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SB 2585
HB

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2007



ENROLLED

**COMMITTEE SUBSTITUTE
FOR
House Bill No. 2585**

(By Delegates M. Poling and Paxton (By Request))



Passed March 10, 2007

In Effect July 1, 2007

FILED

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COMMITTEE SUBSTITUTE

OFFICE WEST VIRGINIA
SECRETARY OF STATE

for

H. B. 2585

(BY DELEGATES M. POLING AND PAXTON (BY REQUEST))

[Passed March 10, 2007; in effect July 1, 2007.]

AN ACT to repeal §18A-3-11 of the Code of West Virginia, 1931, as amended; to amend and reenact §5-16-2 of said code; to amend and reenact §18-7A-3 of said code; to amend and reenact §18-7B-2 of said code; to amend and reenact §18-23-4a of said code; to amend and reenact §18A-3-3 of said code; and to amend said code by adding thereto a new section, designated §18A-3-11, all relating to education generally; findings; definitions; allowing for the designation of up to twenty-five professional educators as 21st Century Learner Fellows; allowing Fellows to continue as a member of either the teachers retirement system or the defined contribution system, as applicable, while being employed by a state institution of higher education or a research corporation; allowing Fellows to continue to participate in public employee insurance programs during the employment; limiting the responsibility of a state institution of higher education or a research corporation for a fellow's annual and sick leave earned from prior employment; the renewal of teaching certificates and permanent certification;

providing certification through National Board for Professional Teaching Standards as an additional option for attaining permanent certification; providing for state board member participation in the public employees insurance program; and making technical improvements.

Be it enacted by the Legislature of West Virginia:

That §18A-3-11 of the Code of West Virginia, 1931, as amended, be repealed; that §5-16-2 of said code be amended and reenacted; that §18-7A-3 of said code be amended and reenacted; that §18-7B-2 of said code be amended and reenacted; that §18-23-4a of said code be amended and reenacted; that §18A-3-3 of said code be amended and reenacted; and that said code be amended by adding thereto a new section, designated §18A-3-11, all to read as follows:

**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 16. WEST VIRGINIA PUBLIC EMPLOYEES
INSURANCE ACT.**

§5-16-2. Definitions.

1 The following words and phrases as used in this article,
2 unless a different meaning is clearly indicated by the context,
3 have the following meanings:

4 (1) "Agency" means the public employees insurance
5 agency created by this article.

6 (2) "Director" means the director of the public employees
7 insurance agency created by this article.

8 (3) "Employee" means any person, including an elected
9 officer, who works regularly full time in the service of the

10 State of West Virginia and, for the purpose of this article
11 only, the term "employee" also means any person, including
12 an elected officer, who works regularly full time in the
13 service of a county board of education; a county, city or town
14 in the state; any separate corporation or instrumentality
15 established by one or more counties, cities or towns, as
16 permitted by law; any corporation or instrumentality
17 supported in most part by counties, cities or towns; any
18 public corporation charged by law with the performance of a
19 governmental function and whose jurisdiction is coextensive
20 with one or more counties, cities or towns; any
21 comprehensive community mental health center or
22 comprehensive mental retardation facility established,
23 operated or licensed by the secretary of health and human
24 resources pursuant to section one, article two-a, chapter
25 twenty-seven of this code and which is supported in part by
26 state, county or municipal funds; any person who works
27 regularly full time in the service of the Higher Education
28 Policy Commission, the West Virginia Council for
29 Community and Technical College Education or a governing
30 board, as defined in section two, article one, chapter
31 eighteen-b of this code; any person who works regularly full
32 time in the service of a combined city-county health
33 department created pursuant to article two, chapter sixteen of
34 this code; any person designated as a 21st Century Learner
35 Fellow pursuant to section eleven, article three, chapter
36 eighteen-a of this code; and any person who works as a long
37 term substitute as defined in section one, article one, chapter
38 eighteen-a of this code , in the service of a county board of
39 education: *Provided*, That a long term substitute who is
40 continuously employed for at least one hundred thirty-three
41 instructional days during an instructional term and until the
42 end of that instructional term, is eligible for the benefits
43 provided in this article until the first day of September
44 following that instructional term. *Provided further*, That a
45 long term substitute employed fewer than one hundred thirty-
46 three instructional days during an instructional term is
47 eligible for the benefits provided in this article only during
48 such time as he or she is actually employed as a long term
49 substitute. On and after the first day of January, one
50 thousand nine hundred ninety-four, and upon election by a

51 county board of education to allow elected board members to
52 participate in the public employees insurance program
53 pursuant to this article, any person elected to a county board
54 of education shall be considered to be an "employee" during
55 the term of office of the elected member. Upon election by
56 the State Board of Education to allow appointed board
57 members to participate in the public employees insurance
58 program pursuant to this article, any person appointed to the
59 State Board of Education is considered an "employee" during
60 the term of office of the appointed member: *Provided*, That
61 the elected member of a county board of education and the
62 appointed member of the State Board of Education shall pay
63 the entire cost of the premium if he or she elects to be
64 covered under this article. Any matters of doubt as to who is
65 an employee within the meaning of this article shall be
66 decided by the director.

67 On or after the first day of July, one thousand nine
68 hundred ninety-seven, a person shall be considered an
69 "employee" if that person meets the following criteria:

70 (i) Participates in a job-sharing arrangement as defined in
71 section one, article one, chapter eighteen-a of this code;

72 (ii) Has been designated, in writing, by all other
73 participants in that job-sharing arrangement as the
74 "employee" for purposes of this section; and

75 (iii) Works at least one third of the time required for a
76 full-time employee.

77 (4) "Employer" means the state of West Virginia, its
78 boards, agencies, commissions, departments, institutions or
79 spending units; a county board of education; a county, city or
80 town in the state; any separate corporation or instrumentality
81 established by one or more counties, cities or towns, as
82 permitted by law; any corporation or instrumentality
83 supported in most part by counties, cities or towns; any
84 public corporation charged by law with the performance of a
85 governmental function and whose jurisdiction is coextensive
86 with one or more counties, cities or towns; any

87 comprehensive community mental health center or
88 comprehensive mental retardation facility established,
89 operated or licensed by the secretary of health and human
90 resources pursuant to section one, article two-a, chapter
91 twenty-seven of this code and which is supported in part by
92 state, county or municipal funds; a combined city-county
93 health department created pursuant to article two, chapter
94 sixteen of this code; and a corporation meeting the
95 description set forth in section three, article twelve, chapter
96 eighteen-b of this code that is employing a 21st Century
97 Learner Fellow pursuant to section eleven, article three,
98 chapter eighteen of this code but the corporation is not
99 considered an employer with respect to any employee other
100 than a 21st Century Learner Fellow. Any matters of doubt as
101 to who is an "employer" within the meaning of this article
102 shall be decided by the director. The term "employer" does
103 not include within its meaning the national guard.

104 (5) "Finance board" means the public employees
105 insurance agency finance board created by this article.

106 (6) "Person" means any individual, company, association,
107 organization, corporation or other legal entity, including, but
108 not limited to, hospital, medical or dental service
109 corporations; health maintenance organizations or similar
110 organization providing prepaid health benefits; or individuals
111 entitled to benefits under the provisions of this article.

112 (7) "Plan", unless the context indicates otherwise, means
113 the medical indemnity plan, the managed care plan option or
114 the group life insurance plan offered by the agency.

115 (8) "Retired employee" means an employee of the state
116 who retired after the twenty-ninth day of April, one thousand
117 nine hundred seventy-one, and an employee of the higher
118 education policy commission, the council for community and
119 technical college education, a state institution of higher
120 education or a county board of education who retires on or
121 after the twenty-first day of April, one thousand nine hundred
122 seventy-two, and all additional eligible employees who retire
123 on or after the effective date of this article, meet the

124 minimum eligibility requirements for their respective state
125 retirement system and whose last employer immediately prior
126 to retirement under the state retirement system is a
127 participating employer: *Provided*, That for the purposes of
128 this article, the employees who are not covered by a state
129 retirement system but who are covered by a state approved or
130 state contracted retirement program shall, in the case of
131 education employees, meet the minimum eligibility
132 requirements of the State Teachers' Retirement System and
133 in all other cases, meet the minimum eligibility requirements
134 of the public employees retirement system.

CHAPTER 18. EDUCATION.

ARTICLE 7A. STATE TEACHERS' RETIREMENT SYSTEM.

§18-7A-3. Definitions.

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

3 (1) "Accumulated contributions" means all deposits and
4 all deductions from the gross salary of a contributor plus
5 regular interest.

6 (2) "Accumulated net benefit" means the aggregate
7 amount of all benefits paid to or on behalf of a retired
8 member;

9 (3) "Annuities" means the annual retirement payments
10 for life granted beneficiaries in accordance with this article.

11 (4) "Average final salary" means the average of the five
12 highest fiscal year salaries earned as a member within the last
13 fifteen fiscal years of total service credit, including military
14 service as provided in this article, or if total service is less
15 than fifteen years, the average annual salary for the period on
16 which contributions were made.

17 (5) "Beneficiary" means the recipient of annuity
18 payments made under the retirement system.

19 (6) "Contributor" means a member of the retirement
20 system who has an account in the teachers accumulation
21 fund.

22 (7) "Deposit" means a voluntary payment to his or her
23 account by a member.

24 (8) "Employer" means the agency of and within the state
25 which has employed or employs a member.

26 (9) "Employment term" means employment for at least
27 ten months, a month being defined as twenty employment
28 days.

29 (10) "Gross salary" means the fixed annual or periodic
30 cash wages paid by a participating public employer to a
31 member for performing duties for the participating public
32 employer for which the member was hired. Gross salary also
33 shall include retroactive payments made to a member to
34 correct a clerical error, or pursuant to a court order or final
35 order of an administrative agency charged with enforcing
36 federal or state law pertaining to the member's rights to
37 employment or wages, with all the retroactive salary
38 payments to be allocated to and considered paid in the
39 periods in which the work was or would have been done.
40 Gross salary shall not include lump sum payments for
41 bonuses, early retirement incentives, severance pay, or any
42 other fringe benefit of any kind including, but not limited to,
43 transportation allowances, automobiles or automobile
44 allowances, or lump sum payments for unused, accrued leave
45 of any type or character.

46 (11) "Internal Revenue Code" means the Internal
47 Revenue Code of 1986, as it has been amended.

48 (12) "Member" means a member of the retirement
49 system.

50 (13) "Members of the administrative staff of the public
51 schools" means deans of instruction, deans of men, deans of
52 women, and financial and administrative secretaries.

53 (14) "Members of the extension staff of the public
54 schools" means every agricultural agent, boys' and girls' club
55 agent and every member of the agricultural extension staff
56 whose work is not primarily stenographic, clerical or
57 secretarial.

58 (15) "New entrant" means a teacher who is not a present
59 teacher.

60 (16) "Nonteaching member" means any person, except a
61 teacher member, who is regularly employed for full-time
62 service by: (a) Any county board of education; (b) the State
63 Board of Education; (c) the Higher Education Policy
64 Commission, the West Virginia Council for Community and
65 Technical College Education or a governing board, as
66 defined in section two, article one, chapter eighteen-b of this
67 code; or (d) the Teachers Retirement Board: *Provided*, That
68 any person whose employment with the Higher Education
69 Policy Commission, the West Virginia Council for
70 Community and Technical College Education or a governing
71 board commences on or after the first day of July, one
72 thousand nine hundred ninety-one, is not considered a
73 nonteaching member.

74 (17) "Pick-up service" means service that a member was
75 entitled to, but which the employer has not withheld or paid
76 for.

77 (18) "Plan year" means the twelve-month period
78 commencing on the first day of July and ending the following
79 thirtieth day of June of any designated year.

80 (19) "Present member" means a present teacher who is a
81 member of the retirement system.

82 (20) "Present teacher" means any person who was a
83 teacher within the thirty-five years beginning the first day of
84 July, one thousand nine hundred thirty-four, and whose
85 membership in the retirement system is currently active.

86 (21) "Prior service" means all service as a teacher
87 completed prior to the first day of July, one thousand nine

88 hundred forty-one, and all service of a present member who
89 was employed as a teacher, and did not contribute to a
90 retirement account because he or she was legally ineligible
91 for membership during the service.

92 (22) "Public schools" means all publicly supported
93 schools, including colleges and universities in this state.

94 (23) "Refund beneficiary" means the estate of a deceased
95 contributor or a person he or she has nominated as
96 beneficiary of his or her contributions by written designation
97 duly executed and filed with the retirement board.

98 (24) "Refund interest" means interest compounded,
99 according to the formula established in legislative rules,
100 series seven of the Consolidated Public Retirement Board.

101 (25) "Regular interest" means interest at four percent
102 compounded annually, or a higher earnable rate if set forth in
103 the formula established in legislative rules, series seven of the
104 Consolidated Public Retirement Board.

105 (26) "Regularly employed for full-time service" means
106 employment in a regular position or job throughout the
107 employment term regardless of the number of hours worked
108 or the method of pay.

109 (27) "Required beginning date" means the first day of
110 April of the calendar year following the later of: (a) The
111 calendar year in which the member attains age seventy and
112 one-half years; or (b) the calendar year in which the member
113 retires or ceases covered employment under the system after
114 having attained the age of seventy and one-half years.

115 (28) "Retirement system" means the State Teachers'
116 Retirement System provided for in this article.

117 (29) "Teacher member" means the following persons, if
118 regularly employed for full-time service: (a) Any person
119 employed for instructional service in the public schools of
120 West Virginia; (b) principals; (c) public school librarians; (d)
121 superintendents of schools and assistant county

122 superintendents of schools; (e) any county school attendance
123 director holding a West Virginia teacher's certificate; (f) the
124 Executive Secretary of the Retirement Board; (g) members of
125 the research, extension, administrative or library staffs of the
126 public schools; (h) the State Superintendent of Schools, heads
127 and assistant heads of the divisions under his or her
128 supervision, or any other employee under the State
129 Superintendent performing services of an educational nature;
130 (i) employees of the State Board of Education who are
131 performing services of an educational nature; (j) any person
132 employed in a nonteaching capacity by the State Board of
133 Education, any county board of education, the State
134 Department of Education or the Teachers Retirement Board,
135 if that person was formerly employed as a teacher in the
136 public schools; (k) all classroom teachers, principals and
137 educational administrators in schools under the supervision
138 of the Division of Corrections, the Division of Health or the
139 Division of Human Services; (l) employees of the State
140 Board of School Finance, if that person was formerly
141 employed as a teacher in the public schools; and (m) any
142 person designated as a 21st Century Learner Fellow pursuant
143 to section eleven, article three, chapter eighteen-a of this code
144 who elects to remain a member of the Teachers' Retirement
145 System provided for in this article.

146 (30) "Total service" means all service as a teacher while
147 a member of the retirement system since last becoming a
148 member and, in addition thereto, credit for prior service, if
149 any.

150 The masculine gender shall be construed so as to include
151 the feminine.

152 Age in excess of seventy years shall be considered to be
153 seventy years.

ARTICLE 7B. TEACHERS' DEFINED CONTRIBUTION RETIREMENT SYSTEM.

§18-7B-2. Definitions.

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

3 (1) “Defined contribution system” or “system” means the
4 Teachers’ Defined Contribution Retirement System created
5 and established by this article:

6 (2) “Existing retirement system” means the State
7 Teachers’ Retirement System established in article seven-a of
8 this chapter;

9 (3) “Existing employer” means any employer who
10 employed or employs a member of the existing retirement
11 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 code;

15 (5) “Member” or “employee” means the following
16 persons, if regularly employed for full-time service: (A) Any
17 person employed for instructional service in the public
18 schools of West Virginia; (B) principals; (C) public school
19 librarians; (D) superintendents of schools and assistant
20 county superintendents of schools; (E) any county school
21 attendance director holding a West Virginia teacher’s
22 certificate; (F) members of the research, extension,
23 administrative or library staffs of the public schools; (G) the
24 State Superintendent of Schools, heads and assistant heads of
25 the divisions under his or her supervision, or any other
26 employee under the State Superintendent performing services
27 of an educational nature; (H) employees of the State Board of
28 Education who are performing services of an educational
29 nature; (I) any person employed in a nonteaching capacity by
30 the State Board of Education, any county board of education
31 or the State Department of Education if that person was
32 formerly employed as a teacher in the public schools; (J) all
33 classroom teachers, principals and educational administrators
34 in schools under the supervision of the Division of
35 Corrections and the Department of Health and Human
36 Resources; (K) any person who is regularly employed for
37 full-time service by any county board of education or the

38 State Board of Education (L) the administrative staff of the
39 public schools including deans of instruction, deans of men
40 and deans of women, and financial and administrative
41 secretaries; and (M) any person designated as a 21st Century
42 Learner Fellow pursuant to section eleven, article three,
43 chapter eighteen-a of this code who elects to remain a
44 member of the Teachers' Defined Contribution System
45 established by this article;

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 worked
49 or the method of pay;

50 (7) "Year of employment service" means employment for
51 at least ten months, a month being defined as twenty
52 employment days: *Provided*, That no more than one year of
53 service may be accumulated in any twelve-month period;

54 (8) "Employer" means the agency of and within the State
55 of West Virginia which has employed or employs a member;

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

61 (10) "Public schools" means all publicly supported
62 schools, including normal schools, colleges and universities
63 in this state;

64 (11) "Member contribution" means an amount reduced
65 from the employee's regular pay periods, and deposited into
66 the member's individual annuity account within the Defined
67 Contribution Retirement System;

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

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

77 (14) “Retirement” means a member’s withdrawal from
78 the active employment of a participating employer and
79 completion of all conditions precedent to retirement;

80 (15) “Permanent, total disability” means a mental or
81 physical incapacity requiring absence from employment
82 service for at least six months: *Provided*, That the incapacity
83 is shown by an examination by a physician or physicians
84 selected by the Board: *Provided, however*, That for
85 employees hired on or after the first day of July, two
86 thousand five, permanent, total disability means an inability
87 to engage in substantial gainful activity by reason of any
88 medically determinable physical or mental impairment that
89 can be expected to result in death, or has lasted or can be
90 expected to last for a continuous period of not less than
91 twelve months and the incapacity is so severe that the
92 member is likely to be permanently unable to perform the
93 duties of the position the member occupied immediately prior
94 to his or her disabling injury or illness.

95 (16) “Plan year” means the twelve-month period
96 commencing on the first day of July of any designated year
97 and ending on the following thirtieth day of June;

98 (17) “Required beginning date” means the first day of
99 April of the calendar year following the later of: (a) The
100 calendar year in which the member attains age seventy-one
101 and one-half years; or (b) the calendar year in which the
102 member retires or otherwise ceases employment with a
103 participating employer after having attained the age of
104 seventy and one-half years; and

105 (18) “Internal Revenue Code” means the Internal
106 Revenue Code of 1986, as it has been amended.

**ARTICLE 23. ADDITIONAL POWERS, DUTIES AND
RESPONSIBILITIES OF
GOVERNING BOARDS OF STATE
INSTITUTIONS OF HIGHER
EDUCATION.**

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

1 (a) Any reference in this code to the “additional
2 retirement plan” relating to state higher education employees,
3 means the “higher education retirement plan” provided in this
4 section. Any state higher education employee participating
5 in a retirement plan upon the effective date of this section
6 continues to participate in that plan and may not elect to
7 participate in any other state retirement plan. Any such
8 retirement plan continues to be governed by the provisions of
9 law applicable on the effective date of this section.

10 (b) The Higher Education Policy Commission, on behalf
11 of the governing boards and itself, shall contract for a
12 retirement plan for its employees, to be known as the “Higher
13 Education Retirement Plan”. The governing boards and
14 Higher Education Policy Commission shall make periodic
15 deductions from the salary payments due the employees in
16 the amount they are required to contribute to the Higher
17 Education Retirement Plan, which deductions shall be six
18 percent.

19 (c) The Higher Education Policy Commission and the
20 governing boards, with policy commission approval, may
21 contract for a supplemental retirement plan for any or all of
22 their employees to supplement the benefits the employees
23 otherwise receive. The governing boards and Higher
24 Education Policy Commission may make additional periodic
25 deductions from the salary payments due the employees in
26 the amount they are required to contribute for the
27 supplemental retirement plan.

28 (d) The Higher Education Policy Commission shall

29 conduct a study of the feasibility of offering multiple vendors
30 of retirement products and services to be offered for the
31 benefit of higher education employees. The commission
32 shall report the findings of the study, along with a plan for
33 offering multiple vendors for the employees, to the Joint
34 Committee on Pensions and Retirement no later than the first
35 day of December, two thousand one. Upon approval by the
36 Joint Committee on Pensions and Retirement, the
37 commission shall provide a choice of vendors to their
38 employees. Any selection of vendors made by the
39 commission shall be determined according to a request for
40 proposal issued pursuant to the provisions of section four,
41 article five, chapter eighteen-b of this code.

42 (e) Each governing board and the Higher Education
43 Policy Commission, by way of additional compensation to
44 their employees, shall pay an amount equal to the
45 contributions of the employees into the higher education
46 retirement plan from funds appropriated to the board or
47 commission for personal services.

48 (f) Each participating employee has a full and immediate
49 vested interest in the retirement and death benefits accrued
50 from all the moneys paid into the Higher Education
51 Retirement Plan or a supplemental retirement plan for his or
52 her benefit. Upon proper requisition of a board or the Higher
53 Education Policy Commission, the auditor shall periodically
54 issue a warrant, payable as specified in the requisition, for the
55 total contributions so withheld from the salaries of all
56 participating employees and for the governing board's or
57 Higher Education Policy Commission's matching funds.

58 (g) Any person whose employment commences on or
59 after the first day of July, one thousand nine hundred ninety-
60 one, and who is eligible to participate in the Higher
61 Education Retirement Plan, shall participate in that plan and
62 is not eligible to participate in any other state retirement
63 system: *Provided*, That the foregoing provision does not
64 apply to a person designated as a 21st Century Learner
65 Fellow pursuant to section eleven, article three, chapter
66 eighteen-a of this code. The additional retirement plan
67 contracted for by the governing boards prior to the first day

68 of July, one thousand nine hundred ninety-one, remains in
69 effect unless changed by the Higher Education Policy
70 Commission. Nothing in this section may be construed to
71 consider employees of the governing boards as employees of
72 the Higher Education Policy Commission, nor is the Higher
73 Education Policy Commission responsible or liable for
74 retirement benefits contracted by, or on behalf of, the
75 governing boards.

76 (h) It is the intent of the Legislature in amending and
77 reenacting this section during its two thousand one regular
78 session solely to:

79 (1) Maintain the current retirement plans offered to state
80 higher education employees in their current form;

81 (2) Clarify that employees of the Higher Education Policy
82 Commission are participants in the higher education
83 retirement plan;

84 (3) Codify the current contribution levels of the
85 governing boards, the Higher Education Policy Commission
86 and their employees toward the present higher education
87 retirement plan;

88 (4) Make mandatory the contribution levels of the
89 governing boards and Higher Education Policy Commission;

90 (5) Establish a standardized retirement policy for all state
91 higher education employees as determined by the policy
92 commission;

93 (6) Clarify the application and purposes of the additional
94 and supplemental retirement plans previously provided for in
95 this section; and

96 (7) Remove obsolete and archaic language.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 3. TRAINING, CERTIFICATION, LICENSING, PROFESSIONAL DEVELOPMENT.

§18A-3-3. Renewal of certificates; permanent certification.

1 (a) Until the person qualifies for a permanent certificate,
2 any professional or first class certificate based upon a
3 bachelor's degree shall be renewable provided the holder
4 within five years from the date the certificate became valid:

5 (1) Files application on a prescribed form with the State
6 Department of Education;

7 (2) Presents an official transcript of six semester hours of
8 approved credit as may be prescribed by the state board;

9 (3) Successfully completes a beginning teacher internship
10 program, if applicable; and

11 (4) Submits a recommendation based on successful
12 teaching experience from the county superintendent of
13 schools of the county in which the holder last taught or
14 resides.

15 (b) The holder of a professional certificate, valid for five
16 years, shall have the certificate made permanent upon
17 meeting any of the following requirements:

18 (1) Completion of the second renewal, in accordance with
19 the provisions set forth in subsection (a) of this section; or

20 (2) After five years of service in the public schools,
21 presentation of a transcript showing the completion of
22 requirements for a master's degree from an institution of
23 higher education accredited to offer the master's degree and
24 in a program relevant to the public school program or
25 completes the fifth year of training leading to a bachelor's
26 degree in library science from a school fully approved by the
27 American Library Association; or

28 (3) Receives certification through the National Board for
29 Professional Teaching Standards.

30 (c) To satisfy any of the requirements of subsection (b) of

31 this section, the person must file application on a prescribed
32 form with the State Department of Education and must
33 submit a recommendation from the county superintendent of
34 schools of the county in which the person last taught or
35 resides.

36 (d) All certificates and permits, other than the
37 professional certificate, shall be renewed in accordance with
38 state board regulations.

39 (e) If the applicant seeking renewal has cause to believe
40 that the county superintendent refuses to give a
41 recommendation without just cause, the applicant shall have
42 the right, in such case, to appeal to the State Superintendent
43 of Schools whose responsibility it shall be to investigate the
44 matter and issue a certificate if, in the opinion of the state
45 superintendent, the county superintendent's recommendation
46 was withheld arbitrarily.

47 (f) A person who has reached the age of sixty and holds
48 a renewable certificate, as provided in this section, need not
49 present renewal credit but shall meet all other renewal
50 requirements.

§18A-3-11. Fellowship for 21st Century Learners.

1 (a) The Legislature finds that:

2 (1) There are instances, especially for the purpose of
3 professional development, where it would be beneficial for
4 persons who are members of the Teachers' Retirement
5 System or the Teachers' Defined Contribution System to be
6 employed by state institutions of higher education or research
7 corporations;

8 (2) Members of the Teachers' Retirement System are
9 discouraged from terminating their membership to that
10 system because their annuity is based on their final average
11 salary and their total service credit;

12 (3) A member of the Teachers' Defined Contribution
13 System may be discouraged from terminating his or her

14 membership to that system because the member may be
15 completely vested in that system or have made substantial
16 progress toward being vested;

17 (4) These members also are discouraged from leaving
18 employment that allows them to participate in the Public
19 Employees Insurance Program pursuant to article sixteen,
20 chapter five of this code; and

21 (5) An example of this beneficial arrangement would be
22 the employment of a member of the Teachers' Retirement
23 System or a member of the Teachers' Defined Contribution
24 System by an entity that otherwise would not be considered
25 an employer under article seven-a, chapter eighteen of this
26 code or article seven-b, chapter eighteen of this code for the
27 purpose of working on a joint professional development
28 project between higher education and public education.

29 (b) For the purposes of this section only, unless the
30 context clearly indicates otherwise:

31 (1) "Employer" means either the state institution of
32 higher education or the research corporation employing a
33 21st Century Learner Fellow;

34 (2) "Research corporation" means a corporation meeting
35 the description set forth in section three, article twelve,
36 chapter eighteen-b of this code; and

37 (3) "State institution of higher education" means the same
38 as defined in section two, article one, chapter eighteen-b of
39 this code.

40 (c) The State Superintendent is authorized to designate up
41 to twenty-five professional educators who are currently
42 employed and who are members of either the Teachers'
43 Retirement System set forth in article seven-a, chapter
44 eighteen of this code or the Teachers' Defined Contribution
45 System set forth in article seven-b, chapter eighteen of this
46 code as 21st Century Learner Fellows, subject to the
47 following:

48 (1) Before designating a person as a 21st Century Learner
49 Fellow, the State Superintendent shall consult with the state
50 institution of higher education or the research corporation
51 that would employ the member if designated;

52 (2) In determining whether or not to designate a person
53 as a 21st Century Learner Fellow, the State Superintendent
54 shall give preference to a person who:

55 (A) Is certified by the National Board for Professional
56 Teaching Standards; and

57 (B) Demonstrates leadership within his or her content
58 field in the county, regional education service agency area or
59 the State;

60 (3) The duration of the person's designation as a 21st
61 Century Learner Fellow shall be for the period in which the
62 specific project to be undertaken by the person will last as
63 determined by the State Superintendent at the time he or she
64 designates the person; and

65 (4) Only the employer may terminate the employment of
66 a person designated as a 21st Century Learner Fellow prior
67 to the end of the duration of the person's designation as set
68 forth in subsection (3) of this subsection.

69 (d) Notwithstanding any other provision of the code to
70 the contrary, the professional educators designated as 21st
71 Century Learner Fellows may elect to remain a member of
72 the retirement system in which they were a member of
73 immediately preceding their designation while they are
74 employed by either a state institution of higher education or
75 a research corporation, subject to the following:

76 (1) This authorization to remain a member of the
77 retirement system in which they were a member of
78 immediately preceding their designation only applies to
79 authorization to remain a member of either the Teachers'
80 Retirement System set forth in article seven-a, chapter
81 eighteen of this code or to the Teachers' Defined

82 Contribution System set forth in article seven-b, chapter
83 eighteen of this code, but not both;

84 (2) Both the employer and the member each shall
85 contribute their share as required by article seven-a, chapter
86 eighteen of this code or article seven-b, chapter eighteen of
87 this code, as applicable;

88 (3) If a 21st Century Learner Fellow elects to remain a
89 member of either the Teachers' Retirement System set forth
90 in article seven-a, chapter eighteen of this code or the
91 Teachers' Defined Contribution System set forth in article
92 seven-b, chapter eighteen of this code, he or she may not
93 participate in any retirement plan offered by the employer;
94 and

95 (4) Notwithstanding any other provision of law to the
96 contrary, the employer does not assume any liability for
97 benefits accrued by the 21st Century Learner Fellow while he
98 or she was employed by any other entity.

99 (e) Notwithstanding any other provision of code to the
100 contrary, each 21st Century Learner Fellow also qualifies as
101 an employee for the purposes of being authorized to
102 participate in the Public Employees Insurance Program
103 pursuant to article sixteen, chapter five of this code and the
104 state institution of higher education or the research
105 corporation, as applicable, shall be considered an employer
106 under that program, subject to the following:

107 (1) The state institution of higher education or the
108 research corporation, as applicable, is not considered an
109 employer with respect to any employee other than a 21st
110 Century Learner Fellow;

111 (2) For any employee that elects to participate in the
112 program pursuant to this subdivision, the employer shall pay
113 their share of the premium and the employee shall pay his or
114 her share of the premium pursuant to article sixteen, chapter
115 five of this code; and

116 (3) Notwithstanding any other provision of law to the
117 contrary, the employer does not assume any liability for
118 benefits accrued by the 21st Century Learner Fellow while he
119 or she was employed by any other entity.

120 (f) Notwithstanding any other provision of law to the
121 contrary:

122 (1) The employer is not responsible for any accrued
123 annual leave, sick leave or both that a 21st Century Learner
124 Fellow has accumulated during any prior employment; and

125 (2) If a 21st Century Learner Fellow has accumulated
126 sick leave from prior employment, and if not for this
127 subsection that sick leave obligation or any part of that
128 obligation otherwise would have been transferred to the
129 employer, after expending all sick leave accrued with the
130 employer, the 21st Century Learner may expend the sick
131 leave accumulated with the prior employer, and the prior
132 employer is responsible for paying the cost of the sick leave
133 expended by the 21st Century Learner Fellow at a rate
134 equivalent to the salary and benefits paid to the 21st Century
135 Learner Fellow at the time his or her employment with the
136 prior employer ended.

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



Chairman Senate Committee



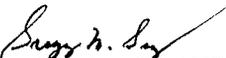
Chairman House Committee

Originating in the House.

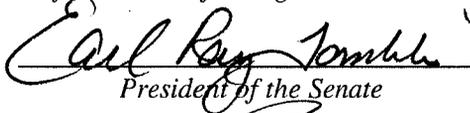
In effect on July 1, 2007



Clerk of the Senate



Clerk of the House of Delegates

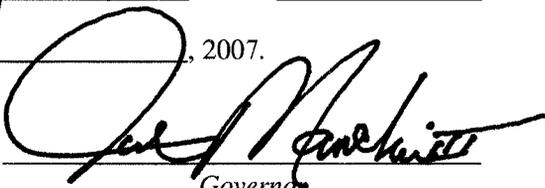


President of the Senate



Speaker of the House of Delegates

The within is approved this the 4th
day of April, 2007.



Governor

PRESENTED TO THE
GOVERNOR

MAR 21 2007

Time 4:00 pm