

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1978



ENROLLED

Committee Substitute for

HOUSE BILL No. 1321

(By Mr. Speaker, Mr. Kopp, + Mr. Teets)



PASSED March 11, 1978

In Effect July 1, 1978 ~~1978~~

**ENROLLED**

**COMMITTEE SUBSTITUTE**

**FOR**

**H. B. 1321**

**(By MR. SPEAKER, MR. KOPP, and MR. TEETS)**

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[Passed March 11, 1978; in effect July 1, 1978.]

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AN ACT to amend article six, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section five-a; to amend and reenact section twenty-two-a, article thirteen, chapter eight of said code; to amend and reenact article one, chapter twelve; to amend and reenact sections one, two, three and four, article two, chapter twelve; to amend and reenact sections one and four, article three, chapter twelve; to further amend said article three by adding thereto a new section, designated section one-a; to amend and reenact sections two and three, article four, chapter twelve; to further amend said article four by adding thereto two new sections, designated sections eleven and twelve; to amend and reenact sections two and five, article five, chapter twelve; to amend and reenact article six, chapter twelve; to amend article nine, chapter eighteen, by adding thereto a new section designated section six-a and to amend and reenact section seven-a, article one, chapter fifty-seven, all of said code, all relating to public moneys and securities generally; legislative findings and purpose; designation of depositories for demand deposits of state funds; requiring a depository for demand deposits to have a loan to deposit ratio of fifty percent or more and twenty-five percent of its loans in single or multi-family residential units, excluding mobile homes; requiring board of investments to

select such depositories through competitive bidding; requiring demand funds in both disbursements and receipts to be proportionately distributed among certain categories of state depositories based upon total assets of such depository; rules and regulations for bidding; depositories for interest earning deposits; requiring a depository for interest earning deposits to have a loan to deposit ratio of fifty percent or more and twenty-five percent of its loan in single or multi-family residential units, excluding mobile homes; relating to depository bonds; providing limitation on the amount of deposits and making it unlawful for depositories to exceed such limitations; general authority of board of investments to promulgate rules and regulations; depositors' agreements; ineligibility of depositories to serve as depositories in cases of conflict of interest of member of board of investments; methods for transfer of funds; treasurer's accounts and settlement of accounts with depositories; treasurer's reports of account balances; requiring reports by depositories to board of investments; authorizing board to discontinue depositories for certain causes; authorizing treasurer to make funds available to board of investments; requiring board to invest such funds for general revenue fund; relating to payment and deposit of moneys due the state; authorizing treasurer to promulgate rules and regulations prescribing procedure for deposits; deposit lists and report forms; duties of depositories upon receipt of deposits; relating to payment of moneys from the treasury; authorizing treasurer to make payments by deposit to payee's bank account in state depository only; use of bank wires; relating to certification of condition of revenues and funds by auditor; establishing an exceptional items fund; specifying purposes of such fund; authorizing issuance of substitute checks in certain instances; authorizing treasurer to provide check-cashing service; relating to custody, protection and handling of securities belonging to or deposited with the state; relating to the state board of investments; purposes and objects; providing definitions; continuation of board; membership and organization; bonds of the state board of investments, its members and employees; powers of the board; disposition of fees collected from political subdivisions; continuing the legal status of all agencies and boards; establishing consolidated pension fund for combined investment of moneys made available from work-

men's compensation and retirement system funds; establishing consolidated fund for combined investment of other state moneys and moneys made available to board by political subdivisions; authorizing treasurers of political subdivisions to make funds available and enter into agreements with board; authorizing board to adopt rules and regulations for administration of funds; specifying permissible investments and restrictions on investments; requiring board to apportion offers to invest in interest earning deposits among state depositories; providing basis for apportionment authorizing board to fix interest rates on such investments; relating to investment policy and standard of care imposed on board; requiring treasurer to administer policy; making board of investments sole agency for investment of state moneys with certain exceptions; reports by board; audits; authorizing retention of existing investments; providing a severability clause; relating to investment of funds by counties, county boards of education and municipalities, authorizing county treasurer, municipal treasurer and treasurer of each county board of education to make funds available to board of investments; relating to public records; authorizing treasurer to destroy certain canceled checks and certain canceled bonds and coupons, and authorizing treasurer to contract for the destruction of certain bonds and coupons.

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

That article six, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section five-a; that section twenty-two-a, article thirteen, chapter eight of said code be amended and reenacted; that article one, chapter twelve be amended and reenacted; that sections one, two, three and four, article two, chapter twelve be amended and reenacted; that sections one and four, article three, chapter twelve be amended and reenacted; that said article three be further amended by adding thereto a new section, designated section one-a; that sections two and three, article four, chapter twelve be amended and reenacted; that said article four be further amended by adding thereto two new sections, designated sections eleven and twelve; that sections two and five, article five, chapter twelve be amended and reenacted, that article six, chapter twelve be amended and reenacted; that article nine, chapter eighteen be amend-

ed by adding thereto a new section, designated section six-a; and that section seven-a, article one, chapter fifty-seven of said code, be amended and reenacted, all to read as follows:

**CHAPTER 7. COUNTY COURTS AND OFFICERS.**

**ARTICLE 6. COUNTY DEPOSITORIES.**

**§7-6-5a. County treasurer authorized to make funds available to state board of investments.**

1 Notwithstanding any other provision of this code, when it  
2 appears to any of the various fiscal bodies of the county that  
3 funds on deposit in its demand deposit account exceed the  
4 current requirements or demands, and it further be deter-  
5 mined by the county treasurer that the available interest rate  
6 offered by an acceptable depository in such treasurer's county  
7 be less than the interest rate, net of administrative fees re-  
8 ferred to in article six, chapter twelve of this code, offered it  
9 through the state board of investments, the county treasurer  
10 may, with the approval in writing of each fiscal body whose  
11 funds are involved, make such funds available to the state  
12 board of investments for investment in accordance with the  
13 provisions of said article six, chapter twelve of the code.

14 Any income earned on such investment shall be allocated by  
15 such treasurer to the fiscal body whose funds were made  
16 available, such allocation to be made in accordance with the  
17 accounting and allocation principles established by the board  
18 of investments.

**CHAPTER 8. MUNICIPAL CORPORATIONS.**

**ARTICLE 13. TAXATION AND FINANCE.**

**§8-13-22a. Investment of municipal funds.**

1 All municipal funds the investment of which is not governed  
2 by other provisions of this code and not required for the pay-  
3 ment of current obligations and not otherwise prohibited, may  
4 be:

5 (1) made available by the municipal treasurer to the state  
6 board of investments for investment in accordance with the  
7 provisions of article six, chapter twelve of this code, if it be

8 determined by such municipal treasurer that the available in-  
9 terest rate offered by an acceptable depository in such treasur-  
10 er's municipality be less than the interest rate, net of adminis-  
11 trative fees referred to in article six, chapter twelve of this code,  
12 offered it through the state board of investments; or

13 (2) Invested by such treasurer in the following classes of  
14 securities and accounts which securities and accounts mature  
15 on such dates as will make available such amount of cash  
16 as is required:

17 (a) Obligations of the United States or any agency thereof,  
18 which are guaranteed by the United States or for which the  
19 full faith and credit of the United States is pledged for the  
20 payment of principal and interest, or any obligation of an  
21 agency of the United States designated in section nine, article  
22 six, chapter twelve of this code.

23 (b) Certificates of deposit secured by (1) obligations as  
24 listed in the preceding paragraph of this subdivision, (2)  
25 general obligation or revenue bonds of the state of West Vir-  
26 ginia, (3) general obligation bonds of any other state, (4)  
27 general obligation bonds of any county in this state or of any  
28 county board of education in this state, or (5) general obliga-  
29 tion bonds of any municipality in this state.

30 (c) Interest bearing savings accounts in banking institu-  
31 tions, the accounts of which are insured by the federal deposit  
32 insurance corporation, or in federal savings and loan associa-  
33 tions, the accounts of which are insured by the federal savings  
34 and loan insurance corporation, or in building and loan associa-  
35 tions, the accounts of which are insured by the federal savings  
36 and loan insurance corporation: *Provided*, That an investment  
37 in any such savings account in excess of the amount insured  
38 by the federal deposit insurance corporation or the federal  
39 savings and loan insurance corporation, as the case may be,  
40 shall not be made unless such banking institution, federal  
41 savings and loan association or building and loan association  
42 provides adequate bond or other adequate security for the  
43 amount of the proposed municipal investment in excess of such  
44 insurance coverage, the adequacy of any such bond or other  
45 security to be determined by the treasurer of such muni-  
46 cipality.

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**CHAPTER 12. PUBLIC MONEYS AND SECURITIES.**

**ARTICLE 1. STATE DEPOSITORIES.**

**§12-1-1. Legislative findings and purpose.**

1 The Legislature finds and declares that the efficient col-  
2 lection, disbursement, management and investment of public  
3 moneys in the state treasury will benefit the citizens of this  
4 state by reducing the costs of government and providing sources  
5 of increased revenue without the necessity of increased taxa-  
6 tion; and to this end, the state board of investments and the  
7 state treasurer should be given the authority to develop and  
8 maintain modern systems, consistent with sound financial  
9 practices, for the collection, disbursement, management and  
10 investment of such moneys.

**§12-1-2. Depositories for demand deposits; apportionment of de-  
posits; board authorized to select depositories through  
competitive bidding; maintenance of deposits by trea-  
surer.**

1 The state board of investments shall designate the state and  
2 national banks in this state which shall serve as depositories for  
3 all state funds placed in demand deposits. Any such state or  
4 national bank shall, upon request to such board, be designated  
5 as a state depository for such deposits, if such bank meets the  
6 requirements set forth in this chapter: *Provided*, That not-  
7 withstanding any provision of this article to the contrary, no  
8 state funds may be deposited in any bank which has been in  
9 existence over a period of five years which does not have a  
10 loan to deposit ratio of fifty percent or more and twenty-five  
11 percent of its loans shall be in single or multi-family residential  
12 units, excluding mobile home $\Delta$ .

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13 The state treasurer shall apportion demand deposits among  
14 such depositories, giving due consideration to: (1) The activity  
15 of the various accounts maintained therein; (2) the reasonable  
16 value of the banking services rendered or to be rendered the  
17 state by such depositories, and (3) the value and importance of  
18 such deposits to the economy of the communities and the  
19 various areas of the state affected thereby: *Provided*, That on  
20 and after the first day of July, one thousand nine hundred

21 seventy-eight, the board shall select depositories for demand  
22 deposits through competitive bidding by banks in this state:  
23 *Provided, however,* That demand funds in both disbursements  
24 and receipts shall be proportionately distributed among the fol-  
25 lowing categories of such depositories, based upon the total  
26 assets of such depository: (a) Depositories whose total  
27 assets are not greater than twenty-five million dollars, (b)  
28 depositories whose total assets are greater than twenty-five  
29 million dollars but not greater than fifty million dollars, or (c)  
30 depositories whose total assets are greater than fifty million  
31 dollars. The board shall promulgate rules and regulations  
32 prescribing the procedures and criteria for such bidding and  
33 selection. It shall, in its invitations for bids, specify the  
34 approximate amounts of deposits, the duration of contracts  
35 to be awarded and such other contractual terms as it considers  
36 to be in the best interests of the state, consistent with obtaining  
37 the most efficient service at the lowest cost. The board shall  
38 provide for and invite bids on separate or combined classifica-  
39 tions of services including, but not limited to depositories for  
40 receipts, depositories for disbursements, and depositories for  
41 moneys to be invested by the state: *Provided,* Further that the  
42 depositories for such demand deposits shall be determined by  
43 the board through competitive bidding separately for each  
44 category of depositories created in this section.

45 The amount of money needed for current operational pur-  
46 poses of the state government, as determined by the state  
47 treasurer, shall be maintained at all times in the state treasury  
48 in cash or in demand deposits with banks designated as de-  
49 positories in accordance with the provisions of this section.  
50 No state officer or employee shall make or cause to be made  
51 any deposits of state funds in banks not so designated.

**§12-1-3. Depositories for interest earning deposits.**

1 Any state or national bank or any state or federal savings  
2 and loan association in this state shall, upon request made to  
3 the board of investments, be designated as an eligible deposi-  
4 tory for interest earning deposits of state funds if such bank  
5 or state or federal savings and loan association meets the re-  
6 quirements set forth in this chapter. For purposes of this arti-  
7 cle, the term "interest earning deposits" includes certificates of

8 deposit. The board of investments, acting through the treasurer, shall make and apportion such interest earning deposits and shall prescribe the interest rates, terms and conditions of such deposits, all in accordance with the provisions of article six of this chapter: *Provided*, That state or federal savings and loan associations insured by an agency of the federal government shall be eligible for such deposits not in excess of forty thousand dollars: *Provided, however*, That notwithstanding any provision of this article to the contrary, no such interest earning deposits may be deposited in any depository which has been in existence over a period of five years which does not have a loan to deposit ratio of fifty percent or more and twenty-five percent of its loans shall be in single or multi-family residential units, excluding mobile homes.

**§12-1-4. Bonds to be given by depositories.**

1 Before allowing any money to be deposited with any eligible  
2 depository in excess of the amount insured by an agency of  
3 the federal government, the board of investments shall  
4 require such depository to give a collaterally secured bond,  
5 in the amount of not less than ten thousand dollars, payable  
6 to the state of West Virginia, conditioned upon the prompt  
7 payment, whenever lawfully required, of any state money, or  
8 part thereof, that may be deposited with such depository, or  
9 of any accrued interest on deposits. Such bond shall be  
10 a continuous bond but may be increased or decreased in  
11 amount or replaced by a new bond with the approval of  
12 the board of investments. The collateral security for such  
13 bond shall consist of bonds of the United States, of the  
14 federal land banks, of the federal home loan banks, or  
15 bonds of the state of West Virginia or of any county, district  
16 or municipality of this state, or other bonds or securities  
17 approved by the board of investments. All bonds so secured  
18 are here designated as collaterally secured bonds. Withdrawal  
19 or substitution of any collateral pledged as security for  
20 the performance of the conditions of such bond may be  
21 permitted with the approval in writing of the treasurer who  
22 shall report such withdrawal or substitution at the next  
23 meeting of the board. All depository bonds shall be recorded  
24 by the treasurer in a book kept in his office for the purpose,

25 and a copy of such record, certified by him, shall be prima  
 26 facie evidence of the execution and contents of such bond  
 27 in any suit or legal proceeding. All collateral securities shall  
 28 be delivered to or deposited for the account of the treasurer  
 29 of the state of West Virginia, and in the event said securities  
 30 are delivered to the treasurer, he shall furnish a receipt  
 31 therefor to the owner thereof. The treasurer and his bonds-  
 32 men shall be liable to any person for any loss by reason of  
 33 the embezzlement or misapplication of said securities by the  
 34 treasurer or any of his employees, and for the loss thereof  
 35 due to his negligence or the negligence of any of his employees;  
 36 and such securities shall be delivered to the owner thereof  
 37 when liability under the bond which they are pledged to secure  
 38 has terminated. The treasurer may permit the deposit under  
 39 proper receipt of such securities with one or more banking  
 40 institutions within or outside the state of West Virginia  
 41 and may contract with any such institution for safekeeping  
 42 and exchange of any such collateral securities, and may  
 43 prescribe the rules and regulations for handling and protecting  
 44 the same, subject to the approval of the board of investments.

**§12-1-5. Limitation on amount of deposits.**

1 The amount of state funds on deposit in any depository in  
 2 excess of the amount insured by an agency of the federal gov-  
 3 ernment, shall not exceed ninety percent of the value of  
 4 collateral pledged on the collaterally secured bond given by  
 5 such depository. The value of such collateral shall be de-  
 6 termined by the board of investments.

**§12-1-6. Unlawful acceptance of deposits by depositories.**

1 It is unlawful for any depository to accept and retain state  
 2 deposits in excess of the amount permitted by application of  
 3 the preceding section or in an amount greater than its paid up  
 4 capital stock and surplus.

**§12-1-7. Rules and regulations of the board of investments; de-  
 positors' agreements.**

1 In addition to rules and regulations specially authorized in  
 2 this article, the board of investments is generally authorized  
 3 to promulgate any rules and regulations it deems necessary

4 to protect the interests of the state, its depositories and tax-  
5 payers. All rules and regulations promulgated by the board  
6 shall be subject to the provisions of article three, chapter  
7 twenty-nine-a of this code. Any rules and regulations pre-  
8 viously established by the board of public works pursuant to  
9 this article shall remain in effect until amended, superseded  
10 or rescinded by the board of investments.

11 The board of investments is also authorized to enter into  
12 any depositories agreements for the purpose of reorganizing or  
13 rehabilitating any depository in which state funds are deposited,  
14 and for the purpose of transferring the assets, in whole or in  
15 part, of any such depository to any other lawful depository  
16 when, in the judgment of the board, the interests of the state  
17 will be promoted thereby, and upon condition that no right  
18 of the state to preferred payment be waived.

**§12-1-8. Conflict of interest.**

1 No depository in this state may serve or be eligible for desig-  
2 nation as a state depository if any member of the board of in-  
3 vestments, or a spouse, child or parent of such member, is an  
4 officer, director or employee thereof, or owns, either in his  
5 or their own name or beneficially, an interest in such deposi-  
6 tory. A member of the board shall disclose such circumstance,  
7 if any, in the sworn statement required under the provisions of  
8 section one, article one, chapter six-b of this code.

**§12-1-9. Transfer of funds by check or bank wire; requirements.**

1 Subject to applicable banking regulations or state law, the  
2 treasurer may transfer funds by check or bank wire when-  
3 ever actually needed to pay the warrants drawn by the auditor  
4 upon the treasury, to equalize deposits or to provide funds to  
5 purchase investments for the account of the state. All checks  
6 drawn for transfer of funds shall have printed or stamped on  
7 the face of same "for transfer of funds only," or if the trans-  
8 fer is made by wire, the bank wire and supporting documents  
9 shall be marked "for transfer of funds only."

**§12-1-10. Treasurer to keep accounts with depositories; settlements with depositories; reports showing depository balances.**

1 The treasurer shall keep in his office a record showing the

2 account of each depository, under which account entry shall  
3 be made showing the amount and date of each deposit, the  
4 amount and date of each withdrawal, and the balance on  
5 deposit. He shall cause his account with each depository to  
6 be settled at the end of every quarter of the year and the  
7 balance in such depository to the credit of the treasury to be  
8 carried forward to the account of the next quarter.

9 The treasurer shall furnish the board of investments and  
10 the president and minority leader of the Senate and the  
11 speaker and minority leader of the House of Delegates, not  
12 later than the tenth day of each month, a statement showing  
13 the daily balances for each day on the last day of the preceding  
14 month in each state depository.

**§12-1-11. Reports by depositories to board of investments; discontinuance of depositories.**

1 Each depository of state funds shall at the end of each  
2 quarter cause its president or cashier to report to the board of  
3 investments the amount of state funds on deposit and such  
4 report shall be verified by the affidavit of the officer making  
5 it. The form and contents of such report shall be prescribed  
6 by the board. For the failure to file such report, or for other  
7 good cause, the board may discontinue any depository as an  
8 eligible depository and cause all state funds to be withdrawn  
9 from any depository or depositories so discontinued. When a  
10 depository is discontinued, the board of investments shall im-  
11 mediately notify such depository of its discontinuance, and shall  
12 also issue its order to the treasurer, directing him immediately  
13 to withdraw by current checks or by transfer to another de-  
14 pository or depositories the full amount of the deposits held by  
15 any depository so discontinued. After such discontinuance it  
16 shall be unlawful for the treasurer to deposit any state funds in  
17 any depository so discontinued until such time as the deposi-  
18 tory may be reinstated to eligibility.

**§12-1-12. When treasurer may make funds available to the board of investments; depositories outside the state.**

1 When the funds in the treasury exceed the amount needed  
2 for current operational purposes as determined by the treas-  
3 urer, he may make all or part of such excess available for

4 investment by the board of investments, which shall invest  
5 the same for the benefit of the general revenue fund.

6 Whenever the funds in the treasury exceed the amount for  
7 which depositories within the state have qualified, or the  
8 depositories within the state which have qualified are unwill-  
9 ing to receive larger deposits, the board of investments may  
10 designate depositories outside the state, demand deposits be-  
11 ing bid for in the same manner as required by depositories  
12 within the state, and when such depositories outside the  
13 state have qualified by giving the bond prescribed in section  
14 four of this article, the state treasurer shall deposit funds there-  
15 in in like manner as funds are deposited in depositories within  
16 the state under this article.

17 The treasurer may transfer funds to banks outside the  
18 state for investment purposes or to meet obligations to paying  
19 agents outside the state and such transfers although not con-  
20 sidered to be deposits for purposes of this section, must meet  
21 the same bond requirements as set forth in this article for such  
22 deposits.

**ARTICLE 2. PAYMENT AND DEPOSIT OF TAXES AND OTHER  
AMOUNTS DUE THE STATE OR ANY POLITICAL  
SUBDIVISION.**

**§12-2-1. How and to whom taxes and other amounts due the  
state or any political subdivision, official, department,  
board, commission or other collecting agency thereof  
may be paid.**

1 All persons, firms and corporations shall promptly pay all  
2 taxes and other amounts due from them to the state, or to any  
3 political subdivision, official, department, board, commission  
4 or other collecting agency thereof authorized by law to collect  
5 the same, in money, United States currency or by check, bank  
6 draft, certified check, cashier's check, post-office money order,  
7 or express money order payable and delivered to the official,  
8 department, board, commission or collecting agency thereof  
9 authorized by law to collect the same and having the account  
10 upon which such taxes or amounts are chargeable against the  
11 payer thereof. The duly elected or appointed officers of the  
12 state and of its political subdivisions, departments, boards,

13 commissions and collecting agencies having the account on  
14 which taxes or other amounts are chargeable against the  
15 payer thereof and authorized by law to collect the same, and  
16 their respective agents, deputies, assistants and employees  
17 shall in no case be the agent of the payer in and about the  
18 collection of such taxes or other amounts, but shall at all  
19 times and under all circumstances be the agent of the state, its  
20 political subdivision, official, department, board, commission  
21 or collecting agency having the account on which such taxes  
22 or amounts are chargeable against the payer thereof and  
23 authorized by law to collect the same.

**§12-2-2. Itemized record of moneys received for deposit; credit to state fund; exceptions.**

1 All officials and employees of the state authorized by  
2 statute to accept moneys due the state of West Virginia shall  
3 keep a daily itemized record of such moneys so received for  
4 deposit in the state treasury and shall deposit promptly with  
5 the state treasurer all moneys received or collected by them  
6 for or on behalf of the state for any purpose whatsoever. The  
7 treasurer may promulgate rules and regulations governing  
8 the procedure for such deposits. When so paid, such moneys  
9 shall be credited to the state fund and treated by the auditor  
10 and treasurer as part of the general revenue of the state,  
11 and shall not be used for any purpose whatsoever unless and  
12 until authorized and directed by the Legislature, except the  
13 following funds:

14 (a) All moneys received out of appropriations made by  
15 the Congress of the United States;

16 (b) All funds derived from the sale of farm and dairy  
17 products from farms operated by any agency of state govern-  
18 ment other than the farm management commission;

19 (c) All endowment funds, bequests, donations, executive  
20 emergency funds, and death and disability funds;

21 (d) All fees and funds collected at state educational  
22 institutions for student activities;

23 (e) All funds derived from collections from dormitories,  
24 boardinghouses, cafeterias and road camps;

25 (f) All moneys received from counties by institutions for  
26 the deaf and blind on account of clothing for indigent pupils;

27 (g) All insurance collected on account of losses by fire and  
28 refunds;

29 (h) All funds derived from bookstores and sales of blank  
30 paper and stationery, and collections by the chief inspector  
31 of public offices;

32 (i) All moneys collected and belonging to the capitol  
33 building fund, state road fund, state road sinking funds,  
34 general school fund, school fund, state fund (moneys belonging  
35 to counties, districts and municipalities), state interest and  
36 sinking funds, state compensation funds, the fund maintained  
37 by the public service commission for the investigation and  
38 supervision of applications and licenses under article nine,  
39 chapter thirty-one of this code, and all funds and moneys  
40 payable to or received by the natural resources commission  
41 of West Virginia;

42 (j) All moneys collected or received under any act of  
43 the Legislature providing that funds collected or received  
44 thereunder shall be used for specific purposes.

45 All moneys, excepted as aforesaid, shall be paid into the  
46 state treasury in the same manner as collections not so  
47 excepted, and shall be carried in separate accounts to be  
48 used and expended only for the purposes for which the same  
49 are authorized to be collected by law. The gross amount  
50 collected in all cases shall be paid into the state treasury,  
51 and commissions, costs and expenses of collection authorized  
52 by general law to be paid out of the gross collection are  
53 hereby authorized to be paid out of the moneys collected  
54 and paid into the state treasury in the same manner as other  
55 payments are made from the state treasury.

56 The official or employee making such deposits in the state  
57 treasury shall prepare such deposit lists in such manner and  
58 upon such report forms as may be prescribed by the treasurer.  
59 The original of this report shall accompany the deposit to  
60 the treasurer's office. Certified or receipted copies shall  
61 be immediately forwarded by the official or employee making

62 such deposit to the state auditor and to the commissioner of  
63 finance and administration, and a copy shall be kept by the  
64 official or employee making the report and shall become a  
65 part of his permanent record.

**§12-2-3. Deposit of moneys by treasurer; deposit report to be sent  
by treasurer to auditor and director of budget.**

1 The treasurer shall promptly transmit or cause to be trans-  
2 mitted such deposits, together with a certificate of deposit,  
3 as soon as practicable to the depository in which he desires to  
4 make the deposit, and shall retain and record the deposit  
5 lists. A copy of each deposit report received by the treasurer  
6 shall be sent to the auditor and the director of the budget  
7 daily.

**§12-2-4. Duty of depositories.**

1 Immediately upon the receipt of such deposit, it shall be  
2 the duty of the depository to credit the state treasurer with  
3 the amount of the deposit, to date and sign the certificate of  
4 deposit by some legally constituted official of the depository  
5 and promptly transmit such certificate to the state treasurer,  
6 who shall immediately transmit a copy thereof to the state  
7 auditor.

**ARTICLE 3. APPROPRIATIONS AND EXPENDITURES.**

**§12-3-1. Manner of payment from treasury; form of checks.**

1 Every person claiming to receive money from the treasury  
2 of the state shall apply to the auditor for a warrant for same.  
3 The auditor shall thereupon examine the claim, and the  
4 vouchers, certificates and evidence, if any, offered in support  
5 thereof, and for so much thereof as he shall find to be justly  
6 due from the state, if payment thereof be authorized by law,  
7 and if there be an appropriation not exhausted or expired out  
8 of which it is properly payable, he shall issue his warrant on  
9 the treasurer, specifying to whom and on what account the  
10 money mentioned therein is to be paid, and to what appro-  
11 priation the same is to be charged. On the presentation of  
12 such warrant to the treasurer, he shall ascertain whether the  
13 same has been drawn in pursuance of an appropriation made  
14 by law, and if he finds it to be so, he shall in that case, but

15 not otherwise, endorse his check upon such warrant, directed  
16 to some depository, which check shall be payable to the order  
17 of the person who is to receive the money therein specified; or  
18 he may issue a bank wire in payment of such warrant. If such  
19 check shall not be presented for payment within three years  
20 after it is drawn, it shall then be the duty of the treasurer to  
21 credit it to the depository on which it was drawn, to credit the  
22 state fund with the amount, and immediately notify the auditor  
23 to make corresponding entries on his books. No state depository  
24 shall pay a check unless it is presented within six months  
25 after it is drawn and every check shall bear upon its face  
26 the words; "Void, unless presented for payment within six  
27 months." All claims required by law to be allowed by any  
28 court, and payable out of the state treasury, shall have the  
29 seal of the court allowing or authorizing the payment of the  
30 same affixed by the clerk of such court to his certificate of  
31 its allowance; and no such claim shall be audited and paid  
32 by the auditor unless the seal of such court be thereto attached  
33 as aforesaid. No tax or fee shall be charged by the clerk  
34 for affixing his seal to the certificate referred to in this section.

**§12-3-1a. Payment by deposit in bank account.**

1 The treasurer may pay any person claiming to receive  
2 money from the treasury by deposit to such person's account  
3 in any bank or other financial institution within the state  
4 authorized to receive deposits, if such person furnishes to the  
5 treasurer written authorization of such method of payment. The  
6 treasurer shall prescribe the form of such authorization. This  
7 section shall not be construed to require the treasurer to  
8 utilize the method of payment authorized by this section; but  
9 such method is authorized only as an alternative method of  
10 payment to persons claiming to receive money from the  
11 treasury. A written authorization furnished pursuant to this  
12 section may be revoked by written notice furnished to the  
13 treasurer.

**§12-3-4. No check to be drawn on depository having insufficient funds; necessity of warrant and check or bank wire.**

1 The treasurer shall draw no check on any depository unless  
2 there be money enough therein to the credit of the treasury

3 to pay such check when duly presented for payment. No de-  
4 pository holding money to the credit of the treasury shall pay  
5 out the same, or any part thereof, except upon a check of the  
6 treasurer indorsed on a warrant of the auditor authorizing  
7 such check or a duly authorized bank wire drawn in place of  
8 such check.

#### **ARTICLE 4. ACCOUNTS, REPORTS AND GENERAL PROVISIONS.**

##### **§12-4-2. Accounts of treasurer and auditor; auditor to certify condition of revenues and funds of the state.**

1 The treasurer shall keep in his office separate accounts  
2 with each depository, and also a general account of receipts  
3 and disbursements for the state, and when money is paid into  
4 the treasury, it shall be charged to the proper depository and  
5 credited to such general account. The auditor shall keep in  
6 his office separate accounts of the particular heads or sources  
7 of revenue, and a general account with the treasurer, beside  
8 such individual accounts with officers and persons as may be  
9 necessary, and shall charge every sum of money received for  
10 the state as aforesaid to the treasurer's account, and credit it  
11 under the particular head of revenue to which it properly  
12 belongs, distinguishing especially in distinct accounts the re-  
13 cepts on account of the capital of the school fund and those  
14 on account of the income of said fund subject to annual dis-  
15 tribution. The auditor shall certify annually to the commis-  
16 sioner of finance and administration the condition of the state  
17 revenues and the several funds of the state. Such certification  
18 shall be used by the commissioner in the preparation of a  
19 tentative state budget as required of him by article two, chap-  
20 ter five-a of this code.

##### **§12-4-3. Accounts of appropriations.**

1 The auditor and treasurer shall each keep in books to  
2 be used for that purpose exclusively an account of every  
3 appropriation made by law, and of the several sums drawn  
4 thereon, so that such books may show at all times the balance  
5 undrawn on each appropriation. The account so kept shall  
6 be compared every quarter and the errors, if any, corrected.

**§12-4-11. Exceptional items fund.**

1 (a) There is hereby created in the treasurer's office a  
2 special fund known as the "exceptional items fund" to be  
3 administered by the treasurer pursuant to the provisions of  
4 this section and rules and regulations established thereunder.

5 (b) The treasurer is authorized to make transfers to and  
6 from the exceptional items fund for the purpose of clearing  
7 irreconcilable items carried forward on his accounts with  
8 state depositories: *Provided*, That no transfer may be made  
9 as to any irreconcilable item in excess of fifty dollars without  
10 the approval of the state auditor.

11 (c) The treasurer and auditor shall jointly promulgate  
12 rules and regulations establishing procedures and conditions  
13 for issuance of substitute checks to payees in cases where  
14 the checks originally issued are erroneous, or have been  
15 lost, mutilated, destroyed, stolen or forged. Any disbursements  
16 pursuant to such rules and regulations shall be made from the  
17 exceptional items fund. Any moneys received by the state  
18 from persons responsible for wrongfully cashing such originally  
19 issued checks shall be deposited in such fund.

**§12-4-12. Treasurer authorized to provide check-cashing service.**

1 The treasurer may provide a check-cashing service at his  
2 office in the capitol building and may charge fees for such  
3 service for each check cashed and for each check returned  
4 for insufficient funds. For this purpose, he may establish  
5 from receipts in the treasury not more than two cash funds  
6 each in an initial amount not to exceed fifty thousand dollars.  
7 He shall designate certain employees in his office who are  
8 to provide the service and have charge of such funds, and  
9 may require such employees to be bonded either individually  
10 or by blanket bonds. The cost of such bond or bonds shall  
11 be paid out of the treasurer's current expense appropriation.

12 The fees received for such service shall be deposited in  
13 the cash funds and itemized accounts of such receipts shall  
14 be maintained. Any check determined by the treasurer to be  
15 uncollectible shall be charged against the fund from which  
16 it was cashed. The legislative auditor shall, at least annually,

17 but may at any time, audit the cash funds and all accounts  
18 and records relating to the service provided pursuant to this  
19 section. If the amount of either cash fund (after charges for  
20 uncollectible checks) exceeds fifty thousand dollars at the  
21 conclusion of any audit, the treasurer shall transfer such  
22 excess to the general revenue fund.

**ARTICLE 5. PUBLIC SECURITIES.**

**§12-5-2. Treasurer custodian of securities; charges to companies  
for care, exchange and substitution of securities.**

1 The treasurer of this state, unless otherwise expressly  
2 provided by law, shall be custodian of all securities belonging  
3 to the state of West Virginia or by law required to be de-  
4 posited with the state or held in legal custody by the  
5 state, and all departments of this state, commissioners or  
6 agents of the state, who hold any such securities, shall  
7 transfer and deliver the same to the state treasurer to be  
8 kept and held by him as legal custodian thereof until released  
9 in the manner provided by law.

10 The board of investments may by formal order of record  
11 fix fair and reasonable charges for the care, custody, exchange  
12 and substitution of securities deposited by insurance com-  
13 panies and companies issuing annuity contracts and such  
14 charges shall be collected from such companies by the state  
15 treasurer and deposited by him in the general revenue fund:  
16 *Provided*, That no such charge shall be made against any  
17 such company having securities of the par value of less than  
18 three hundred thousand dollars deposited hereunder.

**§12-5-5. Protection and handling of securities.**

1 The treasurer shall use due diligence in protecting such  
2 securities against loss from any cause. The securities retained  
3 in the treasury shall be kept in a vault. The treasurer shall  
4 designate certain of his employees to take special care of such  
5 securities. Only the treasurer and such designated employees,  
6 shall have access to such securities, and at least two of  
7 these persons shall be present whenever such securities are  
8 handled in any manner. The employees so designated by the  
9 treasurer to take care of such securities shall, before entering

10 upon the discharge of their duties under this article, execute  
11 a bond to be approved by the board of investments in a  
12 penalty to be fixed by said board. When the treasurer has  
13 designated the employees to take special care of such securities,  
14 he shall not remove or replace any of such employees until  
15 due notice in writing of his intention so to do has been  
16 given to the surety or sureties on such employee's bond:  
17 *Provided*, That the treasurer may, with the approval of  
18 the board of investments, contract with one or more bank-  
19 ing institutions in or outside the state for the custody,  
20 safekeeping and management of such securities, which con-  
21 tract shall prescribe the rules and regulations for the handling  
22 and protection thereof.

**ARTICLE 6. WEST VIRGINIA STATE BOARD OF INVESTMENTS.**

**§12-6-1. Purposes and objects; how article cited.**

1 This article, which may be cited as the "Investment Man-  
2 agement Law" is enacted to modernize the procedures for the  
3 investment of funds of the state and its political subdivisions  
4 for the purpose of increasing the investment return of such  
5 funds.

**§12-6-2. Definitions.**

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

3 (1) "Board" means the West Virginia state board of in-  
4 vestments;

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

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

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

14 (5) "Local government funds" means the moneys of a

15 political subdivision transferred to the board for deposit in  
16 the local government account;

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

25 (7) "Securities" means all bonds, notes, debentures or other  
26 evidences of indebtedness;

27 (8) "State account" means the account within the consoli-  
28 dated fund established pursuant to subsection (b), of section  
29 eight of this article; and

30 (9) "State funds" means all moneys of the state which may  
31 be lawfully invested except (a) the pension funds (as defined  
32 in subdivision (6) of this section), (b) the "school fund" es-  
33 tablished by section four, Article XII of the state constitu-  
34 tion and (c) the sinking funds administered and controlled by  
35 the state municipal bond commission; *g/c*

*O.K.  
E.W.*

**§12-6-3. State board of investments continued; body corporate; members.**

1 The state board of investments is hereby continued as a  
2 body corporate of the state authorized to exercise all of the  
3 powers and functions granted to it pursuant to this article.  
4 The governor, state treasurer and state auditor shall be the  
5 members of the board.

**§12-6-4. Officers; organization; surety bonds for members and employees.**

1 The governor shall be the chairman and the state treasurer  
2 shall be the executive secretary of the board and the custodian  
3 of all funds, securities and assets held by the board. The office  
4 of the state treasurer shall act as staff agency for the board.

5 The board shall meet quarterly and may include in its by-

6 laws procedures for the calling and holding of additional  
7 meetings.

8 Each member of the board shall give a separate and addi-  
9 tional fidelity bond from a surety company qualified to do  
10 business within this state in a penalty amount of two hundred  
11 fifty thousand dollars for the faithful performance of his duties  
12 as a member of the board. In addition, the board will pur-  
13 chase a blanket bond for the faithful performance of its duties  
14 in the amount of five million dollars excess of the two hundred  
15 fifty thousand dollar individual bond required of each member  
16 by the provisions of this section. The board may require a  
17 fidelity bond from a surety company qualified to do business  
18 in this state for any person who has charge of, or access to,  
19 any securities, funds or other moneys held by the board, and  
20 the amount of such fidelity bond shall be fixed by the board.  
21 The premiums payable on all fidelity bonds shall be an ex-  
22 pense of the board.

**§12-6-5. Powers of the board.**

1 The board may exercise all powers necessary or appropriate  
2 to carry out and effectuate its corporate purposes. The board  
3 may:

4 (1) Adopt and use a common seal and alter the same at  
5 pleasure;

6 (2) Sue and be sued;

7 (3) Enter into contracts and execute and deliver instru-  
8 ments;

9 (4) Acquire (by purchase, gift or otherwise), hold, use and  
10 dispose of real and personal property, deeds, mortgages and  
11 other instruments;

12 (5) Promulgate and enforce bylaws, rules and regulations  
13 for the management and conduct of its affairs;

14 (6) Retain and employ legal, accounting, financial and in-  
15 vestment advisors and consultants;

16 (7) Acquire (by purchase, gift or otherwise), hold, exchange,  
17 pledge, lend and sell or otherwise dispose of securities, and  
18 invest funds in interest earning deposits;

19 (8) Maintain accounts with banks, securities dealers and  
20 financial institutions both within and outside this state;

21 (9) Engage in financial transactions whereby securities are  
22 purchased by the board under an agreement providing for the  
23 resale of such securities to the original seller at a stated price;

24 (10) Engage in financial transactions whereby securities  
25 held by the board are sold under an agreement providing for  
26 the repurchase of such securities by the board at a stated  
27 price;

28 (11) Consolidate and manage moneys, securities and other  
29 assets of the pension funds and other funds and accounts of  
30 the state and the moneys of political subdivisions which may  
31 be made available to it under the provisions of this article;

32 (12) Enter into agreements with political subdivisions of  
33 the state whereby moneys of such political subdivisions are  
34 invested on their behalf by the board;

35 (13) Charge and collect administrative fees from political  
36 subdivisions for its services; and

37 (14) Exercise all powers generally granted to and exer-  
38 cised by the holders of investment securities with respect to  
39 management thereof.

**§12-6-6. Costs and expenses; fees for services.**

1 All costs and expenses of the board including fees of  
2 professional consultants, advisors and auditors, brokerage  
3 commissions and all other necessary expenses of the board  
4 incurred in the performance of its functions shall be proper  
5 charges against, and payable on a pro rata basis from, the  
6 earnings of the various funds managed by the board.

7 The fees collected by the board for its services to political  
8 subdivisions shall be deposited in the general revenue fund  
9 of this state.

**§12-6-7. Legal status of agencies and boards continued.**

1 Except as otherwise provided in this article, every state  
2 agency or board shall continue to have all of the powers and  
3 shall exercise all of the functions and duties vested in or im-

4 posed upon it by law, as to any fund, and shall continue to  
5 be constituted as provided by existing law.

**§12-6-8. Investment funds established; management thereof.**

1 (a) There is hereby established a special investment fund  
2 to be managed by the board and designated as the "consoli-  
3 dated pension fund" for the common investment of pension  
4 funds. All administrators, custodians or trustees of the various  
5 pension funds are hereby authorized to make moneys available  
6 to the board for investment. Pension funds received by the  
7 board shall be deposited in the consolidated pension fund. Any  
8 security deposited by the various pension funds shall be valued  
9 at the prevailing market price on the day of deposit.

10 (b) There is hereby also established a special investment  
11 fund to be managed by the board and designated as the "con-  
12 solidated fund". The consolidated fund shall consist of a spe-  
13 cial account for the common investment of state funds desig-  
14 nated as the "state account" and a special account for the com-  
15 mon investment of local government funds designated as the  
16 "local government account". Moneys in both accounts may be  
17 combined for the common investment of the consolidated fund  
18 on an equitable basis.

19 (c) Each board, commission, department, official or agency  
20 charged with the administration of state funds is hereby autho-  
21 rized to make moneys available to the board for investment.  
22 State funds received by the board shall be deposited in the state  
23 account.

24 (d) Each political subdivision of this state through its  
25 treasurer or equivalent financial officer is hereby authorized to  
26 enter into agreements with the board for the investment of  
27 moneys of such political subdivision: *Provided*, That it first  
28 be determined by the treasurer for such political subdivision  
29 that the available interest rate offered by an acceptable de-  
30 pository in such treasurer's county be less than the interest  
31 rate, net of administrative fees referred to in article six, chapter  
32 twelve of this code, offered it through the state board of in-  
33 vestments. Local government funds received by the board  
34 pursuant to such agreements shall be deposited in the local  
35 government account.

36 (e) Each county board of education through its treasurer  
 37 is hereby authorized to enter into agreements with the  
 38 board of investments for the investment of moneys of such  
 39 county board of education: *Provided, however,* That it  
 40 first be determined by the treasurer for such county board  
 41 of education that the available interest rate offered by an  
 42 acceptable depository in such treasurer's county be less  
 43 than the interest rate, net of administrative fees referred  
 44 to in article six, chapter twelve of this code, offered it  
 45 through the state board of investments.

46 (f) Moneys held in the various funds and accounts ad-  
 47 ministered by the board shall be invested as permitted in  
 48 section nine and subject to the restrictions contained in section  
 49 ten of this article. The board shall maintain records of the  
 50 deposits and withdrawals of each participant and the per-  
 51 formance of the various funds and accounts. The board shall  
 52 also establish such rules and regulations for the administration  
 53 of the various funds and accounts established by this section  
 54 as it shall deem necessary for the administration thereof, in-  
 55 cluding but not limited to (1) the specification of minimum  
 56 amounts which may be deposited in any fund or account and  
 57 minimum periods of time for which deposits will be retained;  
 58 (2) creation of reserves for losses; (3) provision for payment of  
 59 expenses from earnings; and (4) distribution of the earnings  
 60 in excess of such expenses or allocation of losses to the  
 61 several participants in an equitable manner: *Provided,* That  
 62 in the event any moneys made available to the board may not  
 63 lawfully be combined for investment or deposited in the  
 64 consolidated funds established by this section, the board may  
 65 create special accounts and may administer and invest such  
 66 moneys in accordance with the restrictions specially applicable  
 67 thereto.

**§12-6-9. Permissible investments.**

1 Notwithstanding the restrictions which may otherwise be  
 2 provided by law as to the investment of funds, the board may  
 3 invest funds made available to it in any of the following:

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

7 (b) Any evidence of indebtedness issued by any of the  
8 following agencies: Government National Mortgage Associa-  
9 tion, Federal Land Banks, Federal Home Loan Banks, Federal  
10 Intermediate Credit Banks, Banks for Cooperatives, Tennessee  
11 Valley Authority, United States Postal Service, Farmers Home  
12 Administration, Export-Import Bank, Federal Financing Bank,  
13 Federal Home Loan Mortgage Corporation and Student Loan  
14 Marketing Association;

15 (c) Any evidence of indebtedness issued by the Federal  
16 National Mortgage Association to the extent such indebtedness  
17 is guaranteed by the Government National Mortgage Asso-  
18 ciation;

19 (d) Any evidence of indebtedness that is secured by a first  
20 lien deed of trust or mortgage upon real property situate within  
21 this state, if the payment thereof is substantially insured or  
22 guaranteed by the United States of America or any agency  
23 thereof;

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

25 (f) Any undivided interest in a trust, the corpus of which  
26 is restricted to mortgages on real property and, unless all of  
27 such peroperty is situate within the state and insured, such trust  
28 at the time of the acquisition of such undivided interest, is rated  
29 in one of the three highest rating grades by an agency which is  
30 nationally known in the field of rating pooled mortgage trusts;

31 (g) Any bond, note, debenture, commercial paper or other  
32 evidence of indebtedness of any private corporation or asso-  
33 ciation organized and operating in the United States: *Provided*,  
34 That any such security is, at the time of its acquisition, rated in  
35 one of the three highest rating grades by an agency which is  
36 nationally known in the field of rating corporate securities:  
37 *Provided, however*, That if any commercial paper and/or any  
38 such security will mature within one year from the date of its  
39 issuance, it shall, at the time of its acquisition, be rated in one  
40 of the two highest rating grades by such an agency: *Provided*  
41 *further*, That any such security not rated in one of the two  
42 highest rating grades by any such agency and commercial  
43 paper or other evidence of indebtedness of any private  
44 corporation or association shall be purchased only upon the

45 written recommendation from an investment adviser that  
46 has over three hundred million dollars in other funds under its  
47 management;

48 (h) Negotiable certificates of deposit issued by any bank,  
49 trust company, national banking association or savings in-  
50 stitution organized and operating in the United States, which  
51 mature in less than one year and are fully collateralized; and

52 (i) Interest earning deposits including certificates of de-  
53 posit, with any duly designated state depository, which de-  
54 posits are fully secured by a collaterally secured bond as pro-  
55 vided in section four, article one of this chapter.

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

1 Moneys on deposit in the consolidated fund and the con-  
2 solidated pension fund shall be invested as permitted by  
3 section nine of this article subject to the restrictions and  
4 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 described  
7 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 described  
10 in said subdivision (g) which mature within one year from  
11 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 by a  
14 single private corporation or association, including for purposes  
15 of computation, all consolidated subsidiaries of such corpora-  
16 tion or association.

17 For the purpose of making the computations required by this  
18 section, securities shall be valued in accordance with generally  
19 accepted accounting principles.

**§12-6-11. Apportionment of interest earning deposits among state  
depositories; interest rate on such deposits.**

1 Whenever the board determines that funds should be in-  
2 vested in interest earning deposits, including certificates of

3 deposit, with depositories eligible in this state to receive such  
4 deposits, it shall equitably apportion its offering of such funds  
5 among all such depositories in this state. The board shall  
6 make such apportionment by considering first the total assessed  
7 value of all property within each county, and as to the dis-  
8 tribution of the offering within the county, by considering  
9 the net loans outstanding of each bank and the mortgage loans  
10 (exclusive of mortgage participations) of each state and federal  
11 savings and loan association as set forth in the banking com-  
12 missioner's most recent annual report of financial institutions.

13 The annual rate of interest on funds placed in interest  
14 earning deposits with state depositories, including certificates  
15 of deposit, shall be determined by the board and may be  
16 adjusted by it from time to time according to the then pre-  
17 vailing rate of interest. The board may offer such deposits  
18 to state depositories at a rate less than the prevailing rate of  
19 interest if it determines that such action will foster economic  
20 development in the state.

**§12-6-12. Investment policy; duties of board and state treasurer;  
standard of care.**

1 The board shall establish policy guidelines for the invest-  
2 ment of moneys on deposit in each of the funds managed  
3 by the board based on the needs of the participants in the  
4 various funds: *Provided*, That the board shall review such in-  
5 vestments at least every three months and may require the  
6 purchase or sale of any investments. In order to effectuate its  
7 investment policies, the board may require from each partici-  
8 pant a schedule, on an annual or more frequent basis, of  
9 anticipated deposits and withdrawals.

10 The office of the state treasurer shall administer the in-  
11 vestment of each of such funds subject at all times to the policy  
12 guidelines established by the board.

13 Any investment made under this article shall be made with  
14 the exercise of that degree of judgment and care, under cir-  
15 cumstances then prevailing, which men of experience, pru-  
16 dence, discretion and intelligence exercise in the management  
17 of their own affairs, not for speculation but for investment, con-

18 sidering the probable safety of their capital as well as the  
19 probable income to be derived.

**§12-6-13. Board as sole agency for investments; exceptions.**

1 All duties vested by law in any agency, commission, of-  
2 ficial or other board of the state relating to the investment  
3 of moneys, and the acquisition, sale, exchange or disposal of  
4 securities or any other investment are hereby transferred to  
5 the board, and the board shall be the sole agency for the  
6 investment of pension funds and state funds: *Provided*, That  
7 neither this section nor any other section of this article shall  
8 apply to the "board of the school fund" and the "school fund"  
9 established by section 4 of Article XII of the State Constitution  
10 or the state municipal bond commission.

**§12-6-14. Reports of board.**

1 The board shall prepare annually, or more frequently if  
2 deemed necessary by the board, a report of its operations  
3 and the performance of the various funds administered by it.  
4 A copy thereof shall be furnished to the chief financial officer  
5 of each participant, the president of the senate, speaker of  
6 the house, legislative auditor, and upon request to any legisla-  
7 tive committee, <sup>and</sup> ~~and~~ banking institution or state or federal  
8 savings and loan association in this state, and any member of  
9 the news media, and such report shall be kept available for  
10 inspection by any citizen of this state.

**§12-6-15. Audits.**

1 There shall be a continuous postaudit conducted by the  
2 legislative auditor of the investment transactions of the board,  
3 and a copy thereof for the preceding calendar year shall be  
4 furnished to each member of the legislature on or before the  
5 first day of February of each year.

**§12-6-16. Existing investments.**

1 The board shall not be required to dispose of any securities  
2 or other investments lawfully held by it as of the effective  
3 date of this act.

**§12-6-17. Severability of provisions.**

1 If any provision of this article, or the applicability thereof

2 to any person or circumstance, is held invalid, the remainder  
3 of this article and the applicability thereof and of such pro-  
4 vision to other persons or circumstances shall not be affected  
5 thereby.

## CHAPTER 18. EDUCATION.

### ARTICLE 9. SCHOOL FINANCES.

#### §18-9-6a. County board of education treasurer authorized to make funds available to state board of investments.

1 Notwithstanding any other provision of this code, when it  
2 appears to any of the various county boards of education that  
3 funds on deposit in its demand deposit account exceed the  
4 current requirements or demands, and it further be deter-  
5 mined by the treasurer for such county board of education  
6 that the available interest rate offered by an acceptable de-  
7 pository in such treasurer's county be less than the interest  
8 rate, net of administrative fees referred to in article six, chap-  
9 ter twelve of this code, offered it through the state board of  
10 investments, the county board of education treasurer may,  
11 with the approval in writing of each county board of education  
12 whose funds are involved, make such funds available to the  
13 state board of investments for investment in accordance with  
14 the provisions of said article six, chapter twelve of the code.

15 Any income earned on such investment shall be allocated by  
16 such treasurer to the board of education whose funds were  
17 made available, such allocation to be made in accordance  
18 with the accounting and allocation principles established by  
19 the board of investments.

## CHAPTER 57. EVIDENCE AND WITNESSES.

### ARTICLE 1. LEGISLATIVE ACTS AND RESOLUTIONS; PUBLIC RECORDS.

#### §57-1-7a. Use of photographic copies in evidence—state records, papers or documents; destruction or transfer to archives of originals; destruction of cancelled checks and paid and cancelled bonds and coupons.

1 Any public officer of the state may, with the approval of  
2 the board of public works, cause any or all records, papers or

3 documents kept by him to be photographed, microphoto-  
 4 graphed or reproduced on film. Such photographic film shall  
 5 be of durable material and the device used to reproduce such  
 6 records on such film shall be one which accurately reproduces  
 7 the original thereof in all details.

8 Such photographs, microphotographs or photographic film  
 9 shall be deemed to be an original record for all purposes, in-  
 10 cluding introduction in evidence in all courts or administrative  
 11 agencies. A transcript, exemplification or certified copy there-  
 12 of shall, for all purposes recited herein, be deemed to be a  
 13 transcript, exemplification, or certified copy of the original.  
 14 Whenever photographs, microphotographs or reproductions on  
 15 film have been made and put in conveniently accessible fire-  
 16 proof files, and provision has been made for preserving,  
 17 examining and using the same, the respective heads of the  
 18 departments, divisions, institutions and agencies of the state  
 19 may, with the approval of the board of public works, cause  
 20 the records and papers so photographed, microphotographed  
 21 or reproduced on film, or any part thereof, to be destroyed;  
 22 but before any such records, papers or documents are author-  
 23 ized to be destroyed, the board of public works shall obtain the  
 24 advice and counsel of the state historian and archivist, or his  
 25 designated representative, as to the desirability of placing the  
 26 said records, papers and documents in the archives of that  
 27 department, whereupon the board of public works may cause  
 28 such records, papers and documents to be so transferred: *Pro-*  
 29 *vided*, That the state treasurer may at his discretion destroy any  
 30 cancelled checks of the state after ten years have elapsed since  
 31 the date of the check, whether or not such checks have been  
 32 photographed, microphotographed or reproduced on film:  
 33 *Provided, however*, That any cancelled bonds or interest cou-  
 34 pons of any bond issues of this state in the custody of the  
 35 treasurer, or for which the treasurer acts as fiscal agent or  
 36 paying agent, may at his discretion be destroyed by one of the  
 37 two methods described below:

38 *Method 1*—The treasurer shall maintain a permanent  
 39 record for the purpose of recording the destruction of bonds  
 40 and coupons, showing the following: (1) With respect to bonds,  
 41 the purpose of issuance, the date of issue, denomination, ma-

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42 turity date, and total principal amount; and (2) with respect to  
43 coupons, the purpose of issue and date of the bonds to which  
44 the coupons appertain, the maturity date of the coupons, and,  
45 as to each maturity date, the denomination, quantity, and total  
46 amount of coupons.

47 After recording the specified information, the treasurer  
48 shall have the cancelled bonds and coupons destroyed either  
49 by burning or shredding, in the presence of an employee of the  
50 treasurer and an employee of the legislative auditor, each of  
51 whom shall certify that he saw the cancelled bonds and cou-  
52 pons destroyed. Such certificates shall be made a part of the  
53 permanent record. Cancelled bonds or coupons shall not be  
54 destroyed until after one year from the date of payment.

55 *Method II*—The treasurer may contract with any bank  
56 or trust company acting as paying agent or copaying agent for  
57 a bond issue of the state for the destruction of bonds and in-  
58 terest coupons which have been cancelled by the paying agent.  
59 The contract shall require that the paying agent give the  
60 treasurer a written certificate containing the same information  
61 required by Method I. Such certificate shall include a sworn  
62 statement that the described bonds or coupons have been de-  
63 stroyed. The certificate shall be made a part of the trea-  
64 surer's permanent record.

65 Each contract shall also require that the paying agent be  
66 responsible for proper payment and disposition of all bonds  
67 and coupons, and for any duplicate payments to unauthorized  
68 persons and nonpayment to authorized persons occurring as a  
69 result of destruction of bonds or coupons under this section.  
70 In addition, the treasurer may require the paying agent to sub-  
71 mit an indemnity bond, in an amount to be determined by the  
72 treasurer, to assure performance of the duties specified in this  
73 section. Cancelled bonds or coupons may not be destroyed  
74 until one year from the date of payment.

75 For purposes of this section, the term "bonds" shall include  
76 interim certificates.

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

James L. Davis  
Chairman Senate Committee

Lawrence C. Chestnut, Jr.  
Chairman House Committee

Originated in the House.

Takes effect July 1, 1978.

J. Phillon, Jr.  
Clerk of the Senate

C. A. Blankenship  
Clerk of the House of Delegates

W. T. Bratherton, Jr.  
President of the Senate

Donald L. Kopp  
Speaker House of Delegates

The within is approved this the 30  
day of March, 1978.

John D. Relyea  
Governor

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MAR 23 4 05 PM '78  
OFFICE OF THE GOVERNOR

APPROVED AND SIGNED BY THE GOVERNOR

Date Mar. 30, 1978

Time 2:30 p.m.

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78 MAR 30 P 9:24

OFFICE  
SECY. OF STATE