AN ACT to add a new article five to chapter five of the code of
West Virginia, one thousand nine hundred thirty-one, creating
a state budget office, and defining the duties and powers thereof.

Be it enacted by the Legislature of West Virginia:

That a new article five be added to chapter five of the code of
West Virginia, one thousand nine hundred thirty-one, to read as
follows:

Article 5. State Budget Office.

Section 1. Purpose. The purpose of this article is to provide
2 for the efficient and economical management of the financial
affairs of the state by the creation of a state budget office; by providing uniform rules for the preparation of the state budget under section fifty-one, article six of the state constitution; and by providing a method for the planning, management and control of state expenditures, and the equalization of the compensation of personnel.

Sec. 2. Definitions. For the purpose of this article:

"Department" means the budget office.

"Director" means the director of the budget.

"Board" means the board of public works.

"Spending unit" means a department, agency or institution of the state government for which an appropriation is requested, or to which an appropriation is made by the legislature.

"Spending officer" means the executive head of a spending unit, or a person designated by him.

Sec. 3. State Budget Office. There is hereby created in the state government a "budget office". The budget office shall act as staff agency for the board of public works in the exercise of its powers and duties under section fifty-one, article six of the state constitution, and shall exercise and perform
the other powers and duties conferred upon it by this article.

Sec. 4. **Director of the Budget.** There is hereby created the office of "director of the budget". The director shall be the executive and administrative head of the budget office.

The governor, as chairman of the board of public works, shall appoint the director of the budget. The director shall hold office at the will and pleasure of the governor, and shall devote his entire time to the duties of his office. He shall perform his duties under the immediate supervision of the governor in his capacity as chairman of the board. The governor may require the director to perform such other duties, in connection with the administration of the fiscal affairs of the state, as are not by law vested in another state officer.

Sec. 5. **Director; Qualifications.** The director shall be selected with special reference to his training, experience and capacity to perform the duties imposed upon him by this article.

Sec. 6. **Director; Oath and Bond.** The director, before entering upon his duties shall take and subscribe to the oath prescribed by article four, section five of the state constitution. He shall execute a corporate surety bond in the sum of ten
thousand dollars. The bond shall be in the form prescribed by the attorney general and shall be approved by the governor. The premiums upon the bond shall be paid out of the funds of the department. The oath and bond shall be filed with the secretary of state.

Sec. 7. Director; Offices. The offices of the director shall be located at the state capital. The director shall keep his offices open at all reasonable times for the transaction of business.

Sec. 8. Director; Compensation. The director shall receive an annual compensation to be fixed by the governor, but not in excess of six thousand dollars. He shall receive, in addition, the necessary traveling expenses incident to the performance of his duties. Requisitions for traveling expenses shall be filed with the auditor and shall be preserved as a public record.

Sec. 9. Director; Powers and Duties. The director, under the immediate direction and supervision of the governor, shall have the power and duty to:

1. Exercise general supervision of, and make rules and regulations for the government of his department.
2. Prepare, in accordance with this article, requests for appropriations, estimates of cost, and the form and contents of the state budget for submission to the board.

3. Administer the budget in accordance with this article.

4. Serve as staff agency to the board in the consideration of requests for appropriations and the preparation of the budget document.

5. Make such investigations and submit such reports as the governor or board may require.

6. Make a continuous study of state expenditures and make such recommendations to the governor for the more economical use of state funds as he shall find practicable.

7. Render assistance to spending officers with respect to the fiscal affairs of spending units.

8. Make an annual report to the governor with respect to the conduct of the department and the administration of the state finances.

9. Exercise such other powers as are vested in him by this article, or which may be appropriate to the discharge of his duties.

Sec. 10. Assistants and Employees. The director shall ap-
point or employ such assistants and employees as may be necessary for the efficient operation of his department. The director shall fix the compensation of persons whom he appoints or employs subject to provisions of law and regulations pertaining to the classification and uniform compensation of personnel. Appointees and employees of the director shall serve during his will and pleasure.

Sec. 11. Delegation of Duties. The powers and duties vested in the director by this article may be delegated by him to his assistants and employees, but the director shall be responsible for all official acts.

Sec. 12. Requests for Appropriations. The spending officer of each spending unit, other than the legislature, shall on or before the fifteenth day of October of each year prior to the year in which the legislature convenes in regular session, submit to the director a request for appropriations for each of the two fiscal years, next ensuing.

Sec. 13. Content of Requests. A request for appropriations for a spending unit shall specify and itemize in written form:

1. A statement showing the amount and kinds of revenue and receipts collected for the use of the spending agency dur-
ing the next preceding fiscal year and anticipated collections
for each of the two fiscal years next ensuing.

2. A statement by purposes and objects, of the amount of
appropriations requested for the spending unit without de-
ducting the amount of anticipated collections of special reve-

3. A statement showing the actual expenditures of the
spending unit for the last preceding fiscal year and estimated
expenditures for the current fiscal year itemized by purposes
and objects, including those from regular and supplementary
appropriations, federal aid, private contributions, transfers,
allotments from an emergency or contingent fund, and any
other expenditures made by or for the spending unit.

4. A statement showing the number, classification and com-
pensation of persons employed by the spending unit distin-
guishing between regular, special and casual employees during
the last preceding fiscal year and during the current fiscal
year. The statement shall show the personnel requirements
in similar form for the two ensuing fiscal years for which ap-
propriations are requested.
5. A statement showing in detail the purposes for which increased amounts of appropriations, if any, are requested, and giving a justification statement for the expenditure of the increased amount. A construction or other improvement request shall show in detail the kind and scope of construction or improvement requested.

6. A statement of money claims against the state arising out of the activities of the spending unit.

7. Such other information as the director may request.

Sec. 14. Form of Request. The director shall specify the form and the detail of itemization of requests for appropriations and statements to be submitted by a spending unit. He shall furnish blank forms for this purpose.

Sec. 15. Information from the State Auditor. The director shall, on or before the fifteenth day of October of each year preceding the year in which the legislature meets in regular session, ascertain for the last preceding year and as estimated for the current fiscal year:

1. The condition of each of the funds of the state.

2. A statement of all revenue collections both general and special.
3. Such other information relating to the finances of the state as the governor may request.

Sec. 16. Appropriations for the Judiciary. The governor shall transmit to the director the appropriations required by law for the judiciary for each of the two fiscal years next ensuing and which have been certified to the governor by the auditor. The auditor shall certify such appropriations to the governor in accordance with section fifty-one, article six of the state constitution on or before October fifteenth of each year preceding the year in which the legislature meets in regular session.

Sec. 17. Appropriations for the Legislature. The appropriations for the legislature, certified for each house by its presiding officer, shall be transmitted to the director as soon as possible after the legislature convenes in regular session.

Sec. 18. Examination of Requests. The director shall examine the requests of a spending unit with respect to requested appropriations, itemization, sufficiency of justification statements, and accuracy and completeness of all other information which the spending officer is required to submit.
If the director finds a request, report, or statement of a spending unit inaccurate, incomplete or inadequate he shall consult with the spending officer of the unit and require the submission of the requests in proper form and content. The director shall assist spending officers in the preparation of their requests.

Sec. 19. Appropriations Other Than for Spending Units.

A person or organization, other than a spending officer, who desires to request a general appropriation in the state budget, shall submit his request to the director on or before the fifteenth day of October of the year next preceding the year in which the legislature meets in regular session. The request shall be in the form prescribed by the director and shall be accompanied by a justification statement.

Sec. 20. Itemization. The tentative budget submitted by the director shall itemize appropriations separately for:

1. "Personal services" which shall mean salaries, wages, fees and other compensation for skill, work or employment.
2. "Current expense" which shall mean operating costs other than personal services, and shall not include equipment, repairs and alterations, buildings, or lands.
3. "Equipment" which shall mean equipment items which have an appreciable and calculable period of usefulness in excess of one year.

4. "Repairs and alterations" which shall mean repairs to structures and improvements to property which do not increase the capital asset.

5. "Buildings" which shall include construction and alteration of structures and the improvement of lands and shall include shelter, support, storage, protection, or the improvement of a natural condition.

6. "Lands" which shall mean the purchase of lands or interests in lands.

A spending unit or other person requesting an appropriation may submit a different itemization with the prior approval of the director, if the uniform itemization does not apply.

Sec. 21. Preparation of Tentative Budget. The director shall prepare for the consideration of the board a tentative budget for each of the two fiscal years next ensuing. The budget shall state, at least, actual amounts for the fiscal year next preceding, estimated amounts for the current fiscal year,
and it shall state also the requested amounts, or estimates, for the two fiscal years next ensuing with respect to:

1. Appropriations requested by each spending unit and requested general appropriations.

2. The amount of the total of each appropriation to be paid out of collections.

3. Amounts and purposes of appropriations requested other than for spending units of the state.

4. Revenue of each of the funds of the state.

5. A summary statement of requests and revenues showing the amount of an anticipated surplus or deficit.

On or before December first, the director shall submit the tentative budgets to the board of public works. The director shall convey to the board all explanatory and justification statements and statements of personnel requirements of spending units as reported and filed in his office.

Sec. 22. Powers of the Director in the Administration of Expenditures. The director shall supervise and control the expenditure of appropriations made by the legislature except those made to the legislature and those made to the judicial branch of the state government. The expenditure of an ap-
propriation made by the legislature shall be conditioned
upon compliance by the spending unit with the provisions of
this article. An appropriation made by the legislature shall
be expended only in accordance with this article.

Sec. 23. Report on Revenue Collection. The director shall
ascertain the collection of the revenue of the state and shall
determine each quarter of the fiscal year the proportion which
the amount actually collected bears to the collection estimated
for that period. The director shall certify to the governor,
as soon as possible after the close of each quarter, and at such
other times as the governor may request, the condition of the
state revenues and of the several funds of the state. For the
purposes of this section the director shall have the authority
to require all necessary estimates and reports from any
spending unit of the state government.

Sec. 24. Management Accounting. The director shall for-
mulate the requirements of a system of management account-
ing for the planning, management and control of state ex-
penditures. The requirements shall include methods for re-
cording the collection of all income, amounts available for
expenditure, obligations, encumbrances and disbursements
for each spending unit. The director shall certify such re-
quirements to the tax commissioner. The tax commissioner,
as chief inspector and supervisor of public offices, shall incor-
porate the requirements into a system of accounting for the
state government. The system shall include the accounts
to be kept by the director, the auditor, and the treasurer.
The tax commissioner, by virtue of the authority vested in
him by article nine, chapter six of this code, shall, after the
system has been approved by the board, require its use by all
spending units.
This section shall not apply to the judiciary or to the legis-
lative branch of the government.

Sec. 25. Expenditure Schedules. Prior to the beginning of
each fiscal year the spending officer of a spending unit shall
submit to the director a detailed expenditure schedule for the
ensuing fiscal year. The schedule shall be submitted in such
form and at such time as the director may require.
The schedule shall show:
1. A proposed monthly rate of expenditure for amounts
appropriated for personal services.
2. A proposed quarterly rate of expenditure for amounts
appropriated for current expenses and for equipment, repairs
and alterations.

3. A proposed yearly plan of expenditure for amounts
appropriated for buildings and lands.

The director may accept a differently itemized expenditure
schedule from a spending unit to which the requirements of
this section do not apply.

The director shall consult with and assist spending officers
in the preparation of expenditure schedules.

Sec. 26. Examination of Expenditure Schedules. The di-
rector shall examine the expenditure schedule of each spend-
ing unit and if he finds that it conforms to the requirements
of this article and is in accordance with sound fiscal policy,
he shall approve the schedule.

The expenditure of appropriations made to a spending unit
shall be only in accordance with the approved expenditure
schedule unless the schedule is amended with the consent of
the director, or unless appropriations are reduced in accord-
ance with the provisions of sections thirty-three to thirty-
six, inclusive, of this article.
Sec. 27. Reserve for Emergencies. The director, with the approval of the governor, may require that an expenditure schedule provides for a reserve for emergencies out of the total amount appropriated to the spending unit. The amount of the reserve shall be determined by the director in consultation with the spending officer.

Sec. 28. Quarterly Allotments. At least thirty days prior to the beginning of each quarter of the fiscal year, each spending officer shall submit to the director a request for an allotment of public funds sufficient to operate the unit during the ensuing quarter in accordance with the approved expenditure schedule.

The director shall examine the requests and if he finds that the amounts requested are in accordance with the approved expenditure schedules and are in accordance with sound fiscal policy he shall submit the requests to the board. The director shall also submit a summary statement showing the amounts expended under the budget for each preceding quarter of the fiscal year and the total amount requested for allotment during the ensuing quarter.
The board shall consider the amount of requests for allotment and the collection of revenues. If the board finds that the collection of revenue warrants the expenditure of the amount requested in the allotment, it shall approve the allotment of funds for the ensuing quarter. If the board finds that the collection of revenue does not warrant the allotment of the requested amount, it may reduce the amount of allotments pending the collection of sufficient revenue.

Sec. 29. *Expenditures not to Exceed Allotment.* The expenditures of a spending unit during a quarter of the fiscal year shall not exceed the amount of the approved allotment, unless the board approves the expenditure of a larger amount. Any amounts remaining unexpended at the close of the quarter shall be available for reallocation and expenditure during any succeeding quarter of the same fiscal year.

Sec. 30. *Appropriations Revived.* A part of an appropriation to a spending unit that remains unexpended at the end of the first fiscal year of the biennium may, by order of the board, be revived and expended to meet unforeseen contingencies arising during the ensuing fiscal year.

Sec. 31. *Transfers.* Upon the written request of a spending
Enrolled S. B. No. 117] 18

2 officer, the director may, with the approval of the board, transfer amounts between items of the total appropriation for a spending unit in order to protect or increase the efficiency of the service, but a transfer shall not increase the amount appropriated for personal services.

Sec. 32. Collections. If the amount actually collected by a spending unit exceeds the amount which it is authorized to expend from collections, the excess in collections shall be set aside in a special surplus fund for the spending unit. Expenditures from this fund shall be made only in accordance with the following procedure:

The spending officer shall submit to the director:

1. A plan of expenditure showing the purposes for which the surplus is to be expended, and

2. A justification statement showing the reasons why the expenditure is necessary and desirable.

The director shall submit the request to the board with his recommendation.

If the board approves the plan of expenditure and justification statement, and is satisfied that the expenditure is required to defray the additional cost of the service or activity
of the spending unit, and that the expenditure is in accordance
with sound fiscal policy, it may authorize the use of the surplus
during the current or next fiscal year of the biennium.

An expenditure from a special surplus fund without the
authorization of the board, or other than in accordance with
this section shall be an unlawful use of public funds.

Sec. 33. Reports by Spending Unit. A spending unit shall
submit to the director such reports with respect to the work
and expenditures of the unit as the director may request for
the purposes of this article.

Sec. 34. Reduction of Appropriations. The board may re-
duce appropriations according to any of the methods set
forth in sections thirty-four, thirty-five, and thirty-six of
this article.

Sec. 35. General Fund; Pro Rata Reductions. If the board
determines that the amounts, or parts thereof, appropriated
from the general revenue cannot be expended without
creating an overdraft or a deficit in the general fund, it may
instruct the director to reduce equally and pro rata all
appropriations out of general revenue in such a degree as
may be necessary to prevent an overdraft or a deficit in the
general fund.

Sec. 36. Other Funds; Pro Rata Reductions. The board, in
the manner set forth in section thirty-four, may reduce
appropriations from:

1. Funds supported by designated taxes or fees.
2. Fees or other collections set aside for the support of
designated activities or services.

Each fund and each fee or collection account shall be
treated separately, but appropriations from the same fund or
account shall be treated equally and reduced pro rata.

Sec. 37. Classified Reductions. If the board determines
that the reductions authorized in sections thirty-four and
thirty-five will dangerously impair the existence of the es-

tential services of government, it may instruct the director
to reduce the amount to be expended from separate ap-
propriations in accordance with the following method:

1. The director shall first classify appropriations as
follows:

Class one: For agencies collecting revenue and adminis-
tering the fiscal operations of government, including the offices
and departments of the tax commissioner, auditor, treasurer,
and sinking fund commission.

Class two: For agencies vested with the supervision, con-
trol, and direction of executive policy and law enforcement,
including the governor's office, the attorney general's office,
and the department of public safety.

Class three: For state institutions, educational, charit-
able and corrective.

Class four: For other departments and services of the
state government.

Class five: For transfers from the general fund.

2. The director shall first reduce the appropriations from
class five and then, if necessary, for the other classes in
descending numerical order as follows: Class four, class
three, class two, class one. All reductions shall be in
multiples of five per cent, but a fixed relationship shall be
maintained between the classes which shall be measured
by a difference of five per cent in the rate of reduction. The
maximum reduction shall not exceed twenty-five per cent
in class five and in the other classes it shall be proportional
according to the following table:
Enrolled S. B. No. 117] 22

32 Classes  Five  Four  Three  Two  One
33 Per cent  5%  
34 of reductions  10%  5%  
35 from  15%  10%  5%  
36 total  20%  15%  10%  5%  
37 Appropriations  25%  20%  15%  10%  5%

Sec. 38. Expenditure Procedure. A requisition for expenditure, other than an order for the purchase of commodities, shall be submitted as follows:

1. The spending officer shall prepare and submit to the director a requisition showing the amount, purpose, and appropriation from which the expenditure is requested.

2. The director shall examine the requisition and determine whether the amount is within the quarterly allotment, is in accordance with the expenditure schedule, and otherwise conforms to the provisions of this article and to sound fiscal policy.

3. If the director approves the requisition he shall encumber the proper account in the amount of the requisition and shall transmit the requisition to the auditor for disbursement in accordance with law.
Sec. 39. *Expenditure Procedure; Purchases.* If a requisition is a request for purchase, the director after encumbering the proper account of the spending unit, shall transmit the requisition to the department of purchases for purchase in accordance with chapter twenty-five-a of this code, as amended.

Sec. 40. *Legislative and Judicial Expenditures.* The provisions of sections thirty-seven and thirty-eight of this article shall not apply to the expenditure of amounts appropriated for the use of the legislature or for the judiciary. In the case of appropriations made for the legislature, the clerk of the House of Delegates, or the Clerk of the Senate, as the case may be, shall present his requisition directly to the auditor. In case of appropriations made for the judiciary, the clerk of the court shall present his requisition or claim directly to the auditor. In case of appropriations made for criminal charges, the clerk or other proper officer shall present his claim directly to the auditor.

Sec. 41. *Annual Inventory.* The spending officer of each spending unit shall on or before July fifteenth of each year, file with the director an inventory of all real and personal
property, and of all equipment, supplies and commodities in its possession as of the close of the last fiscal year.

Sec. 42. Classification of Employment and Compensation.

The director shall prepare and recommend a personnel classification which shall classify the offices and employments in the state government and its agencies so as to reflect the differences in training, experience, ability and responsibility required for different types or kinds of service or employment, and shall recommend uniform salaries and wage scales within each class. The director may from time to time recommend amendments and revisions to the classification and compensation schedule. The director shall submit the plan to the board and if the board approves the plan, the classification of offices and employments and the uniform salary and wage scales shall control the employment and compensation of all persons employed in the state government.

The provisions of this section shall not apply to:

1. Institutions under the control of the state board of education, the board of governors of West Virginia University, and the board of control.
2. The department of public assistance.

3. The department of unemployment compensation.

Sec. 43. Classification for Other Departments. The state board of education, the board of governors of West Virginia University, and the board of control as to the institutions under their control, and the director of public assistance and the director of unemployment compensation as to their respective departments shall prepare personnel classification schedules in the same manner as the director prepares personnel classifications and uniform compensation schedules for the other departments of the state government. Personnel classifications and uniform compensation schedules shall be certified by the board or officer preparing them to the director.

Sec. 44. Certification of Personnel. The spending officer of each spending unit, within thirty days prior to the beginning of each fiscal year, shall certify to the director a schedule of persons appointed to or employed by the spending unit and showing the personnel classification and compensation approved for each person. Amounts appropriated for personnel services shall be expended upon requisition only
for the appointees and employees included upon the personnel
schedule and only in accordance with the rate of compensa-
tion shown by the schedule.

Sec. 45. Personnel Schedules. The director shall prepare
schedules of the approved or certified personnel showing the
personnel employed in each spending unit of the state gov-
ernment and the classification and compensation authorized
to be paid for each person employed. Such schedules shall be
preserved as a public record and shall be open to inspection
by any person showing good cause.

Sec. 46. Monthly Certification of Payroll. A requisition
for the payment of personal services shall upon receipt by
the director be checked against the personnel schedule for the
spending unit. The director shall approve a requisition for
personnel services only if the amounts requested for expendi-
ture are in accordance with the personnel schedule certified
to the director.

Sec. 47. Personnel Provisions Not to Apply. The provi-
sions of sections forty-one to forty-six, inclusive, shall not ap-
ply to personal services paid in the legislative branch of the
state government, to salaries of the judiciary and employees
of the judiciary, or to salaries of officers of the state govern-
ment fixed by law.

Sec. 48. The provisions of this act shall be construed as
severable and if any part is held unconstitutional, or for any
other reason, invalid, the remaining parts shall not be affected
thereby.

All acts or parts of acts in conflict with the provisions of
this act are hereby repealed.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate

Takes effect ________, ________ upon passage

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within Act became this the 20th day of February, 1939.

Governor.

Filed in the office of the Secretary of State of West Virginia, FEB 21 1939

Wm. S. O'Brien,
Secretary of State