

# WEST VIRGINIA LEGISLATURE

THIRD EXTRAORDINARY SESSION, 1990

— ● —

## ENROLLED

*Com. Sub. for*  
**HOUSE BILL No. 311**.....

(By Mr. *Speaker, Mr. Chambers, & Del. R. Bunk*  
*By Request of the Executive*)

— ● —

Passed ..... *August 31,* ..... 1989

In Effect ..... *From* ..... Passage

*No. 311*

**ENROLLED**  
**COMMITTEE SUBSTITUTE**  
**FOR**  
**H. B. 311**

(By MR. SPEAKER, MR. CHAMBERS, AND DELEGATE R. BURK)  
(By Request of the Executive)

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[Passed August 31, 1990; in effect from passage.]

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AN ACT to amend and reenact sections one, two, three, four, five, six, seven and eight, article nine of chapter four; to amend and reenact sections five, twenty-two-c, twenty-eight, and fifty-four, article ten, chapter five; to further amend said article ten by adding thereto a new section designated section twenty-two-d; to further amend said chapter five by adding thereto a new article, designated article ten-d; to amend and reenact sections two, nine and ten, article six, chapter twelve; to amend and reenact section twenty-six, article two, chapter fifteen; to amend and reenact sections four, thirty-four and thirty-five-b, article seven-a, chapter eighteen; to further amend article seven-a by adding thereto three new sections, designated sections eighteen-a, twenty-six-i and thirty-five-c; to amend and reenact section four-a, article twenty-three, chapter eighteen; to further amend said chapter eighteen by adding thereto a new article, designated article seven-b; to amend and reenact section fourteen-d, article three, chapter thirty-three; and to amend and reenact section three, article nine, chapter fifty-one, all of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to public retirement systems; creation of a

legislative committee on pensions and retirement, providing for its membership, duties, responsibilities and authority and compensation; providing for unified accounting of the public employees retirement system; providing supplemental benefits for certain annuitants; creating a consolidated public retirement board, providing for its membership, powers, duties, responsibilities and liabilities, officers, meetings and compensation, providing for the employment of an actuary for the board; providing for the transfer of administration of the public employees retirement system, the teachers retirement system, the department of public safety's death, disability and retirement fund and the retirement system for judges of courts of record to the consolidated board as of a specified date; creating a teachers' defined contribution retirement system, defining terms therefor, providing for the administration of the system by the consolidated board, providing guidelines for participation in the system, providing for member and employer contributions, creating member annuity accounts, termination of membership, providing for the commencement of annuity payments, providing for the amount of annuity payments, providing for supplemental annuity contracts; providing for the investment of pension funds in corporate stock and providing restrictions on certain investments; providing a calculation for the allocation of funds to the teachers retirement reserve fund; providing a supplemental benefit for retired teachers; defining terms that will be used to determine re-employment for certain retirees, requiring a waiver and disclosure statement; providing for acceptance of work for the state on a contract basis for early retirees, providing for the termination of benefits, procedure and appeal; providing for the redirection of a percentage of proceeds from the additional fire and casualty insurance premium tax.

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

That sections one, two, three, four, five, six, seven and eight, article nine of chapter four be amended and reenacted; that sections five, twenty-two-c, twenty-eight, and fifty-four, article ten, chapter five be amended and reenacted; that said article

ten be further amended by adding thereto a new section designated twenty-two-d; that chapter five be further amended by adding thereto a new article, designated article ten-d; that sections two, nine and ten, article six, chapter twelve be amended and reenacted; that section twenty-six, article two, chapter fifteen be amended and reenacted; that sections four, thirty-four and thirty-five-b, article seven-a, chapter eighteen be amended and reenacted; that said article seven-a be further amended by adding thereto three new sections, designated sections eighteen-a, twenty-six-i and thirty-five-c; that section four-a, article twenty-three of said chapter eighteen be amended and reenacted; that said chapter eighteen be further amended by adding thereto a new article, designated article seven-b; that section fourteen-d, article three, chapter thirty-three be amended and reenacted; and that section three, article nine, chapter fifty-one, all of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

#### **CHAPTER 4. THE LEGISLATURE**

##### **ARTICLE 9. LEGISLATIVE COMMITTEE ON PENSIONS AND RETIREMENT.**

###### **§4-9-1. Definitions.**

1 (1) "Committee" as used in this article means the  
2 legislative committee on pensions and retirement.

3 (2) "State retirement legislation" means a proposed  
4 bill or resolution which would have a fiscal or actuarial  
5 effect on any state retirement system. This definition is  
6 to be liberally construed so that all reasonable doubts  
7 are resolved in favor of inclusion.

8 (3) "Actuarial note" means an analysis and statement  
9 of the cost, actuarial soundness and adherence to sound  
10 pension policy of pension or retirement related legisla-  
11 tion submitted by a qualified actuary or actuarial firm.

###### **§4-9-2. Creation of committee.**

1 There is hereby created a permanent joint standing  
2 committee to continually study and investigate public  
3 retirement systems. The name of the committee shall be  
4 the legislative committee on pensions and retirement.  
5 The committee shall have all the powers of any other

6 standing committee and all pension and retirement  
7 related legislation introduced in the Legislature shall be  
8 referred to the committee in addition to any other  
9 reference the presiding officer may designate: *Provided,*  
10 That upon reference of any pension or retirement  
11 related legislation the committee shall forward such  
12 legislation to an actuary or actuarial firm who shall  
13 return an actuarial note to the committee prior to the  
14 committee's consideration of such legislation.

**§4-9-3. Powers and duties.**

1 The committee shall make a continuing study and  
2 investigation of retirement benefit plans applicable to  
3 nonfederal government employees in this state. The  
4 powers and duties of the committee shall include, but  
5 not be limited to, the following:

6 (a) Study of retirement benefit plans applicable to  
7 nonfederal government employees in the state of West  
8 Virginia, including, without limitation, federal plans  
9 available to such employees;

10 (b) Making of recommendations within the scope of  
11 the study with particular attention to financing of the  
12 various pension funds and financing of accrued  
13 liabilities;

14 (c) Consideration of all aspects of pension planning  
15 and operation, and making of recommendations de-  
16 signed to establish and maintain sound pension policy  
17 as to all funds;

18 (d) Filing of a report to each regular session of the  
19 Legislature;

20 (e) Analyzing of each item of proposed pension and  
21 retirement legislation, including amendments thereto,  
22 with particular reference to analysis as to cost, actuarial  
23 soundness, and adherence to sound pension policy, and  
24 reporting of its findings in regard thereto to the  
25 Legislature; and

26 (f) Maintenance of reference materials concerning  
27 pension and retirement matters, including, without  
28 limitation, information as to laws and systems in other  
29 states;

**§4-9-4. Appointment of members; terms.**

1 The committee shall consist of seven members of the  
2 Senate to be appointed by the president of the Senate  
3 and seven members of the House of Delegates to be  
4 appointed by the speaker of the House. No more than  
5 five of the seven members appointed by the president  
6 of the Senate and the speaker of the House, respectively,  
7 may be members of the same political party. Appoint-  
8 ments shall be made in the same manner as any other  
9 joint standing committee of the Legislature. Members  
10 shall serve until their successor has been appointed.

**§4-9-5. Time and place of meetings; officers.**

1 The committee shall hold meetings at such times and  
2 places as it may designate. The president of the Senate  
3 shall appoint a cochair of the committee from the Senate  
4 members and the speaker of the House of Delegates  
5 shall appoint a cochair of the committee from the House  
6 of Delegates members.

**§4-9-6. Staff.**

1 The committee may employ such professional, clerical  
2 and technical assistants as it deems necessary in order  
3 to perform the duties herein prescribed.

**§4-9-7. Assistance of other agencies.**

1 The committee may request information from any  
2 state officer or agency in order to assist in carrying out  
3 the terms of this article, and such officer or agency is  
4 authorized and directed to promptly furnish any data  
5 requested.

**§4-9-8. Members' expenses; reimbursement.**

1 The members of the committee and its assistants shall  
2 be reimbursed for all expenses actually and necessarily  
3 incurred in the performance of their duties hereunder  
4 from the fund of the joint committee on government and  
5 finance. Compensation and other expenses of the  
6 committee may be paid from the fund of the joint  
7 committee on government and finance.

**CHAPTER 5.**  
**GENERAL POWERS AND AUTHORITY**  
**OF THE GOVERNOR, SECRETARY OF**  
**STATE AND ATTORNEY GENERAL; BOARD**  
**OF PUBLIC WORKS; MISCELLANEOUS AGENCIES,**  
**COMMISSIONS, OFFICES, PROGRAMS, ETC.**

**ARTICLE 10. PUBLIC EMPLOYEES RETIREMENT ACT.**

**§5-10-5. Board of trustees created; powers and duties generally; composition.**

1     The board of trustees of the West Virginia public  
2     employees retirement system is hereby continued. The  
3     administration and management of the retirement  
4     system, the responsibility for making effective the  
5     provisions of this article, and the authority to make all  
6     rules and regulations therefor, are hereby vested in the  
7     said board of trustees through the thirtieth day of June,  
8     one thousand nine hundred ninety-one and thereafter in  
9     the consolidated public retirement board created by  
10    article ten-d of this chapter and except as otherwise  
11    specifically provided in this article. The board shall  
12    consist of five trustees, as follows:

13    (a) The auditor of the state, by virtue of his office;

14    (b) The treasurer of the state, by virtue of his office;

15    (c) The commissioner of finance and administration,  
16    by virtue of his office;

17    (d) A resident of the state, who is not a member,  
18    retirant or beneficiary of the retirement system, to be  
19    appointed by the governor, by and with the advice and  
20    consent of the Senate;

21    (e) One member of the retirement system, who is an  
22    employee of a participating public employer other than  
23    the state of West Virginia, to be appointed by the  
24    governor, by and with the advice and consent of the  
25    Senate.

**§5-10-22c. Temporary early retirement incentives pro-  
gram; legislative declaration and finding of  
compelling state interest and public pur-  
pose; specifying eligible and ineligible**

**members for incentives program; options, conditions, and exceptions; certain positions abolished; special rule of eighty; effective, termination, and notice dates.**

1     The Legislature hereby finds and declares that a  
2     compelling state interest exists in providing a tempor-  
3     ary early retirement incentives program for encourag-  
4     ing the early, voluntary retirement of those public  
5     employees who were current, active contributing  
6     members of this retirement system on the first day of  
7     April, one thousand nine hundred eighty-eight, in the  
8     reduction of the number of such employees and in  
9     reduction of governmental costs therefor; that such  
10    program constitutes a public purpose; and that the  
11    special classifications and differentiations provided in  
12    respect of such program are reasonable and equitable  
13    ones for the accomplishment of such purpose and  
14    program as enacted in Enrolled Committee Substitute  
15    for H. B. No. 4672, regular session, one thousand nine  
16    hundred eighty-eight, and as clarified and supple-  
17    mented herein, retroactive to such beginning date,  
18    aforesaid. The Legislature further finds that maintain-  
19    ing an actuarially sound retirement fund is a necessity  
20    and that the reemployment of persons who retire under  
21    this section in any manner, including reemployment on  
22    a contract basis, is contrary to the intent of the early  
23    retirement program and severely threatens the fiscal  
24    integrity of the retirement fund.

25    (a) For the purposes of this section: (1) "contract"  
26    means any personal service agreement, not involving the  
27    sale of commodities, that cannot be performed within  
28    sixty days or that exceeds two thousand five hundred  
29    dollars in any twelve month period. The term "contract"  
30    does not include any agreement obtained by a retirant  
31    through a bidding process and which is for the furnish-  
32    ing of any commodity to a government agency;  
33    (2) "governmental entity" means the state of West  
34    Virginia; a constitutional branch or office of the state  
35    government, or any subdivision thereof; a county, city  
36    or town in the state; a county board of education; a  
37    separate corporation or instrumentality established



38 pursuant to a state statute; any other entity currently  
39 permitted to participate in any state public retirement  
40 system or the public employee's insurance agency; or  
41 any officer or official of any entity listed above who is  
42 acting in his or her official capacity (3) "part time  
43 elected or appointed office" means any elected or  
44 appointed office that pays annual compensation of less  
45 than two thousand five hundred dollars or requires less  
46 than sixty days of service in any twelve month period;  
47 (4) "substitute teacher" means a teacher, public school  
48 librarian, registered professional nurse employed by the  
49 county board of education or any other person employed  
50 for counselling or instructional purposes in a public  
51 school in this state who is temporarily fulfilling the  
52 duties of an existing real person employed in a specific  
53 position who is temporarily absent from that specified  
54 position.

55 (b) Beginning on the first day of April, one thousand  
56 nine hundred eighty-eight, and continuing through the  
57 thirty-first day of December, one thousand nine hundred  
58 eighty-eight, (or as extended by eligibility qualification  
59 requirement, as hereinafter specified) eligible members,  
60 being those active, contributing members actually and  
61 currently employed on such beginning date, retiring  
62 pursuant to this section, and from any state, county or  
63 municipal position, covered under the two divisions of  
64 this retirement system (the state division and the public  
65 employer, nonstate division) including those so em-  
66 ployed on said beginning date and leaving the system  
67 during the incentive period and who are eligible for  
68 taking deferred retirement (but not disability reti-  
69 rees) may elect to participate in this incentives program  
70 and may elect any one of the three following incentive  
71 options:

72 (1) Retirement incentive option one:

73 For the purpose of computing the member's annuity,  
74 the normal final average salary shall be computed and  
75 one-eighth thereof shall be added thereto in arriving at  
76 the true final average salary for use in actual compu-  
77 tation of retirement benefit.

78 (2) Retirement incentive option two:

79 A member may elect a lump sum payment, in addition  
80 to his regular retirement annuity, equal to ten percent  
81 of his final average salary not to exceed five thousand  
82 dollars, and in the case of a deferred retirement electing  
83 this option, such lump sum payment shall be receivable  
84 and deferred to the time of receipt of such deferred  
85 retirement annuity.

86 (3) Retirement incentive option three:

87 A person shall be credited with an additional two  
88 years of contributing service and an additional two  
89 years of age. The years credited under this option shall  
90 in no way add to a member's final average salary factor  
91 of computation.

92 Active, contributing members who desire to retire  
93 under this section but who are unable to retire by the  
94 thirty-first day of December, one thousand nine hundred  
95 eighty-eight and make use of the incentive retirement  
96 program because an element of eligibility for retire-  
97 ment, such as age or other element, will not be met until  
98 a date after the thirty-first day of December, one  
99 thousand nine hundred eighty-eight and before the first  
100 day of July, one thousand nine hundred eighty-nine,  
101 shall be permitted to postpone actual retirement until  
102 the date of fulfilling such element of eligibility and shall  
103 retire on such date, before the temporary retirement  
104 incentive program ends on the thirtieth day of June, one  
105 thousand nine hundred eighty-nine; with proper credit  
106 to be granted for such extended period: *Provided*, That  
107 they shall have made application for retirement,  
108 including choice of their respective option, and given  
109 notice to their respective employer by the thirty-first  
110 day of December, one thousand nine hundred eighty-  
111 eight, although postponing actual retirement, as  
112 aforesaid.

113 (c) Any member participating in this retirement  
114 incentive program is not eligible to accept further  
115 employment or accept, directly or indirectly, work on a  
116 contract basis from any governmental entity: *Provided*,  
117 That nothing in this section shall affect any contract

118 entered into prior to the effective date of this section:  
119 *Provided, however,* That the executive director may  
120 approve, upon written request and for good cause  
121 shown, an exception allowing a retirant to perform work  
122 on a contract basis. The executive director shall report  
123 all approved exceptions to the board of trustees:  
124 *Provided further,* That a person may retire under this  
125 section and thereafter serve in an elective office: *And*  
126 *provided further,* That he shall not receive an incentive  
127 option under this section during the term of service in  
128 said office, but shall receive his or her annuity calcu-  
129 lated on regular basis, as if originally taken not under  
130 this section but on such regular basis. At the end of such  
131 term and cessation of service in such office during which  
132 the member shall rejoin and reenter the retirement  
133 system and pay contributions therefor, such regular  
134 annuity shall be recalculated and an increased annuity  
135 due to such additional employment shall be granted and  
136 computed on regular basis and in similar manner as  
137 under section forty-eight of this article. In respect of an  
138 appointive office, as distinguished from an elective  
139 office, any person retiring under this section and  
140 thereafter serving in such appointive office shall not  
141 receive an incentive option under this section during the  
142 term of service in said office, but the same shall be  
143 suspended during such period: *And provided further,*  
144 That at the end of such term and cessation of service  
145 in such appointive office the incentive option provided  
146 for under this section shall be resumed: *And provided*  
147 *further,* That any person elected or appointed to office  
148 by the state or any of its political subdivisions who  
149 waives whatever salary, wage or per diem compensation  
150 he may be entitled to by virtue of service in such office  
151 and who does not receive any income therefrom except  
152 such reimbursement of out-of-pocket costs and expenses  
153 as may be permitted by the statutes governing such  
154 office shall continue to receive an incentive option under  
155 this section. Such service shall not be counted as  
156 contributed or credited service for purposes of comput-  
157 ing retirement benefits.

158 If such elected or appointed office is a part time  
159 elected or appointed office, a person electing retirement

160 under this section may serve in such elected or ap-  
161 pointed office without a loss of the benefits provided  
162 under this section.

163 Prior to the initiation or renewal of any contract  
164 entered into pursuant to the provisions of this section or  
165 the acceptance of any elective or appointive office by a  
166 person who has elected to retire under the early  
167 retirement provisions of this article such person shall  
168 complete a disclosure and waiver statement executed  
169 under oath and acknowledged by a notary public. The  
170 board shall promulgate rules pursuant to chapter  
171 twenty-nine-a of this code regarding the form and  
172 contents of the disclosure and waiver statement. The  
173 disclosure and waiver statement shall be forwarded to  
174 the appropriate state public retirement system admin-  
175 istrator who shall take action to ensure that the early  
176 retirement incentive benefits are reduced in accordance  
177 with the provisions of this section. The administrator  
178 shall then certify such action in writing to the approp-  
179 riate governmental entity.

180 In any event, an eligible member may retire under  
181 this section and thereafter continue to receive his  
182 incentive annuity and be employed as a substitute  
183 teacher or as adjunct faculty.

184 Any such incentive retirants, under this section, may  
185 not thereafter receive such annuity and enter or reenter  
186 any governmental retirement system established or  
187 authorized to be established by the state, notwithstand-  
188 ing any provision of the code to the contrary, unless  
189 required by constitutional provision or as hereby  
190 specifically permitted to those retiring and thereafter  
191 serving in elective office, as aforesaid.

192 The additional annuity allowed for temporary early  
193 retirement under these options, in respect of state  
194 division retirants of this system, is intended to be paid  
195 from the retirement incentive account hereby created as  
196 a special account in the state treasury and from the  
197 funds therein established with moneys required to be  
198 transferred by heads of spending units from the unused  
199 portion of salary and fringe benefits in their budgets

200 accruing in respect of such positions vacated and  
201 subsequently canceled under this temporary early  
202 retirement program. Salary and fringe benefit moneys  
203 actually saved in a particular fiscal year, shall constitute  
204 the fund source for payment of such additional annuity,  
205 the funds of the retirement system to be used for  
206 payment of the base annuity under the early retirement  
207 incentive program: *Provided*, That such additional  
208 annuity shall be paid from the unused portion of both  
209 salary and fringe benefits and with any remainder of  
210 any fringe benefit moneys, as such, to remain with the  
211 spending unit and any remainder of salary as such, to  
212 be directed as additional funding to the teachers  
213 retirement system and as a part of the assets thereof.  
214 No such additional annuity shall be disallowed even  
215 though initial receipts may not be sufficient, with funds  
216 of the system to be applied for such purpose, as for the  
217 base annuity. With respect to public employer division  
218 retirants (nonstate division retirants of the system), such  
219 incentive annuity shall be paid from the nonstate  
220 division funds of the system.

221 (d) The executive secretary of the retirement system  
222 shall provide forms for applicants. Such forms shall  
223 include a detailed description of the incentive plan  
224 options.

225 The executive secretary of the retirement system shall  
226 file a report to the Legislature no later than the fifteenth  
227 day of February, one thousand nine hundred eighty-  
228 nine, and quarterly thereafter, detailing the number of  
229 retirees who have elected to accept early retirement  
230 incentive options, the dollar cost to date by option  
231 selected, and the projected annual cost through the year  
232 two thousand.

233 (e) Within every spending unit, department, board,  
234 corporation, commission, or any other agency or entity  
235 wherein two or multiples of two members elect to retire  
236 either under the temporary early retirement incentives  
237 set forth above, or under regular, voluntary retirement,  
238 and countable on an agency-wide or entity-wide basis,  
239 no more than one of such vacated positions may be filled,  
240 with the second position being abolished upon the

241 effective day of the member's retirement. The vacant  
242 position abolishment requirement shall not apply to  
243 elective positions or appointed public officers whose  
244 positions are established by state constitutional or  
245 statutory provision. The retirant's employing entity shall  
246 decide as to which of the vacated positions made  
247 available through special early retirement or through  
248 regular, voluntary retirement are to be abolished and  
249 the head of such spending unit shall immediately notify  
250 the state auditor, the legislative auditor, and the  
251 commissioner of the department of finance and admin-  
252 istration of the decisions and shall then apply and/or  
253 transfer the remaining salary and fringe benefits as  
254 aforesaid: *Provided*, That this vacant position abolish-  
255 ment provision shall not apply to any county or  
256 municipal position except those under the authority of  
257 a county board of education, nor to any position or  
258 positions, whether designated by spending unit, depart-  
259 ment, agency, commission, entity or otherwise, which  
260 the governor in respect of the executive branch, or the  
261 chief justice of the supreme court of appeals in respect  
262 of the judicial branch, or the president of the senate or  
263 speaker of the house of delegates, in respect of the  
264 legislative branch, may exempt or amend, under such  
265 abolishment provision, upon his respective recommenda-  
266 tion that such exemption or amendment is necessary to  
267 provide for continuity of governmental operation or to  
268 preserve the health, welfare or safety of the people of  
269 West Virginia, and with the prior concurrence of the  
270 joint committee on government and finance in such  
271 recommendation, after the chairmen thereof shall cause  
272 such committee to meet.

273 (f) *Special rule of eighty*.—Any active, contributing  
274 member of the retirement system as of the first day of  
275 April, one thousand nine hundred eighty-eight, who  
276 selects one of the incentive options in this section, may  
277 retire under the special early retirement provisions with  
278 full pension rights, without reduction of benefits if the  
279 sum of such member's age plus years of contributing  
280 service equals or exceeds eighty: *Provided*, That such  
281 person has at least twenty years of contributing service;  
282 up to two years of which may be military service, or

283 prior service, or any combination thereof not exceeding  
284 an aggregate of two years.

285 (g) *Termination of temporary retirement incentives*  
286 *program.*—The right to elect, choose, select or use any  
287 of the options, special rule of eighty, or other benefits  
288 set forth in this section shall terminate on the thirtieth  
289 day of June, one thousand nine hundred eighty-nine.

290 (h) The board shall promulgate rules and regulations  
291 in accordance with the provisions of article three,  
292 chapter twenty-nine of this code regarding the calcula-  
293 tion of the amount of incentive option that may be  
294 forfeited pursuant to the provisions of subsection (b) of  
295 this section.

**§5-10-22d. Supplemental benefits for certain annuitants.**

1 Beginning on the first day of January, one thousand  
2 nine hundred ninety-one, as an additional supplement to  
3 other retirement allowances provided, and notwith-  
4 standing the provisions of section twenty-two-b of this  
5 article requiring appropriation by the Legislature for  
6 payment of certain supplemental benefits, any annuitant  
7 who is receiving a retirement annuity on the effective  
8 date of this section shall receive a supplemental benefit,  
9 prospectively, if the effective date of retirement for such  
10 annuitant was prior to the first day of January, one  
11 thousand nine hundred eighty-one. Each such annuitant  
12 shall receive as his or her supplemental benefit an  
13 increased annual amount which is the product of the  
14 sum of six dollars multiplied by his or her years of  
15 credited service. Nothing in this or any other section of  
16 this code shall be construed to require any appropriation  
17 of state general revenue funds for the payment of any  
18 benefit provided for in this section.

**§5-10-28. Unified accounting; funds.**

1 For financing and accounting purposes the West  
2 Virginia public employees retirement system shall  
3 consist of only one division, including in combination the  
4 participating state employees, and participating public  
5 employees who are not state employees. Unified account-  
6 ing of the retirement system transactions shall be

7 maintained for all the assets of the system. The  
8 retirement system funds shall be (1) the members  
9 deposit fund, (2) the employers accumulation fund,  
10 (3) the retirement reserve fund, (4) the income fund,  
11 and (5) the expense fund. Nothing contained in this  
12 section or any prior provision of law shall be interpreted  
13 to mean that any assets of the system, regardless of their  
14 origin or date of receipt are to be in any manner  
15 segregated or insulated for the purposes of either paying  
16 benefits due or determining or establishing accounting  
17 or actuarial methodologies or functions utilized by the  
18 retirement system. The amendments to this section  
19 adopted during the third extraordinary session of the  
20 1990 Legislative session shall not be construed to limit  
21 the powers of the board relating to contributions to or  
22 benefits of the public employees retirement system, and  
23 any and all powers residing in the board previously  
24 administering the public employees retirement system  
25 shall be preserved.

**§5-10-54. Termination of benefits; procedure.**

1 Whenever the board determines that (1) any person  
2 has knowingly made any false statement or falsified or  
3 permitted to be falsified any record or records of the  
4 retirement system in an attempt to defraud the system,  
5 or (2) any person who resumes employment with a  
6 governmental entity or accepts directly or indirectly,  
7 work on a contract basis from a governmental entity,  
8 except as provided for under this article, the board shall  
9 terminate any benefit that person has received, is  
10 receiving and is entitled to receive under the early  
11 retirement provisions of this article. Further, if any  
12 person taking early retirement under this article desires  
13 to revoke his or her early retirement incentive he or she  
14 shall be allowed to do so if he or she is entitled to regular  
15 retirement pursuant to this article; *Provided*, That such  
16 revocation shall be retroactive to the date of last  
17 employment and any incentive annuity, under any  
18 incentive option, already received by the retiree be  
19 repaid to the retirement system. Any person who  
20 revokes his or her early retirement incentive shall be  
21 thereafter carried upon the records of the retirement



22 system as a regular retiree and shall not be entitled to  
23 any enhanced benefit by reason of the early retirement  
24 options contained in this article: *Provided*, That any  
25 person who chose to retire under the early retirement  
26 provisions of this article who would not have been and  
27 is not eligible for regular retirement but for the early  
28 retirement incentive options must reapply for admission  
29 to a retirement system and repay all pension benefits  
30 plus regular interest which would have been earned by  
31 the fund in the period during which the annuity  
32 payments were paid to him or her since the date his or  
33 her employment ceased.

34 Any termination of benefits may be appealed pursu-  
35 ant to the state administrative procedures act in chapter  
36 twenty-nine-a of this code. The board shall promulgate  
37 rules and regulations regarding the procedure for  
38 termination of benefits and the repayment of any benefit  
39 in accordance with the provisions of article three,  
40 chapter twenty-nine-a of this code.

**ARTICLE 10D. CONSOLIDATED PUBLIC RETIREMENT BOARD.**

**§5-10D-1. Consolidated public retirement board created;  
transition; members; vacancies.**

1 (a) There is hereby created a consolidated public  
2 retirement board to administer all public retirement  
3 plans in this state. It shall administer the public  
4 employees retirement system established in article ten,  
5 chapter five of this code; the teachers retirement system  
6 established in article seven-a, chapter eighteen of this  
7 code; the teachers' defined contribution retirement  
8 system created by article seven-b, chapter eighteen of  
9 this code; the death, disability and retirement fund of  
10 the department of public safety created by article two,  
11 chapter fifteen of this code; and the judges' retirement  
12 system created under article nine, chapter fifty-one of  
13 this code;

14 (b) The consolidated public retirement board shall  
15 begin administration of the systems listed in subsection  
16 (a) of this section on the first day of July, one thousand  
17 nine hundred ninety-one: *Provided*, That the board shall  
18 begin administration of the teachers' defined contribu-

19 tion retirement system established in article seven-b,  
20 chapter eighteen of this code on the first day of January,  
21 one thousand nine hundred ninety-one. Prior to that date  
22 the existing entities which administer the system shall  
23 cooperate with the board in the orderly transition of all  
24 duties, responsibilities, records and other materials in  
25 their possession;

26 (c) The membership of the consolidated public retire-  
27 ment board consists of:

28 (1) The governor or his or her designee;

29 (2) The state auditor or his or her designee;

30 (3) The secretary of the department of administration  
31 or his or her designee;

32 (4) Four residents of the state, who are not members,  
33 retirants or beneficiaries of any of the public retirement  
34 system, to be appointed by the governor, with the advice  
35 and consent of the Senate;

36 (5) A member, annuitant or retirant of the public  
37 employees retirement system who is or was a state  
38 employee; a member, annuitant or retirant of the public  
39 employees retirement system who is not or was not a  
40 state employee; a member, annuitant or retirant of the  
41 teachers retirement system; a member, annuitant or  
42 retirant of the department of public safety death,  
43 disability and retirement fund; and a member, annui-  
44 tant or retirant of the teachers' defined contribution  
45 retirement system, all to be appointed by the governor,  
46 with the advice and consent of the Senate.

47 (d) The appointed members of the board shall serve  
48 five-year terms. Of the members initially appointed,  
49 three shall be appointed for two-year terms; three shall  
50 be appointed for three-year terms; and three shall be  
51 appointed for five-year terms. Thereafter, all members  
52 shall serve full five-year terms. A member appointed  
53 pursuant to subdivision (5), subsection-c of this section  
54 ceases to be a member of the board if he or she ceases  
55 to be a member of the represented system. If a vacancy  
56 occurs in the appointed membership, the governor,  
57 within sixty days, shall fill the vacancy by appointment

58 for the unexpired term. No more than five appointees  
59 shall be of the same political party.

60 (e) The consolidated public retirement board shall  
61 have all the powers, duties, responsibilities and liabil-  
62 ities of the public employees retirement system estab-  
63 lished pursuant to article ten, chapter five of this code;  
64 the teachers retirement system established pursuant to  
65 article seven-a, chapter eighteen of this code; the  
66 teachers' defined contribution system established  
67 pursuant to article seven-b, chapter eighteen of this  
68 code; the death disability and retirement fund of the  
69 department of public safety created pursuant to article  
70 two, chapter fifteen of this code, and the judges'  
71 retirement system created pursuant to article nine,  
72 chapter fifty-one of this code and their appropriate  
73 governing boards. The consolidated public retirement  
74 board may promulgate all rules necessary to effectuate  
75 its powers, duties and responsibilities: *Provided*, That  
76 the board may adopt any or all of the rules and  
77 regulations, previously promulgated, of a retirement  
78 system which it administers.

**§5-10D-2. Chairman and vice chairman; executive secre-  
tary; employees; treasurer; legal advisor;  
actuary.**

1 (a) The secretary of the department of administration  
2 shall call the first meeting of the consolidated public  
3 retirement board no later than the fifteenth day of  
4 January, one thousand nine hundred ninety-one.

5 (b) The board shall elect from its own number a  
6 chairman and vice chairman.

7 (c) The board shall appoint an executive secretary of  
8 the retirement systems. The executive secretary shall be  
9 the chief administrative officer of all the systems, and  
10 he or she shall not be a member of the board. He or she  
11 shall perform such duties as are required of him or her  
12 in this article and as the board from time to time  
13 delegates to him or her. The compensation of the  
14 executive secretary shall be fixed by the board subject  
15 to the approval of the governor. The executive secretary  
16 shall, with the approval of the board of trustees, employ

17 such administrative, technical, and clerical employees as  
18 are required in the proper operation of the systems.

19 (d) The attorney general shall be the legal advisor to  
20 the board of trustees.

21 (f) An actuary, employed by the state or the board  
22 pursuant to section four of this article shall be the  
23 actuarial consultant to the board.

24 (g) Prior to the first day of July, one thousand nine  
25 hundred ninety-one, the expenses of the board for the  
26 administration of the teachers' defined contribution  
27 retirement system created pursuant to article seven-b,  
28 chapter eighteen of this code shall be paid by the  
29 teachers retirement system created pursuant to article  
30 seven-a, chapter eighteen of this code.

**§5-10D-3. Board meetings; quorum; vote; proceedings;  
compensation.**

1 (a) The board shall hold a meeting at least once each  
2 three months, and shall designate the time and place  
3 thereof. Five voting trustees constitute a quorum at any  
4 meeting of the board. Each member is entitled to one  
5 vote on each question before the board. The board shall  
6 adopt its own rules of procedure and shall keep a record  
7 of its proceedings. All meetings of the board shall be  
8 public.

9 (b) The members shall serve as members without  
10 compensation for their services as such: *Provided*, That  
11 each member shall be reimbursed, upon approval of the  
12 board, for any necessary expenses actually incurred by  
13 him or her in carrying out his or her duties. No public  
14 employee member may suffer any loss of salary or  
15 wages on account of his or her service as trustee.

**§5-10D-4. Employment of an actuary; duties;  
compensation.**

1 (a) The board is hereby empowered and authorized to  
2 employ a state retirement actuary or actuarial firm with  
3 such qualifications as the board may prescribe or to  
4 utilize an actuary already in the employ of the state. The  
5 actuary or actuarial firm shall perform the following

6 duties for the board:

7 (1) Analyze each item of state retirement legislation  
8 as to cost, actuarial soundness and adherence to sound  
9 pension policy;

10 (2) Prepare an actuarial note to be attached to each  
11 item of state retirement legislation prior to its formal  
12 introduction. Such actuarial note shall briefly summar-  
13 ize the proposed legislation and set forth its anticipated  
14 fiscal and actuarial impact on the affected state  
15 retirement system or systems; and

16 (3) Such other duties as the board or the board of  
17 trustees of the state public retirement system may  
18 assign.

19 (b) The state retirement actuary or actuarial firm, if  
20 one is employed by the board, shall be compensated in  
21 an amount to be fixed by the board. He or she shall  
22 receive, in addition, the necessary expenses incident to  
23 the performance of his or her duties. In the event that  
24 the board utilizes an actuary already employed by the  
25 state to perform duties for the board, the board shall  
26 reimburse the department or agency which actually  
27 employs the actuary for expenses, including the pro rata  
28 portion of salary, that the actuary actually expends in  
29 the performance of duties for the board.

## CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

### ARTICLE 6. WEST VIRGINIA BOARD OF INVESTMENTS.

#### §12-6-2. Definitions.

1 As used in this article, unless a different meaning  
2 clearly appears from the context:

3 (1) "Board" means the West Virginia state board of  
4 investments;

5 (2) "Consolidated fund" means the investment fund  
6 managed by the board and established pursuant to  
7 subsection (b), section eight of this article;

8 (3) "Consolidated pension fund" means the investment  
9 fund managed by the board and established pursuant to  
10 subsection (a), section eight of this article;

11 (4) "Local government account" means the account  
12 within the consolidated fund established pursuant to  
13 subsection (b), section eight of this article;

14 (5) "Local government funds" means the moneys of a  
15 political subdivision, including policemen's pension and  
16 relief funds, firemen's pension and relief funds and  
17 volunteer fire departments, transferred to the board for  
18 deposit in the local government account;

19 (6) "Pension funds" means and includes the work-  
20 men's compensation fund; the state teachers retirement  
21 system funds; the death, disability and retirement fund  
22 for members of the department of public safety; the  
23 public employees retirement system funds; the judges  
24 retirement fund; and such other retirement or pension  
25 funds and systems as may be hereafter established on  
26 behalf of public employees of the state or of its political  
27 subdivisions and administered by the state; or pension  
28 funds established on behalf of public employees of its  
29 political subdivisions and administered by the political  
30 subdivisions;

31 (7) "Political subdivision" means and includes a  
32 county, municipality, or any agency, authority, board,  
33 commission or instrumentality of a county or municipal-  
34 ity, and regional councils created pursuant to the  
35 provisions of section five, article twenty-five, chapter  
36 eight of this code;

37 (8) "Securities" means all bonds, notes, debentures or  
38 other evidences of indebtedness, and corporate stock;

39 (9) "State account" means the account within the  
40 consolidated fund established pursuant to subsection (b),  
41 section eight of this article; and

42 (10) "State funds" means all moneys of the state which  
43 may be lawfully invested except (a) the pension fund (as  
44 defined in subdivision (6) of this section) and (b) the  
45 "school fund" established by section four, article XII of  
46 the state constitution.

#### **§12-6-9. Permissible investments.**

1 Notwithstanding the restrictions which may otherwise

2 be provided by law as to the investment of funds, the  
3 board may invest funds made available to it in any of  
4 the following:

5 (a) Any direct obligation of, or obligation guaranteed  
6 as to the payment of both principal and interest by, the  
7 United States of America;

8 (b) Any evidence of indebtedness issued by any  
9 United States government agency guaranteed as to the  
10 payment of both principal and interest, directly or  
11 indirectly, by the United States of America including,  
12 but not limited to, the following: Government National  
13 Mortgage Association, Federal Land Banks, Federal  
14 Home Loan Banks, Federal Intermediate Credit Banks,  
15 Banks for Cooperatives, Tennessee Valley Authority,  
16 United States Postal Service, Farmers Home Adminis-  
17 tration, Export-Import Bank, Federal Financing Bank,  
18 Federal Home Loan Mortgage Corporation, Student  
19 Loan Marketing Association and Federal Farm Credit  
20 Banks;

21 (c) Any evidence of indebtedness issued by the  
22 Federal National Mortgage Association to the extent  
23 such indebtedness is guaranteed by the Government  
24 National Mortgage Association;

25 (d) Any evidence of indebtedness that is secured by a  
26 first lien deed of trust or mortgage upon real property  
27 situate within this state, if the payment thereof is  
28 substantially insured or guaranteed by the United  
29 States of America or any agency thereof;

30 (e) Direct and general obligations of this state;

31 (f) Any undivided interest in a trust, the corpus of  
32 which is restricted to mortgages on real property and,  
33 unless all of such property is situate within the state and  
34 insured, such trust at the time of the acquisition of such  
35 undivided interest, is rated in one of the three highest  
36 rating grades by an agency which is nationally known  
37 in the field of rating pooled mortgage trusts;

38 (g) Any bond, note, debenture, commercial paper or  
39 other evidence of indebtedness of any private corpora-  
40 tion or association organized and operating in the

41 United States: *Provided*, That any such security is, at  
 42 the time of its acquisition, rated in one of the three  
 43 highest rating grades by an agency which is nationally  
 44 known in the field of rating corporate securities:  
 45 *Provided, however*, That if any commercial paper and/or  
 46 any such security will mature within one year from the  
 47 date of its issuance, it shall, at the time of its acquisition,  
 48 be rated in one of the two highest rating grades by such  
 49 an agency: *Provided further*, That any such security not  
 50 rated in one of the two highest rating grades by any  
 51 such agency and commercial paper or other evidence of  
 52 indebtedness of any private corporation or association  
 53 shall be purchased only upon the written recommenda-  
 54 tion from an investment adviser that has over three  
 55 hundred million dollars in other funds under its  
 56 management;

57 (h) Negotiable certificates of deposit issued by any  
 58 bank, trust company, national banking association or  
 59 savings institution organized and operating in the  
 60 United States, which mature in less than one year and  
 61 are fully collateralized;

62 (i) Interest earning deposits including certificates of  
 63 deposit, with any duly designated state depository,  
 64 which deposits are fully secured by a collaterally  
 65 secured bond as provided in section four, article one of  
 66 this chapter; and

67 (j) Any corporate stock of any private corporation or  
 68 association organized and operating in the United States  
 69 and which is also listed on the Standard and Poor's List  
 70 of 500.

#### §12-6-10. Restrictions on investments.

1 Moneys on deposit in the consolidated fund and the  
 2 consolidated pension fund shall be invested as permitted  
 3 by section nine of this article subject to the restrictions  
 4 and conditions contained in this section:

5 (1) At no time shall more than seventy-five percent of  
 6 the portfolio of either fund be invested in securities  
 7 described in subdivision (g) of said section nine;

8 (2) At no time shall more than twenty percent of the



9 portfolio of either fund be invested in securities  
10 described in said subdivision (g) which mature within  
11 one year from the date of issuance thereof;

12 (3) At no time shall more than three percent of the  
13 portfolio of either fund be invested in securities issued  
14 by a single private corporation or association;

15 (4) At no time shall more than twenty percent of the  
16 portfolio of the consolidated pension fund be invested in  
17 securities described in subdivision (j) of section nine of  
18 this article; and

19 (5) At no time may any of the consolidated fund be  
20 invested in securities described in subdivision (j) of  
21 section nine of this article.

22 For the purpose of making the computations required  
23 by this section, securities shall be valued in accordance  
24 with generally accepted accounting principles.

## CHAPTER 15. PUBLIC SAFETY.

### ARTICLE 2. DEPARTMENT OF PUBLIC SAFETY.

#### **§15-2-26. Continuation of death, disability and retirement fund; retirement board.**

1 There shall be continued the death, disability and  
2 retirement fund heretofore created for the benefit of  
3 members of the department of public safety and any  
4 dependent of a retired or deceased member thereof.

5 There shall be deducted from the monthly payroll of  
6 each member of the department of public safety and  
7 paid into such fund six percent of the amount of his  
8 salary, and an additional twelve percent of the monthly  
9 salary of each member of said department shall be paid  
10 by the state of West Virginia monthly into such fund out  
11 of the annual appropriation for said department. There  
12 shall also be paid into the fund, such amounts as have  
13 previously been collected by the superintendent of the  
14 department of public safety on account of payments to  
15 members for court attendance and mileage, rewards for  
16 apprehending wanted persons, fees for traffic accident  
17 reports and photographs, fees for criminal investigation  
18 reports and photographs, fees for criminal history

19 record checks, fees for criminal history record reviews  
20 and challenges or from any other sources designated by  
21 the superintendent. All moneys payable into such fund  
22 shall be deposited in the state treasury, and the  
23 treasurer and auditor shall keep a separate account  
24 thereof on their respective books.

25 The moneys in this fund, and the right of a member  
26 to a retirement allowance, to the return of contributions,  
27 or to any benefit under the provisions of this article, are  
28 hereby exempt from any state or municipal tax; shall  
29 not be subject to the execution, garnishment, attachment  
30 or any other process whatsoever; and shall be unassign-  
31 able except as is provided in this article.

32 The death, disability and retirement fund shall be  
33 administered through the thirtieth day of June one  
34 thousand nine hundred ninety-one, by a retirement  
35 board which shall consist of the attorney general, state  
36 treasurer, the superintendent and two members in  
37 active service of the department: *Provided*, That  
38 members of said retirement board shall not be entitled  
39 to receive any compensation in addition to the salary of  
40 their respective offices for any service rendered as a  
41 member of said retirement board: *Provided, however*,  
42 That the superintendent may pay out of funds appropri-  
43 ated for operation of said department the reasonable  
44 expenses of members of said board necessarily incurred  
45 in connection with dispatch of any business properly  
46 before such board. From the first day of July, one  
47 thousand nine hundred ninety-one and thereafter, the  
48 death, disability and retirement fund shall be adminis-  
49 tered by the consolidated public retirement board  
50 created by article ten-d, chapter five of this code. The  
51 two members of said department shall be elected to  
52 membership on the retirement board by vote of the  
53 members of the department of public safety; such  
54 election to be held on the first Tuesday in June next  
55 following the passage of this article and on the first  
56 Tuesday in June each two years thereafter. The attorney  
57 general, state treasurer and the superintendent of the  
58 department of public safety shall promulgate any and  
59 all necessary rules and regulations for holding in a fair

60 and impartial manner the election on the first Tuesday  
61 in June next following the passage of this article and  
62 thereafter the retirement board consisting of the  
63 attorney general, state treasurer, superintendent and  
64 the two duly elected members of said department shall  
65 have authority to promulgate and, from time to time,  
66 revise rules and regulations for holding all subsequent  
67 elections in a fair and impartial manner. All elections  
68 shall be held under the direction of the superintendent  
69 of said department in accordance with said rules and  
70 regulations. The members of the department chosen to  
71 serve on said retirement board shall hold office for a  
72 period of two years commencing on the first day of July  
73 next following the date of such election. When any  
74 member elected to the retirement board shall die, resign  
75 from the board, resign or be discharged from service in  
76 the department, make application for retirement, be  
77 retired, or become disabled, the office of such member  
78 of the retirement board shall be declared vacant by the  
79 superintendent of said department, and said superin-  
80 tendent, to fill such vacancy, shall appoint the member  
81 in active service of said department who as an unsuc-  
82 cessful candidate at the preceding election of members  
83 to said retirement board received the greatest number  
84 of votes. No member of the retirement board shall  
85 participate in any hearing at which his own petition for  
86 retirement or the petition of any member of said  
87 department who is related to him by blood or marriage  
88 shall be presented for consideration.

89 At its first meeting following each election of  
90 members to the retirement board said board shall elect  
91 one of its members to serve as chairman and a second  
92 member to serve as secretary thereof. The retirement  
93 board shall have the power to make rules and regula-  
94 tions, not inconsistent with the provisions hereof,  
95 governing procedure and order and manner of business  
96 by and before such board. The retirement board shall  
97 have the power to make awards and to revise and  
98 terminate awards previously made for such times and  
99 under such terms and conditions as are hereinafter  
100 provided. The votes of a majority of the five members  
101 of the board shall be necessary to decision of any matter

102 by the board. Decisions made by the board shall be  
103 supreme and final and there shall be no appeal  
104 therefrom.

105 It shall be the duty of the retirement board on or  
106 before the first day of July of each year to cause all  
107 future awards from such fund to be valued and, to the  
108 extent that moneys shall be available, reserves based on  
109 sound actuarial principles for payment thereof to be  
110 carried on the fund's account as a liability against the  
111 reserve fund. The board shall have the authority to  
112 employ an actuary for such purpose. The board shall  
113 cause a system of accounting to be installed and  
114 maintained to reflect currently and truly all transac-  
115 tions or developments pertaining to age of members and  
116 eligible dependents surviving deceased members,  
117 periods of service and aggregate earnings of all  
118 members eligible to participate in said fund and any  
119 other matter relating to maintenance of said fund or  
120 administration thereof, and each year to cause to be  
121 made and submitted to each member of said department  
122 a statement of the condition of said fund. Costs and  
123 expenses incurred in making actuarial studies, audits  
124 and installations and maintenance of such accounting  
125 system shall be paid by the superintendent from funds  
126 appropriated for operation of the department of public  
127 safety.

128 All moneys paid into and accumulated in said death,  
129 disability and retirement fund, except such amounts as  
130 shall be designated or set aside by the retirement board  
131 for payments of death, disability and retirement benefits  
132 and awards, shall be invested by the state board of  
133 investments as provided by law.

## CHAPTER 18. EDUCATION.

### ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.

#### §18-7A-4. Teachers retirement board.

1 The general administration and the management of  
2 the retirement system are hereby continued in a  
3 "teachers retirement board" through the thirtieth day of  
4 June, one thousand nine hundred ninety-one and

5 thereafter in the consolidated public retirement board  
6 created by article ten-d, chapter five of this code. The  
7 retirement board shall have the right to sue and be sued,  
8 plead and be impleaded, contract and be contracted  
9 with and shall make all necessary rules and regulations  
10 to carry out the provisions of this article. All of the  
11 business of the board shall be transacted, all of its funds  
12 invested, all warrants for money drawn and payments  
13 made, and all of its cash and securities and other  
14 property shall be held in the name of the "teachers  
15 retirement board."

**§18-7A-18a. Calculation of allocation to reserve fund.**

1 (a) Beginning the first day of June, one thousand nine  
2 hundred ninety-one, the consolidated public retirement  
3 board, created pursuant to article ten-d, chapter five of  
4 this code shall make an annual calculation of the  
5 aggregate full compensation actually received by the  
6 following persons:

7 (1) Those persons employed on or after the first day  
8 of July, one thousand nine hundred ninety-one who  
9 would have been teacher members of the state teachers  
10 retirement system under this article if such persons'  
11 employment had begun prior to such date; and

12 (2) Those persons employed on and after the first day  
13 of July, one thousand nine hundred ninety-one who  
14 would have been non-teaching members of the state  
15 teacher's retirement system under this article if such  
16 persons' employment had begun prior to such date.

17 (b) There shall be an annual allocation from the state  
18 general revenue fund to the reserve fund, created by  
19 section eighteen of this article, equal to the sum of seven  
20 and one half percent of the aggregate compensation  
21 totals of subdivisions one and two, subsection (a) of this  
22 section.

23 There shall be an additional allocation in each year  
24 an amount equal to the total of all irrevocably forfeited  
25 amounts in the suspension account established in section  
26 eleven, article seven-b of this chapter plus earnings  
27 thereon which have been certified to the several

28 contributing employers as irrevocably forfeited in the  
29 prior fiscal year and subsequently utilized by said  
30 contributing employers to reduce their total aggregate  
31 contribution requirements pursuant to section seven-  
32 teen, article seven-b of this chapter.

33 (c) The additional allocation provided in this section  
34 represents a funding method by which a part of a  
35 rational amortization plan will be established to  
36 amortize the current unfunded liability of the teachers  
37 retirement system created by this article. The additional  
38 allocations are not and shall not be construed to be  
39 moneys which are owed to, nor earned by any employee,  
40 designated in subdivision (1) or (2), subsection (a) of this  
41 section. The calculation of additional allocation provided  
42 for herein is solely a mathematical formula to quantify  
43 the savings in the state general revenue funds caused  
44 by the enactment of the Teachers' Retirement Reform  
45 Act codified in article seven-b of this chapter.

**§18-7A-26i. Supplemental benefits for retired teachers.**

1 Beginning on the first day of January, one thousand  
2 nine hundred ninety-one, any annuitant who is receiving  
3 a retirement annuity on the effective date of this section  
4 shall receive a supplemental benefit, prospectively, if  
5 the effective date of retirement for such annuitant was  
6 prior to the first day of July, one thousand nine hundred  
7 eighty-one and such annuitant is not receiving supple-  
8 mental benefits pursuant to section twenty-six-h of this  
9 article. For the purposes of this section, "effective date  
10 of retirement" means the last day of actual employment  
11 or the last day carried on the payroll of the employer,  
12 whichever is later, together with fully meeting all of the  
13 eligibility requirements for retirement prior to the  
14 aforesaid effective date.

15 Each such eligible annuitant shall receive as his or  
16 her supplemental benefit an increased annual amount  
17 which is the product of the sum of eighteen dollars  
18 multiplied by his or her years of credited service.

19 For the purpose of calculating the supplemental  
20 benefit provided in this section, fractional parts of a  
21 service credit year are to be disregarded unless in excess

22 of one half of a credited service year, in which event a  
23 full year of service credit shall be given.

24 For the purpose of computation for determination of  
25 eligibility and for the amount of any supplemental  
26 benefit hereunder, separate computation shall be made  
27 of a retirant's own benefit and that which may be  
28 receivable as beneficiary of another, under the provi-  
29 sions of this article, with each such benefit being eligible  
30 for the supplemental benefit herein provided.

31 Prior to the first day of January, one thousand nine  
32 hundred ninety-one, the executive secretary of the board  
33 shall provide to the Legislature information as to the  
34 number of annuitants who retired before the first day  
35 of July, one thousand nine hundred eighty-one, the  
36 amounts of the annuities they receive, the amount of  
37 funds necessary to provide cost of living increases to  
38 such annuitants, and such other detail and related  
39 information as the joint committee on government and  
40 finance may direct.

**§18-7A-34. Loans to members.**

1 A member of the retirement system upon written  
2 application may borrow from his individual account in  
3 the teachers accumulation fund, subject to these  
4 restrictions:

5 (1) Loans shall be made in multiples of ten dollars, the  
6 minimal loan being one hundred dollars and the  
7 maximum being eight thousand dollars except if the  
8 total amount of loaned money outstanding exceeds forty  
9 million dollars, the maximum will be three thousand  
10 dollars until the teachers retirement board determines  
11 that loans outstanding have been reduced to an extent  
12 that eight thousand dollar loans are again authorized.

13 (2) Loans to any one member shall not exceed one half  
14 of his contributions to his individual account in the  
15 teachers accumulation fund.

16 (3) Interest charged on the amount of the loan shall  
17 be six percent per annum, or a higher rate as set by the  
18 teachers retirement board. If repayable in installments,  
19 the interest shall not exceed the annual rate so estab-

20 lished upon the principal amount of the loan, for the  
21 entire period of the loan, and such charge shall be added  
22 to the principal amount of the loan. The minimal  
23 interest charge shall be for six months.

24 (4) No member shall be eligible for more than one  
25 loan in any one year.

26 (5) If a refund or benefit is payable to the borrower  
27 or his beneficiary before he repays the loan with  
28 interest, the balance due with interest to date shall be  
29 deducted from such benefit or refund.

30 (6) From his monthly salary as a teacher the member  
31 shall pay the loan and interest by deductions which will  
32 pay the loan and interest in not more than sixty nor less  
33 than six months. Upon notice of loan granted and  
34 payment due, the employer shall be responsible for  
35 making such salary deductions and reporting them to  
36 the retirement board. At the option of the retirement  
37 board, loan deductions may be collected as prescribed  
38 herein for the collection of members' contribution, or  
39 may be collected through issuance of warrant by  
40 employer. If the borrower decides to make loan pay-  
41 ments while not paid for service as a teacher, the  
42 retirement board must accept such payments.

**§18-7A-35b. Temporary early retirement incentives  
program; legislative declaration and  
finding of compelling state interest and  
public purpose; specifying eligible and  
ineligible members for incentives  
program; options, conditions, and excep-  
tions; certain positions abolished; special  
rule of eighty; effective, termination, and  
notice dates.**

1 The Legislature hereby finds and declares that a  
2 compelling state interest exists in providing a tempor-  
3 ary, early retirement incentives program for encourag-  
4 ing the early, voluntary retirement of those public  
5 employees who were current, active, contributing  
6 members of this retirement system on the first day of  
7 April, one thousand nine hundred eighty-eight, in the  
8 reduction of the number of such employees and in



9 reduction of governmental costs therefor; that such  
10 program constitutes a public purpose; and that the  
11 special classifications and differentiations provided in  
12 respect of such program are reasonable and equitable  
13 ones for the accomplishment of such purpose and  
14 program as enacted in Enrolled Committee Substitute  
15 for H. B. No. 4672, regular session, one thousand nine  
16 hundred eighty-eight, and as clarified and supple-  
17 mented herein, retroactive to such beginning date,  
18 aforesaid. The Legislature further finds that maintain-  
19 ing an actuarially sound retirement fund is essential and  
20 that the reemployment in any manner, including  
21 reemployment on a contract basis, by the state of any  
22 person who retires under this section is contrary to the  
23 intent of the early retirement program and severely  
24 threatens the fiscal integrity of the retirement fund.

25 (a) For the purposes of this section: (1) "contract"  
26 means any personal service agreement, not involving the  
27 sale of commodities, that cannot be performed within  
28 sixty days or for which the total compensation exceeds  
29 two thousand five hundred dollars in any twelve month  
30 period. The term "contract" does not include any  
31 agreement obtained by a retirant through a bidding  
32 process and which is for the furnishing of any commod-  
33 ity to a government agency; (2) "governmental entity"  
34 means the state of West Virginia; a constitutional  
35 branch or office of the state government, or any  
36 subdivision thereof; a county, city or town in the state;  
37 a county board of education; a separate corporation or  
38 instrumentality established pursuant to a state statute;  
39 any other entity currently permitted to participate in  
40 any state public retirement system or the public  
41 employee's insurance agency; or any officer or official  
42 of any entity listed above who is acting in his or her  
43 official capacity; (3) "substitute teacher" means a  
44 teacher, public school librarian, registered professional  
45 nurse employed by the county board of education or any  
46 other person employed for counselling or instructional  
47 purposes in a public school in this state who is tempor-  
48 arily fulfilling the duties of an existing real person  
49 employed in a specific position who is temporarily  
50 absent from that specific position; (4) "part time elected

51 or appointed office" means any elected or appointed  
52 office that compensates its members in an amount less  
53 than two thousand five hundred dollars or requires less  
54 than sixty days of service in any twelve month period.

55 (b) Beginning on the first day of April, one thousand  
56 nine hundred eighty-eight, and continuing through the  
57 thirty-first day of December, one thousand nine hundred  
58 eighty-eight, (or as extended by contract or by eligibility  
59 qualification requirement, as hereinafter speci-  
60 fied) eligible members, being those active, contributing  
61 members actually and currently employed on such  
62 beginning date, retiring pursuant to this section (except  
63 disability retirees, but including those so employed on  
64 said beginning date and leaving the system during the  
65 incentive period and who are eligible for deferred  
66 benefits), may elect to participate in this incentives  
67 program and may elect any one of the three following  
68 incentive options:

69 (1) Retirement incentive option one:

70 For the purpose of computing the member's annuity,  
71 the normal final average salary shall be computed and  
72 one eighth thereof shall be added thereto in arriving at  
73 the true final average salary for use in actual compu-  
74 tation of retirement benefit.

75 (2) Retirement incentive option two:

76 A member may elect a lump sum payment, in addition  
77 to his regular retirement annuity, equal to ten percent  
78 of his final average salary not to exceed five thousand  
79 dollars, and in the case of a deferred retirement electing  
80 this option, such lump sum payment shall be receivable  
81 and deferred to the time of receipt of such deferred  
82 retirement annuity.

83 (3) Retirement incentive option three:

84 A person shall be credited with an additional two  
85 years of contributing service and an additional two  
86 years of age. The years credited under this option shall  
87 in no way add to a member's final average salary factor  
88 of computation.

89 (c) Eligible, active, contributing members, aforesaid,  
90 employed under agreement and rendering services  
91 during school year one thousand nine hundred eighty-  
92 eight—eighty-nine shall, if retiring pursuant to the  
93 provisions of this section and the early retirement  
94 incentive program set forth herein, make application for  
95 retirement, including choice of their respective option,  
96 and give notice to their respective county boards of  
97 education by the thirty-first day of December, one  
98 thousand nine hundred eighty-eight, but shall be  
99 permitted to postpone actual retirement until imme-  
100 diately after the close of such agreement period and said  
101 school year; with proper credit to be granted for such  
102 extended period.

103 Also, eligible, active contributing members employed,  
104 not under agreement, who desire to retire under this  
105 section but who are unable to retire by the thirty-first  
106 day of December, one thousand nine hundred eighty-  
107 eight, because an element of eligibility for retirement,  
108 such as age or other element, will not be met until a date  
109 after the thirty-first day of December, one thousand nine  
110 hundred eighty-eight, and before the first day of July,  
111 one thousand nine hundred eighty-nine, shall be permit-  
112 ted to postpone actual retirement until the date of  
113 fulfilling such element of eligibility and shall retire on  
114 such date, before the temporary retirement incentive  
115 program ends on the thirtieth day of June, one thousand  
116 nine hundred eighty-nine; with proper credit to be  
117 granted for such extended period: *Provided*, That  
118 members eligible under the preceding paragraph and  
119 this paragraph shall have made application for retire-  
120 ment, including choice of their respective option, and  
121 given notice to their respective employer by the thirty-  
122 first day of December, one thousand nine hundred  
123 eighty-eight, although postponing actual retirement, as  
124 aforesaid: *Provided, however*, That an application for  
125 retirement under the provisions of the preceding  
126 paragraph and this paragraph shall be binding upon a  
127 member unless the member provides the retirement  
128 system and the local board of education or other  
129 educational agency with written notification of his or  
130 her decision not to retire by the first day of April, one

131 thousand nine hundred eighty-nine: *Provided further,*  
132 That an eligible member under this paragraph or the  
133 preceding paragraph who has a grievance or court  
134 proceeding which is pending on the passage date of this  
135 bill, shall be required to give final notice of decision not  
136 to retire by the thirtieth day of June, one thousand nine  
137 hundred eighty-nine: *And provided further,* That the  
138 state teachers retirement board on or before the twenty-  
139 fourth day of March, one thousand nine hundred eighty-  
140 nine, shall provide calculations of anticipated retirement  
141 benefits to those members who intend to retire pursuant  
142 to the provisions of this section.

143 Eligible members other than those covered under the  
144 provisions of the two preceding paragraphs, desiring to  
145 retire under this incentive program shall make their  
146 option election prior to and take their respective  
147 retirement by the close of the thirty-first day of  
148 December, one thousand nine hundred eighty-eight.

149 Any eligible member who retires hereunder during  
150 the school year (after the first day of July, one thousand  
151 nine hundred eighty-eight, and on any date prior to the  
152 thirtieth day of June, one thousand nine hundred eighty-  
153 nine) shall have included such months of such school  
154 year and the salary in respect thereof, if ones of higher  
155 salary, in place of and for any like number of months  
156 in his or her five-year period for computation of  
157 annuities as provided for in section twenty-six of this  
158 article.

159 (d) Any member participating in this retirement  
160 incentive program is not eligible to accept further  
161 employment or accept, directly or indirectly, work on a  
162 contract basis from a governmental entity: *Provided,*  
163 That nothing in this section shall effect any contract  
164 entered into prior to the effective date of this section:  
165 *Provided, however,* That the executive director may  
166 approve, upon written request for good cause shown, an  
167 exception allowing a retirant to perform work on a  
168 contract basis: *Provided further,* That a person may  
169 retire under this section and thereafter serve in an  
170 elective office: *And provided further,* That he or she shall  
171 not receive an incentive option under this section during

172 the term of service in said office, but shall receive his  
173 or her annuity calculated on regular basis, as if  
174 originally taken not under this section but on such  
175 regular basis. At the end of such term and cessation of  
176 service in such office, such incentive option shall  
177 resume. In respect of an appointive office, as distin-  
178 guished from an elective office, any person retiring  
179 under this section and thereafter serving in such  
180 appointive office shall not receive an incentive option  
181 under this section during the term of service in said  
182 office, but the same shall be suspended during such  
183 period: *Provided*, That at the end of such term and  
184 cessation of service in such appointive office the  
185 incentive option provided for under this section shall be  
186 resumed: *Provided, however*, That any person elected or  
187 appointed to office by the state or any of its political  
188 subdivisions who waives whatever salary, wage or per  
189 diem compensation he or she may be entitled to by  
190 virtue of service in such office and who does not receive  
191 any income therefrom except such reimbursement of  
192 out-of-pocket costs and expenses as may be permitted by  
193 the statutes governing such office shall continue to  
194 receive an incentive option under this section. Such  
195 service shall not be counted as contributed or credited  
196 service for purposes of computing retirement benefits.

197 If such elected or appointed office is a part time  
198 elected or appointed office a person electing retirement  
199 under this section may serve in such elective or  
200 appointive office with no loss of the benefits provided  
201 under this section.

202 Prior to the initiation or renewal of any contract  
203 entered into pursuant to this section or the acceptance  
204 of any elective or appointive office, a person who has  
205 elected to retire under the early retirement provisions  
206 of this article shall complete a disclosure and waiver  
207 statement executed under oath and acknowledged by a  
208 notary public. The board shall promulgate rules,  
209 pursuant to chapter twenty-nine-a of this code regarding  
210 the form and contents of the waiver and disclosure  
211 statement. The disclosure and waiver statements shall  
212 be forwarded to the appropriate state public retirement

213 system administrator who shall take action to ensure  
214 that the early retirement incentive option benefit is  
215 reduced in accordance with the provisions of this  
216 section. The administrator shall then certify such action  
217 in writing to the appropriate governmental entity.

218 In any event, an eligible member may retire under  
219 this section and thereafter continue to receive his  
220 incentive annuity and be employed as a substitute  
221 teacher or as adjunct faculty, or as a school service  
222 personnel substitute.

223 Any such incentive retirants, under this section, may  
224 not thereafter receive such annuity and enter or reenter  
225 any governmental retirement system established or  
226 authorized to be established by the state, notwithstand-  
227 ing any provision of the code to the contrary, unless  
228 required by constitutional provision.

229 The additional annuity allowed for temporary early  
230 retirement under these options is intended to be paid  
231 from the retirement incentive account hereby created as  
232 a special account in the state treasury and from the  
233 funds therein established with moneys required to be  
234 applied or transferred by heads of spending units from  
235 the unused portion of salary and fringe benefits in their  
236 budgets accruing in respect to such positions vacated  
237 and subsequently canceled under this temporary early  
238 retirement program. Salary and fringe benefit moneys  
239 actually saved in a particular fiscal year shall constitute  
240 the fund source. No such additional annuity shall be  
241 disallowed even though initial receipts may not be  
242 sufficient, with funds of the system to be applied for  
243 such purpose, as for the base annuity.

244 (e) The executive secretary of the retirement system  
245 shall provide forms for applicants. Such forms shall  
246 include a detailed description of the incentive plan  
247 options.

248 The executive secretary of the retirement system shall  
249 file a report to the Legislature no later than the fifteenth  
250 day of February, one thousand nine hundred eighty-  
251 nine, and quarterly thereafter, detailing the number of  
252 retirees who have elected to accept early retirement

253 incentive options, the dollar cost to date by option  
254 selected, and the projected annual cost through the year  
255 two thousand.

256 (f) Within every spending unit, department, board,  
257 corporation, commission, or any other agency or entity  
258 wherein two or multiples of two members elect to retire  
259 either under the temporary early retirement incentives  
260 set forth above, or under regular, voluntary retirement,  
261 and countable on an agency-wide or entity-wide basis,  
262 no more than one of such vacated positions may be filled,  
263 with the second position being abolished upon the  
264 effective day of the member's retirement: *Provided*,  
265 That county boards of education in replacing employees  
266 leaving under this temporary early retirement incentive  
267 program shall be eligible to replace in that number as  
268 authorized by the basic school aid formula and pursuant  
269 to those guidelines in respect of number of positions lost  
270 or projected to be lost due to declining enrollment,  
271 changes in statutes, changes in state appropriations and  
272 the other guidelines set forth and contained within said  
273 basic school aid formula. The vacant position abolish-  
274 ment requirement shall not apply to elective positions  
275 or appointed public officers whose positions are estab-  
276 lished by state constitutional or statutory provision. The  
277 retirant's employing entity shall decide as to which of  
278 the vacated positions made available through special  
279 early retirement or through regular, voluntary retire-  
280 ment are to be abolished and the head of such spending  
281 unit shall immediately notify the state auditor, the  
282 legislative auditor, and the commissioner of the depart-  
283 ment of finance and administration of the decisions and  
284 shall then apply and/or transfer, as aforesaid, the  
285 remaining salary and fringe benefit appropriations:  
286 *Provided, however*, That this vacant position abolishment  
287 provision shall not apply to any county position, other  
288 than those under the authority of county boards of  
289 education, nor to any position or positions, whether  
290 designated by spending unit, department, agency,  
291 commission, entity or otherwise, which the governor  
292 may exempt or amend under such abolishment provision  
293 upon his recommendation that such exemption or  
294 amendment is necessary to preserve the health, welfare

295 or safety of the people of West Virginia, and with the  
 296 prior concurrence of the joint committee on government  
 297 and finance in such recommendation, after the chairmen  
 298 thereof shall cause such committee to meet.

299 (g) *Special rule of eighty*.—Any active, contributing  
 300 member of the retirement system as of the first day of  
 301 April, one thousand nine hundred eighty-eight, who  
 302 selects one of the incentive options in this section, may  
 303 retire under the special early retirement provisions with  
 304 full pension rights, without reduction of benefits if the  
 305 sum of such member's age plus years of contributing  
 306 service equals or exceeds eighty: *Provided*, That such  
 307 person has at least twenty years of contributing service,  
 308 up to two years of which may be military service, or  
 309 prior service, or already paid and credited out-of-state  
 310 service (if so paid and credited by the first day of April,  
 311 one thousand nine hundred eighty-eight) or any combi-  
 312 nation thereof not exceeding an aggregate of two years.

313 (h) *Termination of temporary retirement incentives*  
 314 *program*.—The right to elect, choose, select or use any  
 315 of the options, special rule of eighty, or other benefits  
 316 set forth in this section shall terminate on the thirtieth  
 317 day of June, one thousand nine hundred eighty-nine.

#### §18-7A-35c. Termination of benefits; procedure.

1 Whenever the board determines that (1) any person  
 2 has knowingly made any false statement or falsified or  
 3 permitted to be falsified any record or records of the  
 4 retirement system in an attempt to defraud the system,  
 5 or (2) any person who resumes employment with any  
 6 governmental entity or accepts, directly or indirectly,  
 7 work on a contract basis from any governmental entity,  
 8 except as provided for under this article, the board shall  
 9 terminate any benefit that a person is receiving, has  
 10 received, or is entitled to receive under the early  
 11 retirement provisions of this article. Further, if any  
 12 person taking early retirement under this article desires  
 13 to revoke his or her early retirement incentive, he or she  
 14 shall be allowed to do so if he or she is entitled to regular  
 15 retirement pursuant to this article: *Provided*, That such  
 16 revocation shall be retroactive to the date of last



17 employment and any incentive annuity already received  
18 by the retiree be repaid to the retirement system. Any  
19 person who revokes his or her early retirement incentive  
20 shall be thereafter carried upon the records of the  
21 retirement system as a regular retiree and shall not be  
22 entitled to any enhanced benefit by reason of the early  
23 retirement options contained in this article: *Provided,*  
24 *however,* That any person who opted to retire pursuant  
25 to the early retirement provisions of this article who  
26 would not have been and is not eligible for regular  
27 retirement but for the early retirement incentive options  
28 must upon returning to the employment of a participat-  
29 ing employer, reapply for admission to a retirement  
30 system and repay all pension benefits paid to that person  
31 since the date his previous employment ceased. Any  
32 termination of benefits may be appealed pursuant to the  
33 state administrative procedures act in chapter twenty-  
34 nine-a of this code. The board shall promulgate rules  
35 regarding the procedure for termination of benefits and  
36 the repayment of any benefit, in accordance with the  
37 provisions of article three, chapter twenty-nine-a of this  
38 code.

**ARTICLE 7B. TEACHERS' DEFINED CONTRIBUTION RETIRE-  
MENT SYSTEM.**

**§18-7B-1. Short title.**

1 This article shall be known and may be cited as the  
2 "Teacher's Retirement Reform Act".

**§18-7B-2. Definitions.**

1 As used in this article, unless the context clearly  
2 requires a different meaning:

3 (1) "Defined contribution system" or "system" means  
4 the teachers' defined contribution retirement system  
5 created and established by this article;

6 (2) "Existing retirement system" means the state  
7 teachers retirement system established in article seven-  
8 a of this chapter;

9 (3) "Existing employer" means any employer who  
10 employed or employs a member of the existing retire-  
11 ment system;

12 (4) "Consolidated board" or "board" means the  
13 consolidated public retirement board created and  
14 established pursuant to article ten-d, chapter five of this  
15 code;

16 (5) "Member" or "employee" means the following  
17 persons, if regularly employed for full-time service: (a)  
18 Any person employed for instructional service in the  
19 public schools of West Virginia; (b) principals; (c) public  
20 school librarians; (d) superintendents of schools and  
21 assistant county superintendents of schools; (e) any  
22 county school attendance director holding a West  
23 Virginia teacher's certificate; (f) the executive secretary  
24 of the retirement board; (g) members of the research,  
25 extension, administrative or library staffs of the public  
26 schools; (h) the state superintendent of schools, heads  
27 and assistant heads of the divisions under his supervi-  
28 sion, or any other employee thereunder performing  
29 services of an educational nature; (i) employees of the  
30 state board of education who are performing services of  
31 an educational nature; (j) any person employed in a non-  
32 teaching capacity by the state board of education, any  
33 county board of education, the state department of  
34 education or the teachers retirement board, if such  
35 person was formerly employed as a teacher in the public  
36 schools; (k) all classroom teachers, principals and  
37 educational administrators in schools under the super-  
38 vision of the department of corrections, the department  
39 of health or the department of human services; (l) any  
40 person who is regularly employed for full-time service  
41 by any county board of education, the state board of  
42 education or the teachers retirement board; and (m) the  
43 administrative staff of the public schools including  
44 deans of instruction, deans of men and deans of women,  
45 and financial and administrative secretaries.

46 (6) "Regularly employed for full-time service" means  
47 employment in a regular position or job throughout the  
48 employment term regardless of the number of hours  
49 worked or the method of pay;

50 (7) "Year of employment service" means employment  
51 for at least ten months, a month being defined as twenty  
52 employment days: *Provided*, That no more than one year

53 of service may be accumulated in any twelve month  
54 period;

55 (8) "Employer" means the agency of and within the  
56 state which has employed or employs a member;

57 (9) "Compensation" means the full compensation  
58 actually received by members for service whether or not  
59 a part of such compensation is received from other  
60 funds, federal or otherwise, than those provided by the  
61 state or its subdivisions;

62 (10) "Public schools" means all publicly supported  
63 schools, including normal schools, colleges and univer-  
64 sities in this state;

65 (11) "Member contribution" means an amount re-  
66 duced from the employee's regular pay periods, and  
67 deposited into the member's individual annuity account  
68 within the defined contribution retirement system;

69 (12) "Employer contribution" means an amount  
70 deposited into the member's individual annuity account  
71 on a periodic basis coinciding with the employee's  
72 regular pay period by an employer from its own funds;

73 (13) "Annuity account" or "annuity" means an account  
74 established for each member to record the deposit of  
75 member contributions and employer contributions and  
76 interest, dividends or other accumulations credited on  
77 behalf of the member;

78 (14) "Retirement" means a member's withdrawal  
79 from the active employment of a participating employer  
80 and completion of all conditions precedent to retirement.

81 (15) "Permanent, total disability" means a mental or  
82 physical incapacity requiring the absence from employ-  
83 ment service for at least six months: *Provided*, That such  
84 incapacity is shown by an examination by a physician  
85 or physicians selected by the board.

**§18-7B-3. Defined contribution retirement system  
created and established; body corporate.**

1 The teachers' defined contribution retirement system  
2 is hereby created and established to provide for the

3 secure, fair and orderly retirement of the teachers and  
 4 related personnel of the state. The defined contribution  
 5 retirement system shall constitute a body corporate and  
 6 all business of the system shall be transacted in the  
 7 name of the teachers' defined contribution retirement  
 system.

**§18-7B-4. Article to be liberally construed; purpose.**

1 The provisions of this article shall be liberally  
 2 construed so as to provide a general annuity based  
 3 retirement system for teachers' in this state. The  
 4 purpose of this article is to provide a defined contribu-  
 5 tion retirement program which is fully funded on a  
 6 current basis from employer and employee contribution.

**§18-7B-5. Administration of the teachers' defined contribution retirement system.**

1 The consolidated public retirement board created  
 2 pursuant to article ten-d, chapter five of this code shall  
 3 administer the teachers' defined contribution retirement  
 4 system. The board may sue and be sued, contract and  
 5 be contracted with and conduct all the business of the  
 6 defined contribution system in the name of the teachers'  
 7 defined contribution retirement system.

**§18-7B-6. Powers and duties of the consolidated board in the administration of the defined contribution system.**

1 The board has all powers necessary to effectuate the  
 2 purposes of this article. The board shall contract with  
 3 a private pension, insurance, annuity, mutual fund or  
 4 other qualified company or companies to administer the  
 5 day to day operations of the system. In selecting such  
 6 company or companies the board shall take into account  
 7 as its highest duty, the proper safeguard and protection  
 8 of the member and employer contributions and the  
 9 interest dividends, or other return thereon. The board  
 10 shall promulgate rules regarding the proper investment  
 11 of funds notwithstanding the provisions of article six,  
 12 chapter twelve of this code.

**§18-7B-7. Participation in teachers' defined contribution retirement system; limiting participation in**

**existing teachers retirement system.**

1     Beginning the first day of July, one thousand nine  
2     hundred ninety-one the teachers' defined contribution  
3     retirement system shall be the single retirement  
4     program for all new employees whose employment  
5     commences on or after that date. No additional new  
6     employees except as may be provided herein may be  
7     admitted to the existing retirement system. Members of  
8     the existing retirement system whose employment  
9     continues beyond the first day of July, one thousand nine  
10    hundred ninety-one are not affected by this article and  
11    shall continue to contribute and participate in the  
12    existing system without change in provisions or benefits.

13    Notwithstanding the provisions of section twenty-  
14    three, article seven-a of this chapter, any employee  
15    whose employment terminates after the thirtieth day of  
16    June, one thousand nine hundred ninety-one, who is  
17    later reemployed by an employer shall be eligible for  
18    membership only in the teachers defined contribution  
19    system: *Provided*, That if such reemployment with an  
20    existing employer occurs not more than six months after  
21    the employee's previous employment he or she shall be  
22    entitled to readmission to the existing retirement system  
23    in which he or she was originally a member: *Provided*,  
24    *however*, That if such employee has withdrawn his or her  
25    contributions from the existing retirement system then  
26    readmission shall not be permitted and the employee  
27    will be entitled only to the defined contribution system.

28    An employee whose employment with an employer or  
29    an existing employer is suspended as a result of an  
30    approved leave of absence, approved maternity or  
31    paternity break in service, or any other approved break  
32    in service authorized by the board, is eligible for  
33    readmission to the existing retirement system in which  
34    he or she was a member.

35    In all cases where a question exists as to readmission  
36    to membership in the existing retirement system, the  
37    board shall decide the question.

**§18-7B-8. Voluntary participation in system.**

1 Any employee who is a member of the existing  
2 retirement system may, upon written election, voluntar-  
3 ily elect membership in the defined contribution system,  
4 on a prospective basis, on or after the first day of July,  
5 one thousand nine hundred ninety-one. All benefits  
6 earned by any employee making such voluntary election  
7 under the existing retirement system prior to such a  
8 voluntary election shall be frozen and made available to  
9 that employee upon retirement as provided by the  
10 existing retirement system. For the purposes of this  
11 section "frozen" means that the member's salary, years  
12 of service and any other factor to determine benefits  
13 shall be calculated as of the date that the member  
14 elected membership in the defined contribution system  
15 and after that date no increase in salary, years of service  
16 or any other factor may be used to increase the  
17 retirement benefit above that which it would be if a  
18 person retired upon the date that the election is made.  
19 After having made such election the employee may not  
20 change such election or again become a member of the  
21 existing retirement system.

**§18-7B-9. Members contribution; annuity account  
established.**

1 Each employee who is a member of the defined  
2 contribution system shall contribute four and one half  
3 percent of his or her gross compensation by salary  
4 reduction. Such salary reductions shall be made by the  
5 employer at the normal payroll intervals and shall be  
6 remitted within five working days to the private  
7 pension, insurance, annuity, mutual fund, or other  
8 qualified company or companies designated by the  
9 board to administer the day to day operations of the  
10 system.

11 All member contributions shall be immediately  
12 deposited to an account or accounts established in the  
13 name of the member and held in trust for the benefit  
14 of the member. An account agreement shall be issued  
15 to each member setting forth the terms and conditions  
16 under which contributions are received, and the  
17 investment and retirement options available to the  
18 member. The board shall promulgate by the thirtieth

19 day of June, one thousand nine hundred ninety-one,  
20 pursuant to section six, of this article, rules defining the  
21 minimum requirements for the investment and retire-  
22 ment options to be provided to the members.

23 Such rules, to the extent not inconsistent with the  
24 applicable provisions of the Internal Revenue Code of  
25 the United States, shall provide for varied retirement  
26 options including, but not limited to:

27 (1) Lump sum distributions;

28 (2) Joint and survivor annuities;

29 (3) Other annuity forms in the discretion of the board;

30 (4) Variable annuities which gradually increase  
31 monthly retirement payments: *Provided*, That said  
32 increased payments are funded solely by the existing  
33 current value of the member's account at the time the  
34 member's retirement payments commencement and not,  
35 to any extent, in a manner which would require  
36 additional employer or employee contributions to any  
37 member's account after retirement or after the cessation  
38 of employment; and

39 (5) The instances in which, if any, distributions or  
40 loans can be made to members from their annuity  
41 account balances prior to having attained the age of  
42 fifty-five.

**§18-7B-10. Employer contributions.**

1 Each participating employer shall annually make a  
2 contribution equal to seven and one half percent of each  
3 members gross compensation whose employment com-  
4 menced on or after the first day of July, one thousand  
5 nine hundred ninety-one. The pro rata share of this  
6 amount shall be paid upon each date that a member  
7 contribution is made and shall be remitted as provided  
8 for in section nine of this article for credit to the  
9 member's annuity account. Each participating employer  
10 has a fiduciary duty to its employees to insure that the  
11 employer contributions are timely made. In the case of  
12 an officer or employee of the state, any unpaid contri-  
13 bution shall be a state debt, contracted as a result of a

14 casual deficit in state revenues, to be accorded preferred  
15 status over other expenditures.

16 In the event that any payment is not timely made, the  
17 participating employer shall immediately give to the  
18 employee and the state auditor notice in writing of the  
19 nonpayment, in such form and accompanied by such  
20 documentation as may be required by the auditor.  
21 Notice to the auditor shall operate in the manner of a  
22 requisition, and the auditor shall transmit a warrant to  
23 the treasurer. At such time as funds are available in the  
24 appropriate account, the treasurer shall pay the  
25 employer contribution, together with appropriate daily  
26 interest.

**§18-7B-11. Termination of membership.**

1 Any member whose employment with a participating  
2 employer terminates after the completion of six com-  
3 plete years of employment service shall be eligible to  
4 terminate his or her annuity account and receive a  
5 distribution from the member's annuity account, in an  
6 amount equal to the member's contribution plus one  
7 third of the employer contributions and any earnings  
8 thereon. Any member whose employment with a  
9 participating employer terminates after the completion  
10 of nine complete years of employment service shall be  
11 eligible to terminate his or her annuity account and  
12 receive a distribution from the member's annuity  
13 account, in an amount equal to the members contribu-  
14 tion plus two thirds of the employer's contributions and  
15 any earnings thereon. Any member whose employment  
16 with a participating employer terminates after the  
17 completion of twelve complete years of employment  
18 service shall be eligible to terminate his or her annuity  
19 account and receive a distribution of all funds contrib-  
20 uted and accumulated in his or her annuity account.  
21 Any member whose employment with a participating  
22 employer terminates prior to the completion of six  
23 complete years of employment service shall be eligible  
24 to terminate his or her annuity account and receive a  
25 distribution from the member's annuity account, in an  
26 amount equal to the member's contribution plus any  
27 earnings thereon: *Provided*, That on the death or



28 permanent, total disability of any member, that member  
29 shall be eligible to terminate his or her annuity account  
30 and receive all funds contributed to or accumulated in  
31 his or her annuity account.

32 The remaining balance, if any, in the member's  
33 account after the distribution shall be remitted and paid  
34 into a suspension account, hereby created, to be  
35 administered by the board. The board shall promulgate  
36 rules regarding the distribution of any balance in the  
37 special account created by this section: *Provided*, That  
38 any funds in the account shall be used solely for the  
39 purpose of reducing employer contributions in future  
40 years.

41 Any account balances remitted to the suspension  
42 account herein shall be maintained by the board in said  
43 suspension account in the name of the terminated  
44 employee for a period of five years following initial  
45 remittance to the suspension account. For each said  
46 terminated employee at the culmination of the aforesaid  
47 five-year period the board shall certify in writing to  
48 each contributing employer the amount of the account  
49 balances plus earnings thereon attributable to each  
50 separate contributing employers previously terminated  
51 employees' accounts which have been irrevocably  
52 forfeited due to the elapse of a five-year period since  
53 termination pursuant to section sixteen of this article.

54 Upon certification to the several contributing employ-  
55 ers of the aggregate account balances plus earnings  
56 thereon which have been irrevocably forfeited pursuant  
57 to this section, the several contributing employers shall  
58 be permitted in the next succeeding fiscal year or years  
59 to reduce their total aggregate contribution require-  
60 ments pursuant to section seventeen of this article, for  
61 the then current fiscal year by an amount equal to the  
62 aggregate amounts irrevocably forfeited and certified as  
63 such to each contributing employer.

64 Upon the utilization of the amounts irrevocably  
65 forfeited to any contributing employer as a reduction in  
66 the then current fiscal year contribution obligation and  
67 upon notification provided by the several contributing

68 employers to the board of their intention to utilize  
 69 irrevocably forfeited amounts, the board shall direct the  
 70 distribution of said irrevocably forfeited amounts from  
 71 the suspension account to be deposited on behalf of the  
 72 contributing employer to the member annuity accounts  
 73 of its then current employees pursuant to section  
 74 seventeen of this article.

**§18-7B-12. Retirement, commencement of annuity payments.**

1 At any time after an employee reaches the age of fifty-  
 2 five years, he or she may elect to take retirement by  
 3 notifying the board or its designee in writing of such  
 4 intention not less than sixty days prior to the effective  
 5 date of retirement. Retirement payments shall com-  
 6 mence within thirty days of the retirement date under  
 7 such payment option or options as may be provided by  
 8 the board and elected by the employee.

**§18-7B-13. Amount of annuity payments.**

1 (a) The amount of annuity payments a retired  
 2 member shall receive shall be based solely upon the  
 3 balance in the member's annuity account at the date of  
 4 retirement, the retirement option selected, or in the  
 5 event of an annuity option being selected, the actuarial  
 6 life expectancy of the member, and such other factors  
 7 as normally govern annuity payments.

8 (b) The board, or its designee, is authorized upon  
 9 retirement of a member, with the approval of that  
 10 member, to purchase an annuity with the balance of the  
 11 member's account. Upon delivery of the annuity to the  
 12 member upon his or her retirement, the member shall  
 13 execute a release surrendering any claim the member  
 14 may have against the retirement trust.

**§18-7B-14. Supplemental annuity contracts.**

1 The board shall authorize the private pension,  
 2 insurance, annuity, mutual fund or other qualified  
 3 company or companies with whom it contracts to make  
 4 available to members such supplemental annuity  
 5 options, disability and other insurance or benefits as the  
 6 board deems appropriate: *Provided*, That such supple-

7 mental annuities, insurance and benefits shall be funded  
8 solely from employee contributions.

**§18-7B-15. Account statements.**

1 The board shall prepare or cause to be prepared, on  
2 an annual basis, an account statement for each  
3 members' annuity account. The statement shall include  
4 but not be limited to a statement of the current market  
5 value of the members' account. The board shall pres-  
6 cribe the form and content of the account statement not  
7 inconsistent with the provisions of this section.

**§18-7B-16. Years of employment service.**

1 A member of the defined contribution system who  
2 terminates employment with a participating employer  
3 and does not remove any funds from his or her annuity  
4 account and becomes reemployed with a participating  
5 employer within five years shall retain his or her  
6 previous years of employment service for purposes of the  
7 provisions of section eleven of this article.

**§18-7B-17. Deposits to the members' annuity accounts.**

1 Beginning on the first day of July, one thousand nine  
2 hundred ninety-one and thereafter each county board of  
3 education shall deposit in the member's annuity account  
4 created pursuant to section nine of this article an  
5 amount equal to seven and one half percent of all  
6 compensation paid to members of the defined contribu-  
7 tion system in excess of that authorized for minimum  
8 salaries in sections two and eight-a, article four, chapter  
9 eighteen-a of this code to the extent that the excess  
10 exceeds the amount distributed for salary equity to the  
11 county.

**§18-7B-18. Right to benefits not subject to execution, etc.**

1 The right of any person to a benefit provided for in  
2 this article shall not be subjected to execution, attach-  
3 ment, garnishment, the operation of bankruptcy or  
4 insolvency laws, or other process whatsoever, nor shall  
5 any assignment thereof be enforceable in any court.

**ARTICLE 23. POWERS AND DUTIES OF GOVERNING BOARDS.**

**§18-23-4a. Supplemental and additional retirement plans for employees; payroll deductions; authority to match employee contributions; retroactive curative and technical corrective action.**

1 The governing boards shall have the authority to  
2 contract for a supplemental retirement plan for any or  
3 all of its employees to supplement the benefits such  
4 employees will receive under the state teachers retire-  
5 ment system. The governing boards shall have the  
6 authority to make additional periodic deductions from  
7 the salary payments due such employees in the amount  
8 they are required to contribute for the supplemental  
9 retirement plan selected by the board. The additional  
10 deductions shall not exceed five percent of the salary of  
11 employees under thirty-five years of age, six percent of  
12 the salary of those thirty-five through forty-four years  
13 of age, and seven and one-half percent of the salary of  
14 those forty-five years of age and above, and shall not  
15 cover any portion of an employee's salary which is  
16 covered by the state teachers retirement system.

17 The governing boards shall also have the authority to  
18 contract for an additional retirement plan for any of its  
19 employees who elect to participate solely in such a  
20 retirement plan selected by the governing boards  
21 without participating in the state retirement system.  
22 The governing boards shall have the authority to make  
23 periodic deductions from the salary payments due such  
24 employees in the amount they are required to contribute  
25 to the additional plan, which deductions shall be the  
26 same percentage of the participating employees' salaries  
27 as that deducted from the salaries of members of the  
28 state retirement system.

29 The board is further authorized, by way of additional  
30 compensation to such employees, to pay an amount equal  
31 to the contributions of such employees into either the  
32 supplemental or additional retirement plan from funds  
33 appropriated to it for personal services. Each participat-  
34 ing employee shall have a full and immediate vested  
35 interest in the retirement and death benefits accrued  
36 from all the moneys paid into such supplemental or

37 additional retirement plan for his benefit. Upon proper  
38 requisition of the board, the auditor shall periodically  
39 issue a warrant, payable as specified in the requisition,  
40 for the total contributions so withheld from the salaries  
41 of all participating employees and for the governing  
42 board's matching funds.

43 Pursuant to the provisions contained in article seven-  
44 a and article twenty-three of this chapter, once a  
45 member has elected one of the options contained in  
46 section fourteen-a, article seven-a of this chapter and  
47 section four-a, article twenty-three of this chapter, he  
48 cannot thereafter change such election. The Legislature  
49 declares that the amendment of this section in Enrolled  
50 Committee Substitute for House Bill No. 4672, enacted  
51 at the regular session, one thousand nine hundred  
52 eighty-eight was inadvertent and remained in said bill  
53 contrary to legislative intent that the same be deleted;  
54 therefore, such language is hereby retroactively deleted  
55 and expunged as of the effective date of said Enrolled  
56 Committee Substitute for House Bill No. 4672 as  
57 curative and technical corrective action. The Legislature  
58 further declares that such ambiguous and deficient  
59 language inadvertently enacted in said bill shall be  
60 given no force and effect whatsoever in any litigation  
61 involving such language.

62 Beginning on the first day of July, one thousand nine  
63 hundred and ninety-one, any person whose employment  
64 commences on or after that date and is eligible to  
65 participate in an additional retirement plan provided  
66 pursuant to this section shall be required to participate  
67 in said additional plan and shall not be eligible to  
68 participate in any other state retirement system.

### CHAPTER 33. INSURANCE.

#### ARTICLE 3. LICENSING, FEES AND TAXATION OF INSURERS.

##### **§33-3-14d. Additional fire and casualty insurance pre- mium tax; allocation of proceeds; effective date.**

- 1 (a) For the purpose of providing additional revenue
- 2 for municipal policemen's and firemen's pension and

3 relief funds and the teachers retirement system reserve  
4 fund and for volunteer and part volunteer fire compan-  
5 ies and departments, there is hereby levied and imposed,  
6 on and after the first day of January, one thousand nine  
7 hundred eighty-two, an additional premium tax equal to  
8 one percent of gross direct premiums collected, less  
9 premiums returned to policyholders because of cancel-  
10 lation of policies, for fire insurance and casualty  
11 insurance policies. For purposes of this section, casualty  
12 insurance shall not include insurance on the life of a  
13 debtor pursuant to or in connection with a specific loan  
14 or other credit transaction or insurance on a debtor to  
15 provide indemnity for payments becoming due on a  
16 specific loan or other credit transaction while the debtor  
17 is disabled as defined in the policy. Except as otherwise  
18 provided in this section, all provisions of this article  
19 relating to the levy, imposition and collection of the  
20 regular premium tax are applicable to the levy,  
21 imposition and collection of the additional tax.

22 All moneys collected from this additional tax shall be  
23 received by the commissioner and paid by him into a  
24 special account in the state treasury, designated the  
25 municipal pensions and protection fund. The net  
26 proceeds of this tax after appropriation thereof by the  
27 Legislature shall be distributed in accordance with the  
28 provisions of this section.

29 (b) Before the first day of August, one thousand nine  
30 hundred eighty-three, and before the first day of August  
31 of each calendar year thereafter, the treasurer of each  
32 municipality in which a municipal policemen's or  
33 firemen's pension and relief fund has been established  
34 shall report to the state treasurer the average monthly  
35 number of members who worked at least one hundred  
36 hours per month of municipal policemen's or firemen's  
37 pension systems during the preceding fiscal year. Before  
38 the first day of August, one thousand nine hundred  
39 eighty-three, and before the first day of August of each  
40 calendar year thereafter, the state fire marshal shall  
41 report to the state treasurer the names and addresses  
42 of all volunteer and part volunteer fire companies and  
43 departments within the state which meet the eligibility

44 requirements established in section eight-a, article  
45 fifteen, chapter eight of this code.

46 Before the first day of September, one thousand nine  
47 hundred eighty-three, and before the first day of  
48 September of each calendar year thereafter, the state  
49 treasurer shall allocate and authorize for distribution  
50 the revenues in the municipal pensions and protection  
51 fund which were collected during the preceding ca-  
52 lendar year for the purposes set forth in this section.  
53 Sixty-five percent of the aforementioned revenues  
54 allocated shall be allocated to municipal policemen's and  
55 firemen's pension and relief funds; twenty-five percent  
56 of such allocated revenues shall be allocated to volunteer  
57 and part volunteer fire companies and departments, and  
58 ten percent of such allocated revenues shall be allocated  
59 to the Teachers Retirement System Reserve Fund  
60 created by section eighteen, article seven-a, chapter  
61 eighteen of this code: *Provided*, That in any year the  
62 actuarial report required by section twenty, article  
63 twenty-two, chapter eight of this code indicates no  
64 actuarial deficiency in the municipal policemen's or  
65 firemen's pension and relief fund, no revenues may be  
66 allocated from the municipal pensions and protection  
67 fund to that fund. The revenues from the municipal  
68 pensions and protection fund shall then be allocated to  
69 all other pension funds which have an actuarial  
70 deficiency.

71 (c) (1) Each municipal pension and relief fund shall  
72 have allocated and authorized for distribution a pro rata  
73 share of the revenues allocated to municipal policemen's  
74 and firemen's pension and relief funds based upon the  
75 corresponding municipality's average monthly number  
76 of members who worked at least one hundred hours per  
77 month during the preceding fiscal year. All moneys  
78 received by municipal pension and relief funds under  
79 this section may be expended only for the purposes  
80 described in sections sixteen through twenty-eight,  
81 article twenty-two, chapter eight of this code.

82 (2) Each volunteer fire company or department shall  
83 receive an equal share of the revenues allocated for  
84 volunteer and part volunteer fire companies and

85 departments.

86 (3) In addition to the share allocated and distributed  
 87 in accordance with subdivision (1) of this subsection,  
 88 each municipal fire department composed of full-time  
 89 paid members and volunteers and part volunteer fire  
 90 companies and departments shall receive a share equal  
 91 to the share distributed to volunteer fire companies  
 92 under subdivision (2) of this subsection reduced by an  
 93 amount equal to such share multiplied by the ratio of  
 94 the number of full-time paid fire department members  
 95 who are also members of a municipal firemen's pension  
 96 system to the total number of members of such fire  
 97 department.

98 (d) The allocation and distribution of revenues  
 99 provided for in this section are subject to the provisions  
 100 of section twenty, article twenty-two, and sections eight-  
 101 a and eight-b, article fifteen, chapter eight of this code.

## CHAPTER 51. COURTS AND THEIR OFFICERS.

### ARTICLE 9. RETIREMENT SYSTEM FOR JUDGES OF COURTS OF RECORD.

#### **§51-9-3. Custody, permissible investment and administra- tion of retirement system trust fund; state auditor's authority as administrator and trust fund fiduciary; refunds required, including interest.**

1 The state treasurer shall be the custodian of the fund  
 2 and of any investment securities of the retirement  
 3 system and shall give a separate and additional bond for  
 4 the faithful performance of his or her duties as such  
 5 custodian. The governor shall fix the amount of such  
 6 bond which shall be approved as to sufficiency and form  
 7 by the attorney general and shall be filed in the office  
 8 of the secretary of state. The premium on such bond  
 9 shall be paid from the fund.

10 In a manner and to an extent consonant with sound  
 11 administrative principles, the state board of investments  
 12 shall have authority to invest such fund in interest-  
 13 bearing securities of the United States of America, of  
 14 the state of West Virginia and of any political subdivi-



15 sion thereof or such other investments as may be  
16 authorized or permitted by the provisions of article six,  
17 chapter twelve of this code.

18 The state auditor shall be the primary fiscal officer,  
19 responsible for the records and administration of the  
20 trust fund, including budgetary matters incident to the  
21 authority vested in him or her with respect to judicial  
22 department appropriations under article VI, section 51  
23 of the Constitution of West Virginia. The state auditor  
24 shall also, as trust fund fiduciary, independently  
25 determine anew, in a substantive sense and as a check  
26 and balance, any information concerning eligible service  
27 years, required money contributions, computation of  
28 judge's retirement benefit or spousal benefit or any  
29 other substantive element of qualification supplied or  
30 certified to the state auditor by any other public officer,  
31 including the supreme court administrator or the chief  
32 executive, toward proper final review before issuance of  
33 a state warrant in payment of any benefit under the  
34 judges' retirement system.

35 Through the thirtieth day of June, one thousand nine  
36 hundred ninety-one the state auditor shall be the  
37 primary fiscal officer, responsible for the records and  
38 administration of the trust fund, including budgetary  
39 matter incident to the authority vested in him or her  
40 with respect to judicial department appropriations  
41 under article six, section fifty-one of the Constitution of  
42 West Virginia. The state auditor shall also, as trust fund  
43 fiduciary, independently determine anew, in a substan-  
44 tive sense and as a check and balance, any information  
45 concerning eligible service years, required money  
46 contributions, computation of judge's retirement benefit  
47 or spousal benefit or any other substantive element of  
48 qualification supplied or certified to the state auditor by  
49 any other public officer, including the supreme court  
50 administrator or the chief executive, toward proper  
51 final review before issuance of a state warrant in  
52 payment of any benefit under the judges' retirement  
53 system. From the first day of July, one thousand nine  
54 hundred ninety-one and thereafter, the fund shall be  
55 administered by the consolidated public retirement

56 board created by article ten-d, chapter five of this code.

57 In respect of any credited service heretofore acquired  
58 under the Dostert decision and subsequent related  
59 decisions, the state auditor shall make refund to any  
60 person heretofore making payment to acquire such  
61 service credit, primary or derivative, in the amount so  
62 earlier paid, together with interest at the same rate such  
63 sum actually earned because of its investment by the  
64 auditor or treasurer, as the case may be, in the  
65 consolidated pension pool or with the interest such sum  
66 would have earned if timely invested in such pool,  
67 whichever amount of interest be greater.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Frederick L. Parker*  
Chairman Senate Committee

*Bernard V. Kelly*  
Chairman House Committee

Originating in the House.

Takes effect from passage.

*Harrell E. Holmes*  
Clerk of the Senate

*Donald L. Hays*  
Clerk of the House of Delegates

*Keith Furtelle*  
President of the Senate

*Bob Hays*  
Speaker of the House of Delegates

The within *is approved* this the *11th*  
day of *September*, 1990.

*Yaston Caperton*  
Governor

PRESENTED TO THE

GOVERNOR

Date 9/6/90

Time 4:10 pm

RECEIVED

1990 SEP 12 AM 9:33

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE