in the Teachers' Defined  
2 Contribution Retirement System's Trust Fund in trust for those  
3 members who affirmatively elected to do so during that period to  
4 the State Teachers Retirement System, effective on the first day of  
5 July, two thousand eight.

6 (b) The board shall make available to each member a loan for  
7 the purpose of paying all or part of the Actuarial Reserve, or if  
8 available in accordance with the provisions of subsection (d),  
9 section six of this article, the one and one-half percent  
10 contribution for service in the Teachers' Defined Contribution  
11 System to receive additional service credit in the State Teachers  
12 Retirement System for service in the Teachers' Defined Contribution  
13 Retirement System pursuant to section six of this article. The  
14 loan shall be offered in accordance with the provisions of section  
15 thirty-four, article seven-a of this chapter.

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

22 (2) In the event a loan made pursuant to this section is used  
23 to pay the Actuarial Reserve or the one and one-half percent  
24 contribution, as the case may be, the board shall make any

1 necessary adjustments at the time the loan is made.

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

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

6 (d) 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 within the period provided in section seven of this article:

10 (1) As of the first day of July, two thousand eight, the  
11 transferred members' contribution rate becomes six percent of his  
12 or her salary or wages; and

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

18 (e) Subject to the provisions of subdivision (1) of this  
19 subsection, if a member has withdrawn or cashed out part of his or  
20 her assets, that member will not receive credit for those moneys  
21 cashed out or withdrawn. The board shall make a determination as  
22 to the amount of credit a member loses based on the periods of time  
23 and the amounts he or she has withdrawn or cashed out, which shall  
24 be expressed as a loss of service credit.

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

9           (2) The loan provided in this section is not available to  
10 members to repay previously cashed out or withdrawn moneys.

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

15           (f) Notwithstanding any provision of subsection (e) to the  
16 contrary, if a member has cashed out or withdrawn any of his or her  
17 assets after the last day of June, two thousand three, and that  
18 member chooses to repurchase that service after the thirtieth day  
19 of June, two thousand eight, the member shall repay the previously  
20 distributed amounts and any applicable interest to the State  
21 Teachers Retirement System.

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

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

5 **§18-7D-6. Service credit in State Teachers Retirement System**  
6 **following transfer; conversion of assets;**  
7 **adjustments.**

8 (a) Any member who has affirmatively elected to transfer to  
9 the State Teachers Retirement System within the period provided in  
10 section seven of this article whose assets have been transferred  
11 from the Teachers' Defined Contribution Retirement System to the  
12 State Teachers Retirement System pursuant to the provisions of this  
13 article and who has not made any withdrawals or cash-outs from his  
14 or her assets is, depending upon the percentage of actively  
15 contributing members affirmatively electing to transfer, entitled  
16 to service credit in the State Teachers Retirement System in  
17 accordance with the provisions of subsections (c) or (d) of this  
18 section.

19 (b) Any such member who has made withdrawals or cash outs will  
20 receive service credit based upon the amounts transferred. The  
21 board shall make the appropriate adjustment to the service credit  
22 the member will receive.

23 (c) If at least sixty-five percent but less than seventy-five  
24 percent of actively contributing members of the Teachers' Defined

1 Contribution Retirement System affirmatively elect to transfer to  
2 the State Teachers Retirement System within the period provided in  
3 section seven of this article, for any member of the Defined  
4 Contribution Retirement System who elects to transfer to the State  
5 Teachers Retirement System, his or her service credit in the State  
6 Teachers Retirement System is determined as follows:

7       (1) For any member affirmatively electing to transfer, the  
8 member's State Teachers Retirement System credit shall be seventy-  
9 five percent of the member's Teachers' Defined Contribution  
10 Retirement System service credit, less any service previously  
11 withdrawn by the member or due to a qualified domestic relations  
12 order and not repaid;

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

19       (d) If at least seventy-five percent of actively contributing  
20 members of the Teachers' Defined Contribution Retirement System  
21 affirmatively elect to transfer to the State Teachers Retirement  
22 System within the period provided in section seven of this article,  
23 for any member of the Defined Contribution Retirement System who  
24 elects to transfer to the State Teachers Retirement System, his or

1 her service credit in the State Teachers Retirement System is  
2 determined as follows:

3 (1) For any member affirmatively electing to transfer, the  
4 member's State Teachers Retirement System credit shall be seventy-  
5 five percent of the member's Teachers' Defined Contribution  
6 Retirement System service credit, less any service previously  
7 withdrawn by the member or due to a qualified domestic relations  
8 order and not repaid;

9 (2) To receive full credit in the State Teachers Retirement  
10 System for service in the Teachers' Defined Contribution Retirement  
11 System for which assets are transferred, members who affirmatively  
12 elected to transfer shall pay into the State Teachers Retirement  
13 System a one and one-half percent contribution. This contribution  
14 shall be calculated as one and one-half percent of the member's  
15 estimated total earnings for which assets are transferred, plus  
16 interest of four percent per annum accumulated from the date of the  
17 member's initial participation in the Defined Contribution  
18 Retirement System.

19 (A) For a member contributing to the Defined Contribution  
20 Retirement System at any time during the two thousand eight fiscal  
21 year and commencing membership in the State Teachers Retirement  
22 System on the first day of July, two thousand eight:

23 (i) The estimated total earnings shall be calculated based on  
24 the member's salary and the member's age nearest birthday on the

1 thirtieth day of June, two thousand eight;

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

5 (B) The calculations in paragraph (A) of this subdivision are  
6 based upon the salary scale assumption applied in the West Virginia  
7 Teachers Retirement System Actuarial Valuation as of the first day  
8 of July, two thousand seven, prepared for the Consolidated Public  
9 Retirement Board. This salary scale shall be applied regardless of  
10 breaks in service.

11 (e) All service previously transferred from the State Teachers  
12 Retirement System to the Teachers' Defined Contribution Retirement  
13 System is considered Teachers' Defined Contribution Retirement  
14 System service for the purposes of this article.

15 (f) Notwithstanding any provision of this code to the  
16 contrary, the retirement of a member who becomes eligible to retire  
17 after the member's assets are transferred to the State Teachers  
18 Retirement System pursuant to the provisions of this article may  
19 not commence prior to the first day of September, two thousand  
20 eight: *Provided*, That the Consolidated Public Retirement Board may  
21 not retire any member who is eligible to retire during the school  
22 year beginning two thousand eight during the school year two  
23 thousand eight unless the member has provided a written notice to  
24 his or her county board of education by the first day of July, two

1 thousand eight, of his or her intent to retire.

2 **§18-7D-7. Period for affirmative election to transfer; board may**  
3 **contract for professional services.**

4 (a) The board shall provide the members of the Teachers'  
5 Defined Contribution Retirement System an opportunity to  
6 voluntarily execute and deliver to the Consolidated Public  
7 Retirement Board, or its designee, a written document in a form  
8 prescribed by the board that irrevocably authorizes the board to  
9 transfer the member and all the member's assets in the Teachers'  
10 Defined Contribution Retirement System to the State Teachers  
11 Retirement System in accordance with the provisions of this  
12 article.

13 (b) If at least sixty-five percent of actively contributing  
14 members of the Teachers' Defined Contribution Retirement System  
15 affirmatively elect to transfer to the State Teachers Retirement  
16 System:

17 (1) The Consolidated Public Retirement Board shall, for each  
18 member who affirmatively elected to transfer as provided in this  
19 section, transfer the assets held in the Teachers' Defined  
20 Contribution Retirement System's Trust Fund in trust for that  
21 member to the State Teachers Retirement System on the first day of  
22 July, two thousand eight;

23 (2) On the first day of July, two thousand eight, each member  
24 who so elected becomes a member of the State Teachers Retirement

1 System and after working one or more hours and contributing to the  
2 State Teachers Retirement System is entitled to the benefits of the  
3 State Teachers Retirement System; and

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

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

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

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

22 (2) Notwithstanding the opportunity to submit documents  
23 affirmatively electing to transfer extended by this article to  
24 members other than those who are actively contributing members of

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

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

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

16 (2) Assist in the educational process;

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

19 (4) Ensure compliance with all relevant state and federal  
20 laws.

21 (f) Due to the time constraints inherent in the initial  
22 processes established for the submission of documents affirmatively  
23 electing to transfer set forth in this article in specific, and due  
24 to the nature of the professional services required by the

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

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

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

24 (i) The submission period terminates and elections to transfer

1 may not be accepted from a member after the twelfth day of May, two  
2 thousand eight, subject to the following:

3 (1) If elections to transfer are permitted through the mail,  
4 any submission postmarked later than the twelfth day of May, two  
5 thousand eight, is void and may not be counted;

6 (2) If elections to transfer are delivered to a supervisor on  
7 selection day or on or before the ninth day of May, two thousand  
8 eight, any submission postmarked or deposited with a commercial  
9 carrier later than the thirteenth day of May, two thousand eight,  
10 is void and may not be counted: *Provided*, That delivery by mail  
11 must be by certified mail, return receipt requested or delivery by  
12 commercial courier that requires written confirmation by the board  
13 of delivery;

14 (3) The fifth day of May, two thousand eight, is selection day  
15 upon which each county board and superintendent shall provide an  
16 opportunity in each school within the county for members of the  
17 Teachers' Defined Contribution System to affirmatively elect to  
18 transfer.

19 (j) The Consolidated Public Retirement Board shall collaborate  
20 with the state superintendent, the Chancellor for Higher Education  
21 and the Chancellor for Community and Technical College Education to  
22 establish a procedure whereby all actively contributing members of  
23 the Teachers' Defined Contribution Retirement System may deliver to  
24 the Consolidated Public Retirement Board or its designee the

1 written document authorizing transfer through a supervisor at each  
2 work site where any contributing member of the Defined Contribution  
3 Retirement System is employed. The procedure shall include at  
4 least the following:

5 (1) The supervisor at each work site is responsible for  
6 collecting the written documents authorizing the transfer from all  
7 actively contributing members of the Teachers' Defined Contribution  
8 Retirement System employed at the work site who choose to submit  
9 the written document. The supervisor shall record the receipt of  
10 all written documents authorizing transfer, shall direct the member  
11 submitting the written document to initial a receipt log and shall  
12 issue a receipt to the member submitting the written document.

13 (2) On and after the sixth day of May, two thousand eight, but  
14 on or before the ninth day of May, two thousand eight, the  
15 supervisor at the work site shall make reasonable efforts to  
16 contact verbally and in writing all actively contributing members  
17 of the Teachers' Defined Contribution Retirement System employed at  
18 the work site that have not submitted their written documents as of  
19 that date to remind those members of the upcoming deadline for  
20 submitting their written document authorizing transfer: *Provided*,  
21 That failure of the supervisor to make contact with any of those  
22 members shall not be a basis for a cause of action to allow a  
23 member to transfer after the period provided in this section or for  
24 any other cause of action.

1           (3) The supervisor at each work site shall forward all of the  
2 written documents to the Consolidated Public Retirement Board, or  
3 its designee, through certified mail, or delivery by commercial  
4 courier that requires written confirmation by the board of  
5 delivery, no later than the thirteenth day of May, two thousand  
6 eight. The work site supervisor shall inform the Consolidated  
7 Public Retirement Board of all of the written documents received  
8 each day so that the board, or its designee, can record which  
9 members of the Teachers' Defined Contribution Retirement System  
10 have submitted their written documents authorizing transfer  
11 pursuant to subsection (k) of this section.

12           (4) For the purposes of this subdivision, the principal of a  
13 school with any of grades prekindergarten through twelve is the  
14 work site supervisor. For the purposes of this subdivision, for  
15 any work site under the jurisdiction of the Higher Education Policy  
16 Commission or the West Virginia Council for Community and Technical  
17 College Education, the human resource administrator or other  
18 designee may be considered the work site supervisor. In any case  
19 where the person who is the work site supervisor is in question,  
20 the state board, the Chancellor for Higher Education or the  
21 Chancellor for Community and Technical College Education, whichever  
22 entity has jurisdiction over the work site, shall designate the  
23 supervisor.

24           (5) The state board, the Chancellor for Higher Education and

1 the Chancellor for Community and Technical College Education shall  
2 ascertain the names of all work site supervisors under their  
3 jurisdiction and transmit a list of the names of the work site  
4 supervisors to the Consolidated Public Retirement Board on or  
5 before the thirty-first day of March, two thousand eight.

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

11 **§18-7D-8. Results considered final.**

12 Every member of the Teachers' Defined Contribution Retirement  
13 System is considered to have made an informed, educated, knowing  
14 and voluntary decision and choice with respect to the opportunities  
15 provided by this article to transfer membership and assets to the  
16 State Teachers Retirement System. Each member who failed or  
17 refused to affirmatively elect to transfer is also considered to  
18 have made an informed, educated, knowing and voluntary decision and  
19 choice with respect thereto and is bound by the results thereof,  
20 except as may be required by federal law.

21 **§18-7D-9. Qualified domestic relations orders.**

22 Any transferring member having a qualified domestic relations  
23 order against his or her defined contribution account is allowed to  
24 repurchase service in the State Teachers Retirement System. The

1 member shall repay any moneys previously distributed to the  
2 alternate payee along with the interest as set by the board. The  
3 member shall repay by the last day of June, two thousand fourteen.  
4 The provisions of this section are void and of no effect if there  
5 is no transfer from the Teachers' Defined Contribution Retirement  
6 System to the State Teachers Retirement System. An alternate payee  
7 is not, solely as a result of that status, a member of either the  
8 Teachers' Defined Contribution Retirement System or the State  
9 Teachers Retirement System for any purpose under the provisions of  
10 this article and no interest held by the alternate payee is  
11 transferred to the State Teachers Retirement System pursuant  
12 thereto.

13 **§18-7D-10. Vesting.**

14 Any member who works one hour or more after his or her assets  
15 are transferred to the State Teachers Retirement System pursuant to  
16 this article is subject to the vesting schedule set forth in  
17 article seven-a of this chapter: *Provided*, That if a member is  
18 vested under the Teachers' Defined Contribution Retirement System  
19 and his or her last contribution was not made to the State Teachers  
20 Retirement System, that member is subject to the vesting schedule  
21 set forth in article seven-b of this chapter.

22 **§18-7D-11. Minimum guarantees.**

23 (a) Any member of the Teachers' Defined Contribution  
24 Retirement System who works one hour or more and who has made a

1 contribution to the State Teachers Retirement System after his or  
2 her assets are transferred to the State Teachers Retirement System  
3 pursuant to this article, is guaranteed a minimum benefit equal to  
4 his or her member contributions plus the vested portion of employer  
5 contributions made on his or her behalf to the Teachers' Defined  
6 Contribution Retirement System, plus any earnings thereon, as of  
7 the thirtieth day of June, two thousand eight, as stated by the  
8 board.

9       (b) A member of the Teachers' Defined Contribution Retirement  
10 System who works one hour or more and who has made contributions to  
11 the State Teachers Retirement System after his or her assets are  
12 transferred to the State Teachers Retirement System, upon  
13 eligibility to receive a distribution under article seven-a of this  
14 chapter, shall have at a minimum the following three options:

15       (1) The right to receive an annuity from the State Teachers  
16 Retirement System based upon the provisions of article seven-a of  
17 this chapter;

18       (2) The right to withdraw from the State Teachers Retirement  
19 System and receive his or her member accumulated contributions in  
20 the State Teachers Retirement System, plus refund interest thereon,  
21 as set forth in article seven-a of this chapter; or

22       (3) The right to withdraw and receive his or her member  
23 contributions plus the vested portion of employer contributions  
24 made on his or her behalf to the Teachers' Defined Contribution

1 Retirement System, plus any earnings thereon as of the date his or  
2 her assets are transferred to the State Teachers Retirement System  
3 pursuant to this article, as determined by the board pursuant to  
4 the vesting provisions of article seven-a of this chapter. This  
5 amount shall be distributed in a lump sum.

6 (c) Any member of the Teachers' Defined Contribution  
7 Retirement System who does not work one hour or more and who makes  
8 no contribution to the State Teachers Retirement System after his  
9 or her assets are transferred to the State Teachers Retirement  
10 System pursuant to this article, is guaranteed the receipt of the  
11 amount in his or her total vested account in the Teachers' Defined  
12 Contribution Retirement System on the date of the transfer, plus  
13 interest thereon, at four percent accruing from the date of the  
14 transfer. This amount shall be distributed in a lump sum:  
15 *Provided*, That no benefits may be obtained under this subsection  
16 solely by the reciprocity provisions of sections three, four, and  
17 six, article thirteen, chapter five of this code.