WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1990

ENROLLED
Committee Substitute for
SENATE BILL NO. 326

(By Senator Lenore M. Presler and Herman
By Request of the Executive)

PASSED March 10, 1990
In Effect July 1, 1990
ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 320

(BY SENATORS BURDETTE, MR. PRESIDENT, AND HARMAN,
BY REQUEST OF THE EXECUTIVE)

[Passed March 10, to take effect July 1, 1990.]

AN ACT to repeal article eight, chapter five; sections two-
a, two-b and two-c, article one, sections nineteen-a,
thirty-five and thirty-six, article two, section fourteen-
a, article three, sections one-a, six and seven, article
four, article four-a, sections four and five, article five,
and section three-a, article eight, all of chapter five-a; to
amend and reenact sections three, four and seven,
article six; chapter five; to amend and reenact sections
one, two, three, four, five and six, article one, chapter
five-a; to further amend said article one by adding
thereto two new sections, designated sections seven and
eight; to amend and reenact article one-a, chapter five-
a; to amend and reenact sections one, two, three, four,
five, six, seven, eight, nine, twelve, thirteen, fourteen,
fifteen, sixteen, seventeen, eighteen, nineteen, twenty,
twenty-one, twenty-two, twenty-three, twenty-four,
twenty-five, twenty-six, twenty-seven, twenty-eight,
twenty-nine, thirty, thirty-one and thirty-two, article
two, chapter five-a; to further amend said article by
adding thereto two new sections, designated sections ten
and eleven; to amend and reenact sections one, two, three, four, five, six, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty, thirty-one, thirty-two, thirty-three, thirty-four, thirty-five, thirty-six, thirty-seven, thirty-eight, thirty-nine, forty, forty-one, forty-two, forty-three, forty-four, forty-five, forty-six and forty-seven, article three, chapter five-a; to further amend said article by adding thereto eleven new sections, designated sections one-a, seven, twenty-three, thirty-seven-a, forty-eight, forty-nine, fifty, fifty-one, fifty-two, fifty-three and fifty-four; to amend and reenact article three-a, chapter five-a; to amend and reenact sections one, two, three, four and five, article four, chapter five-a; to amend and reenact sections one, two and three, article five, chapter five-a; to amend and reenact sections one, two, three, four, five, six, seven and eight, article seven, chapter five-a; to amend and reenact sections one, two, three, four, five, six and seven, article eight, chapter five-a; to further amend said article by adding thereto twelve new sections, designated sections nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen and nineteen; to amend and reenact section three, article nine, chapter five-a; to amend and reenact section seventeen, article three, chapter twelve; to amend and reenact section one, article three, chapter fourteen; and to amend and reenact sections seven and twenty-three, article six, chapter twenty-nine, all of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to the reorganization of the department of administration; deleting prohibition against state building commission charging rent to general revenue agencies; powers of state building commission; contracts with state building commission over ten thousand dollars to be by competitive bids; definitions for chapter relating to department of administration; division of finance and administration abolished transfer of duties and responsibilities to
department of administration; divisions; division directors; powers and duties of secretary, division heads and employees; council of finance and administration; reports by secretary; bonds for director of purchasing, buyers and employees; cost of bonds; delegation of powers and duties by secretary; right of appeal from interference with functioning of agency to governor; employee suggestion award program; employee suggestion award board and term of members; duties of board and employees eligible for award; increasing maximum award; state ownership of suggestions; finance division created; director; budget and accounting sections created; powers and duties; general powers and duties of secretary of administration as director of budget; requests for appropriations; copies to legislative auditor and sanctions; request provision for state superintendent of schools; contents of requests for appropriation; form of requests for appropriations; secretary to ascertain information concerning state finances; judiciary appropriations; secretary to examine requests for appropriation; appropriation requests by other than spending units to be no later than September first each year; secretary to supervise and control expenditure of appropriations, except those made to the judicial and legislative branches; secretary to estimate revenues month by month; secretary to ascertain revenue collections in proportion to estimate; withholding department of administration funds if secretary fails to provide information; submission of expenditure schedules to secretary; contents of expenditure schedules; copies of expenditure schedule to legislative auditor and sanctions; secretary to examine and approve expenditure schedules and amendments; legislative auditor to receive copies of expenditure schedules and amendments; secretary may require a reserve for emergencies out of the total appropriation to spending unit; requests for quarterly allotments in accordance with approved expenditure schedules; governor to approve or reduce amount of allotments; limitation on expenditures during a quarter; effectuating transfers between line items; expenditure of excess collections; approval by governor and notices to auditor, treasurer and legisla-
tive auditor; spending units to report work and expend-
ditures to secretary; secretary to send copies to legisla-
tive auditor; power of governor to reduce appropri-
tions; governor to reduce prorata appropriations from
general revenue to prevent overdraft or deficit; gover-
nor to reduce prorata appropriations from other funds;
secretary to approve requests for changes, receipt and
expenditure of federal funds; legislative auditor to
receive copies; secretary to submit consolidated report
to governor and legislative auditor of all federal funds;
secretary to formulate management accounting system;
system to include accounts kept by secretary, auditor
and treasurer; governor to approve system; system to be
certified to legislative auditor; expenditure of appropri-
tions; expenditure of appropriations other than for
purchases of commodities or printing; expenditure of
appropriations for purchases of commodities; expendi-
ture of appropriations for personal services; expendi-
ture of appropriations by legislative and judicial
branches; appropriations expenditures by spending
units without offices at capitol; sanctions for failure to
submit required requests, amendments and reports to
legislative auditor; purchasing division created; purpose;
director and qualifications for director; applicability of
purchasing requirements; director authorized to deal
with manufacturers of prescription drugs; director to
keep books and records and have available for public
inspection; powers and duties of director of purchasing;
purchasing rules and regulations to be issued by
director; standard specifications for purchasing to be
promulgated and adopted by director; spending units
required to utilize standard specifications; assistance
from other spending units in promulgating standard
specifications; director of purchasing to advise with
heads of state and other institutions producing commodi-
ties and printing; director of purchasing to resolve
conflicts between state and other entities with prefer-
ence; director to make facilities and services of purchas-
ing available to local governmental bodies; expenses
incurred by purchasing to be paid by local governmen-
tal body; director of purchasing to examine and test
purchases for nonconformity with contractual require-
ments; report required; sealed bids in the amount specified by regulation; publication of advertisements; purchase of products of nonprofit workshops; purchasing employee to assist with nonprofit workshops; bids to be based on standard specifications; period for alteration or withdrawal of bids; awards to lowest responsible bidder, considering quality, conformity with specifications, suitability, availability and delivery; uniform bids; record of bids; public inspection of bids; vendor registration and payment of annual fee; contents of registration forms; false affidavits and penalties; director may waive vendor registration and fee for sole source and emergency purchases; contracts to be approved by attorney general as to form; filing with auditor; copies of purchase orders to be sent to finance division for encumbrance; emergency purchases in open market; special fund created for purchases and maintenance of commodities in volume and printing; violation of purchasing laws and rules; personal liability; substituting commodity bearing particular trade name or brand for commodity meeting standard specifications at an equal or lower price; purchases from federal government, federal government contracts and higher education contracts; spending units to submit lists of expendable commodities; contracts for public printing and printing paper; printing plants at state and other institutions; legislative printing; printing of reports of supreme court of appeals; director of purchasing to print and bind reports to be transmitted to the governor; director to specify uniform standards for annual reports; limiting number of publications; purchasing division to perform printing and binding; exceptions; printing, binding and stationery to be paid from current expense and unclassified appropriations; director of purchasing to be custodian of reports and acts; sale of reports and acts by director; director of purchasing to establish central duplicating office; exemptions and contracts for duplicating; financial interest of secretary, director and employees of the purchasing division; receiving from interested party; penalties; applicability of bribery statute; penalty for violation of article; obtaining money and property by fraud or under false
pretenses; penalties; corrupt combinations or conspiracies prohibited; penalties; director to suspend right to bid; notice of suspension; secretary to review suspension of right to bid; authority of director of purchasing over inventories and property; submission of annual inventories; inventory of personal property; maintenance and repair of office furniture, machinery and equipment; vendor preference; exceptions; leases for space; leasing of space by secretary; delegation of authority by regulation; selection of grounds, buildings, office space or other space; acquisition by contract for lease; long-term leases; permanent changes to be approved by secretary; leases and other instruments for space to be signed by secretary or director of purchasing; approval as to form; filing; leasing for space rules and regulations; state agency for surplus property created; authority and duties of state agency for surplus property; disposition of surplus state property; semi-annual report of sales; application of sale proceeds; warehousing, transfer and other charges; department of agriculture and other agencies exempted from authority of state agency for surplus property; travel rules and regulations; exceptions; central motor pool for state-owned vehicles and aircraft; secretary to purchase and to dispose of vehicles and aircraft; maintenance and service to vehicles and aircraft; special fund for travel management created; expenditures; central non-profit coordinating agency and committee for the purchase of commodities and services from the handicapped; purpose; central non-profit agency duties and responsibilities; committee for purchase of commodities and services from the handicapped duties, responsibilities, compensation, and expenses; committee to adopt rules and regulations; exceptions from other code provisions; director of purchasing to determine comparable quality and price; general services division; director; general services division to have care, control and custody of capitol buildings and grounds; major renovations and repairs to be made at direction of secretary; security officers; appointment, oath and weapons; powers and duties of security officers; secretary to preserve law and order on capitol grounds; unlawful to kill or molest
animals, birds or fowls upon capitol grounds; powers and duties of security officers; penalties; secretary to regulate parking on state owned property; parking rules and regulations; legislative parking; penalties and enforcement; governor's mansion advisory committee created; appointment and terms of members; meetings and responsibilities of members; cooperation by spending units of state; annual report to be made to governor and Legislature; office of governor's mansion director created; duties and responsibilities of director; official use of state rooms in mansion; vacating private rooms of mansion by out-going governor; information services and communications division; definitions for division; information services and communications division created and purpose; use of facilities; rules and regulations for division; director of division; appointment and qualifications of director; powers and duties of division; director to report on the economic justification, system design and suitability of equipment and systems used in state government; governor to review findings; authority of governor to order transfer of equipment and personnel; professional staff and reimbursement for education and training; approval of director required for procurements or changes in data-processing and/or telecommunications equipment or services; division to control central mailing office; central mailing office employees; central mailing office responsibilities; spending units to use central mailing office; preparation of mail for special rates; special fund created; payments into fund and charges for services; disbursements from fund; confidential records not to be delivered to division; public records management and preservation act; short title; declaration of policy for act; definitions used in act; categories of records to be preserved established; secretary of administration to be state records administrator; records management and preservation advisory committee; members, designated representatives, rules, meetings and compensation; duties of administrator; rules and regulations to be promulgated by administrator; duties of agency heads; preserving duplicates of essential state records; safekeeping of essential state records; maintenance, inspection and use of essential
state records; confidential essential state records to be protected; administrator to review program at least annually; records management and preservation of local records; administrator to assist legislative and judicial branches; disposal of records; destruction of nonrecord materials; administrator to make annual written report to governor for transmission to Legislature; voluntary gilding the dome check-off program; contributions credited to special department of administration fund; public moneys and securities; appropriations, expenditures and deductions; liabilities incurred by state boards, commissions, officers or employee which cannot be paid out of current appropriations; claims due and against the state; interest on public contracts; payment of interest by the state on contracts when final payment is delayed; miscellaneous boards and officers; civil service system; division of personnel; secretary of administration to appoint director of division of personnel; creating special revenue account for division of personnel and authorizing agencies to transmit funds for personnel services.

Be it enacted by the Legislature of West Virginia:

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

CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL; BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES, COMMISSIONS, OFFICES, PROGRAMS, ETC.
ARTICLE 6. STATE BUILDING COMMISSION.

§5-6-3. Definitions.

The following terms, wherever used or referred to in this article, shall have the following meanings, unless a different meaning clearly appears from the context:

1. "Commission" means the state building commission of West Virginia or if said commission shall be abolished, any board or officer succeeding to the principal functions thereof, or to whom the powers given to said commission shall be given by law;

2. "Bonds" means bonds issued by the commission pursuant to this article;

3. "Project" means collectively the acquisition of land, the construction, equipping, maintaining and furnishing of a building or buildings, together with incidental approaches, structures and facilities, herein authorized to be constructed;

4. "Cost of project" includes the cost of construction, the cost of equipping and furnishing same, the cost of all land, property, material and labor which are deemed essential thereto, the cost of improvements, financing charges, interest during construction, and all other expenses, including legal fees, trustees', engineers' and architects' fees which are necessarily or properly incidental to the project;

5. "General tax revenues of the state" means revenues of the state derived from the exercise of the power of taxation and available for appropriation by the Legislature for general public purposes and shall not include revenues of the state, or of any officer, department or agency thereof, derived from taxes levied, collected and dedicated for a special purpose or purposes or derived from sources other than taxes such as profits, fees or charges; and

6. "Rent" or "rental" includes all moneys received for the use of any part of a project either from the state of West Virginia or any officer, department or
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provided, That nothing in this
article shall be taken to authorize the payment by or
on behalf of the state of any rent in excess of the fair
rental value of property used by or for such state
officer or department or public corporation in the
exercise of his or its statutory duties.

§5-6-4. Powers of commission.

1 The commission shall have power:
2 (1) To sue and be sued, plead and be impleaded;
3 (2) To have a seal and alter the same at pleasure;
4 (3) To contract to acquire and to acquire, in the
5 name of the commission or of the state, by purchase,
6 lease, lease-purchase, or otherwise, real property or
7 rights or easements necessary or convenient for its
8 corporate purposes and to exercise the power of
9 eminent domain to accomplish such purposes;
10 (4) To acquire, hold and dispose of personal property
11 for its corporate purposes;
12 (5) To make bylaws for the management and regu-
13 lation of its affairs;
14 (6) With the consent of the attorney general of the
15 state of West Virginia, to use the facilities of his office,
16 assistants and employees in all legal matters relating
17 to or pertaining to the commission;
18 (7) To appoint officers, agents and employees, and fix
19 their compensation;
20 (8) To make contracts, and to execute all instru-
21 ments necessary or convenient to effectuate the intent
22 of, and to exercise the powers granted to it by, this
23 article;
24 (9) To renegotiate all contracts entered into by it
25 whenever, due to a change in situation, it appears to
26 the commission that its interests will be best served,
27 (10) To construct a building or buildings on real
property, which it may acquire, or which may be owned by the state of West Virginia, in the city of Charleston, as convenient as may be to the capitol building, together with incidental approaches, structures and facilities, subject to such consent and approval of the city of Charleston in any case as may be necessary; and, in addition, to acquire or construct a warehouse, including office space therein, in Kanawha county for the West Virginia alcohol beverage control commissioner, and equip and furnish the same; and to acquire or construct, through lease, purchase, lease-purchase, or bond financing, hospitals or other facilities, buildings, or additions or renovations to buildings as may be necessary for the safety and care of patients, inmates and guests at facilities under the jurisdiction of and supervision of the division of health and at institutions under the jurisdiction of the division of corrections; and to formulate and program plans for the orderly and timely capital improvement of all of said hospitals and institutions and the state capitol buildings; and to construct a building or buildings in Kanawha county to be used as a general headquarters by the division of public safety to accommodate that division's executive staff, clerical offices, technical services, supply facilities and dormitory accommodations; and to develop, improve and expand state parks and recreational facilities to be operated by the division of commerce; and to establish one or more systems or complexes of buildings and projects under control of the commission; and, subject to prior agreements with holders of bonds previously issued, to change the same from time to time, in order to facilitate the issuance and sale of bonds of different series on a parity with each other or having such priorities between series as the commission may determine; and to acquire by purchase, eminent domain or otherwise all real property or interests therein necessary or convenient to accomplish the purposes of this subdivision;

(11) To maintain, construct and operate a project authorized hereunder;

(12) To charge rentals for the use of all or any part of a project or buildings at any time financed, constructed, acquired or improved in whole or in part
with the proceeds of sale of bonds issued pursuant to
this article, subject to and in accordance with such
agreements with bondholders as may be made as
hereinafter provided: Provided, That on and after the
effective date of the amendments to this section, to
charge rentals for the use of all or any part of a
project or buildings at any time financed, constructed,
aquired, maintained or improved in whole or in part
with the proceeds of sale of bonds issued pursuant to
this article, subject to and in accordance with such
agreements with bondholders as may be made as
hereinafter provided, or with any funds available to
the state building commission, including but not
limited to all buildings and property owned by the
state of West Virginia or by the state building commis-
sion, but no such rentals shall be charged to the
governor, attorney general, secretary of state, state
auditor, state treasurer, the Legislature and the
members thereof, the supreme court of appeals, nor
for their offices, agencies, official functions and duties;

(13) To issue negotiable bonds and to provide for the
rights of the holders thereof;

(14) To accept and expend any gift, grant or con-ribution of money to, or for the benefit of, the commis-
ion, from the state of West Virginia or any other
source for any or all of the purposes specified in this
article or for any one or more of such purposes as may
be specified in connection with such gift, grant or
contribution;

(15) To enter on any lands and premises for the
purpose of making surveys, soundings and
examinations;

(16) To invest in United States government obliga-
tions, on a short-term basis, any surplus funds which
the commission may have on hand pending the com-
pletion of any project or projects; and

(17) To do all things necessary or convenient to carry
out the powers given in this article.

The rights and powers set forth in subdivision (10) of
this section shall not be construed as in derogation of
any rights and powers now vested in the West Virginia
alcohol beverage control commissioner, the depart-
ment of mental health, the commissioner of public
institutions or the department of natural resources.

§5-6-7. Contracts with commission to be secured by bond;
competitive bids required for certain
contracts.

The commission shall construct a project pursuant to
a contract or contracts. Every such contract shall be
secured by a bond meeting the requirements of section
thirty-nine, article two, chapter thirty-eight of this
code.

No contract or contracts for the construction, remo-
deling, renovation or repair of any building or build-
ings or any approaches, structures or facilities inciden-
tal thereto, or for the equipping and furnishing of any
building or buildings, when the anticipated expendi-
ture therefor will exceed the sum of five thousand
dollars, shall be entered into except upon the basis of
competitive sealed bids: Provided, That effective with
the effective date of the amendments to this section,
no contract or contracts for the construction, remodel-
ing, renovation or repair of any building or buildings
or any approaches, structures or facilities incidental
thereto, or for the equipping and furnishing of any
building or buildings, when the anticipated expendi-
ture therefor will exceed the sum of ten thousand
dollars, shall be entered into except upon the basis of
such bids. Such bids shall be obtained by public notice
soliciting such bids published as a Class II legal
advertisement in compliance with the provisions of
article three, chapter fifty-nine of this code, and the
publication area for such publication shall be the
county in which any such contract is to be performed.
The publication shall be completed at least fourteen
days prior to the final date for the submission of bids.
The commission may in addition to such publication
also solicit sealed bids by sending requests by mail to
prospective bidders. The contract shall be awarded to
the lowest responsible bidder, unless any and all bids
are rejected, in which event new bids shall be sought by again publishing notice as aforesaid. Any bid, with the name of the bidder, shall be entered on a record and each record, with the successful bid indicated thereon, shall, after the award of any contract, be open to public inspection in the office of the secretary of the commission.

CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.

ARTICLE 1. DEPARTMENT OF ADMINISTRATION.

§5A-1-1. Definitions.

1 For the purpose of this chapter:

2 “Commodities” means supplies, material, equipment, contractual services, and any other articles or things used by or furnished to a department, agency or institution of state government.

3 “Contractual services” shall include telephone, telegraph, electric light and power, water and similar services.

4 “Director” means the director of the division referred to in the heading of the article in which the word appears.

5 “Expendable commodities” means those commodities which, when used in the ordinary course of business, will become consumed or of no market value within the period of one year or less.

6 “Nonprofit workshops” means an establishment (a) where any manufacture or handiwork is carried on, (b) which is operated either by a public agency or by a cooperative or by a nonprofit private corporation or nonprofit association, in which no part of the net earnings thereof inures, or may lawfully inure, to the benefit of any private shareholder or individual, (c) which is operated for the primary purpose of providing remunerative employment to blind or severely disabled persons who cannot be absorbed into the competitive labor market, and (d) which shall be approved, as evidenced by a certificate of approval, by the state board of vocational education, division of
vocational rehabilitation.

“Printing” means printing, binding, ruling, lithographing, engraving and other similar services.

“Removable property” means any personal property not permanently affixed to or forming a part of real estate.

“Secretary” means the secretary of administration and, as used in article two of this chapter, the director of the budget.

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

“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.

§5A-1-2. Department of administration and office of secretary; secretary; division of finance and administration abolished; divisions; directors.

The department of administration and the office of secretary of administration are hereby continued in the executive branch of state government. The secretary shall be the chief executive officer of the department and director of the budget and shall be appointed by the governor, by and with the advice and consent of the Senate, for a term not exceeding the term of the governor. The office of the commissioner of finance and administration and the division of finance and administration are hereby abolished. All duties and responsibilities of the commissioner of finance and administration are hereby vested in the secretary of administration. All records, responsibilities, obligations, assets and property, of whatever kind and character, of the division of finance and administration are hereby transferred to the department of administration. The balances of all funds of the division of finance and administration are hereby transferred to the department of administration. The department of administration is hereby authorized to receive federal funds.
The secretary shall serve at the will and pleasure of the governor. The annual compensation of the secretary shall be as specified in section three, article one, chapter five-f of this code.

There shall be in the department of administration a finance division, a general services division, an information services and communications division, an insurance and retirement division, a personnel division and a purchasing division. The insurance and retirement division shall be comprised of the public employees retirement system and board of trustees, the public employees insurance agency and public employees advisory board, the teachers retirement system and teachers' retirement board, and the board of risk and insurance management. Each division shall be headed by a director who may also head any and all sections within that division and who shall be appointed by the secretary. In addition to the divisions enumerated above, there shall also be in the department of administration those agencies, boards, commissions and councils specified in section one, article two, chapter five-f of this code.


The secretary shall have control and supervision of the department of administration and shall be responsible for the work of each of its employees. The secretary shall have such power and authority as specified in section two, article two, chapter five-f of this code. The secretary shall also have the authority to employ such assistants and attorneys as may be necessary for the efficient operation of the department. The secretary, the division heads and the employees of the department shall perform the duties herein specified and shall also perform such other duties as the governor may prescribe.


The council of finance and administration is hereby created and shall be composed of ten members, four of whom shall serve ex officio and six of whom shall be
appointed as herein provided. The ex officio members shall be the secretary of the department of administration, the attorney general or his designee, the state treasurer or his designee and the state auditor or his designee; such designees being authorized voting ones. From the membership of the Legislature, the president of the senate shall appoint three senators as members of the council, not more than two of whom shall be members of the same political party, and the speaker of the house shall appoint three delegates as members of the council, not more than two of whom shall be members of the same political party. Members of the council appointed by the president of the senate and the speaker of the house shall serve at the will and pleasure of the officer making their appointment. The secretary of administration shall serve as chairman of the council. Meetings of the council shall be upon call of the chairman or a majority of the members thereof. It shall be the duty of the chairman to call no less than four meetings in each fiscal year, one in each quarter, or more often as necessary, and all meetings shall be open to the public. All meetings of the council shall be held at the capitol building in a suitable committee room which shall be made available by the Legislature for such purpose: Provided, That the second quarterly meeting in each fiscal year shall be held in November and shall be a joint meeting with the joint committee on government and finance of the Legislature called jointly by the president of the senate, speaker of the house and secretary of administration.

The council shall serve the department of administration in an advisory capacity for purposes of reviewing the performance of the administrative and fiscal procedures of the state, including the oversight of all federal funds, and shall have the following duties:

(1) To advise with the secretary in respect to matters of budgetary intent and efficiency, including budget bill and budget document detail and format;

(2) To advise with the secretary concerning such studies of government and administration concerning
fiscal policy as it may consider appropriate;

(3) To advise with the secretary in the preparation
of studies designed to provide long-term capital
planning and finance for state institutions and agen-
cies; and

(4) To advise with the secretary in respect to the
application for, and receipt and expenditure of, antici-
ipated or unanticipated federal funds.

The appointed, non-ex officio members of the coun-
cil shall be entitled to receive such compensation and
reimbursement for expenses in connection with per-
formance of their duties, during interim periods, if not
otherwise receiving the same for such identical peri-
ods, as is authorized by the applicable sections of
article two-a, chapter four of the code in respect to
performance of duties either within the state or, if
deemed necessary, out-of-state. Such compensation
and expenses shall be incurred and paid only after
approval by the joint committee on government and
finance.

§5A-1-5. Reports by secretary.

1 The secretary shall make an annual report to the
governor concerning the conduct of the department
and the administration of the state finances. He shall
also make such other reports as the governor may
require.

§5A-1-6. Oath and bond of secretary; bond required for
director of the purchasing division; bonds for
other directors and employees; cost of bonds.

1 The secretary, before entering upon the duties of his
office, shall take and subscribe to the oath prescribed
by Section 5, Article IV of the constitution of West
Virginia. Notwithstanding any other provisions to the
contrary, the secretary shall execute a bond in the
penalty of one hundred thousand dollars, payable to
the state of West Virginia, with a corporate bonding or
surety company authorized to do business in this state
as surety thereon, approved by the governor, in form
prescribed by the attorney general and conditioned
upon the faithful performance of his duties and the accounting for all money and property coming into his hands by virtue of his office. The oath and bond shall be filed with the secretary of state.

The director of the purchasing division shall execute a bond in the penalty of one hundred thousand dollars and any person employed as a state buyer in accordance with article three of this chapter shall execute a bond in the penalty of fifty thousand dollars, payable to the state of West Virginia, with a corporate bonding or surety company authorized to do business in this state as surety thereon, approved by the governor, in form prescribed by the attorney general and conditioned upon the faithful performance of his duties under the provisions of this chapter and all rules and regulations promulgated pursuant to such chapter and the accounting for all money and property coming into his hands by virtue of his office or position. The bonds shall be filed with the secretary of state. In lieu of separate bonds for state buyers, a blanket surety bond may be obtained. The other division directors and all other employees of the department shall be covered by bonds in cases where the secretary thinks it necessary, which bonds shall be in the penalty prescribed by the secretary and shall be filed with the secretary of state.

The cost of all such surety bonds shall be paid from funds appropriated to the department of administration.


The powers and duties vested in the secretary may be delegated by him to his assistants and employees, but the secretary shall be responsible for all official acts of the department.

§5A-l-8. Right of appeal from interference with functioning of agency.

Upon occasion of a showing that the application of the authority vested under the provisions of this chapter may interfere with the successful functioning of any department, institution or agency of the gov-
ernment, such department, institution or agency may have the right of appeal to the governor for review of the case and the decision or conclusion of the governor shall govern in such cases.

ARTICLE 1A. EMPLOYEE SUGGESTION AWARD BOARD.

§5A-1A-1. Employee suggestion award program continued.

There is hereby continued an employee suggestion award program within the department of administration for employees of state government. Under this program cash or honorary awards may be made to state employees whose adopted suggestions will result in substantial savings or improvement in state operations.

§5A-1A-2. Board created; term of members.

There is hereby continued an employee suggestion award board which shall be composed of the secretary of administration or his designee, the secretary of the department of commerce, labor and environmental resources or his designee, the president of the senate or his designee, the speaker of the house of delegates or his designee, one member of the house of delegates to be appointed by the speaker of the house, one member of the senate to be appointed by the president of the senate, and the secretary of the department of health and human resources or his designee. The terms of the members of the board shall be consistent with the terms of the offices to which they have been elected or appointed.

§5A-1A-3. Duties of board; excluded employees.

It shall be the duty of the board to adopt rules governing its proceedings, to elect a chairman and secretary, to keep permanent and accurate records of its proceedings, to establish criteria for making awards, to adopt rules and regulations to carry out the provisions of this article, and to approve each award made.

In establishing criteria for making awards, the board may exclude certain levels of positions from participa-
tion in the program, but in no event shall:

(1) The following levels of management, within the spending unit where the adopted suggestion will result in substantial savings, be eligible to receive cash awards under the program:

(a) Governor's staff, departmental secretaries and their equivalent.

(b) Assistant or deputy secretary, assistant to secretary, commissioner, assistant or deputy commissioner, major fiscal and administrative policy departmental staff or their equivalent.

(c) Director or division chief, including the division chief or director of a statewide program, and which includes a chief of a division supervising several service units or their equivalent.

(d) Assistant to director or division chief, section chief or head of major departmental function or their equivalent; and

(2) The following levels of management, not within the spending unit where the adopted suggestion will result in substantial savings, be eligible to receive cash awards under the program:

(a) Governor's staff, departmental secretaries and their equivalent;

(b) Assistant or deputy secretary, assistant to secretary, commissioner, assistant or deputy commissioner.

§5A-1A-4. Awards.

The maximum cash award approved shall be limited to twenty percent of the first year's estimated savings, as established by the head of the affected spending unit, or ten thousand dollars, whichever is less. Any cash awards approved by the board shall be charged by the head of the affected spending unit against the appropriation item or items to which such estimated savings apply.
§5A-1A-5. State ownership of suggestions.

1 The state shall become the sole owner of all suggestions accepted by the employee suggestion award board. The acceptance of a suggestion by the board shall constitute an agreement by the employee and the state that all claims pertaining to the suggestion, immediate and future, on the state of West Virginia are waived.

ARTICLE 2. FINANCE DIVISION.

§5A-2-1. Finance division created; director; sections; powers and duties.

1 The finance division of the department of administration is hereby created. The division shall be under the supervision and control of a director, who shall be appointed by the secretary. There shall be in the finance division, an accounting section and a budget section. The accounting section shall have the duties conferred upon it by this article and by the secretary, including, but not limited to, general financial accounting, payroll, accounts payable and accounts receivable for the department of administration.

11 The budget section shall act as staff agency for the governor in the exercise of his powers and duties under Section 51, Article VI of the state constitution, and shall exercise and perform the other powers and duties conferred upon it by this article.

§5A-2-2. General powers and duties of secretary as director of budget.

1 The secretary, under the immediate supervision of the governor, shall have the power and duty to:

3 (1) Exercise general supervision of, and make rules and regulations for, the government of this division;

5 (2) Administer the budget in accordance with this article;

7 (3) Serve the governor in the consideration of requests for appropriations and the preparation of the budget document;
(4) Make such investigations and submit such reports as the governor may require;

(5) Make a continuous study of state expenditures and eligibility for federal matching dollars and make such recommendations to the governor for the more economical use of state funds as he/she shall find practicable;

(6) Render assistance to spending officers with respect to the fiscal affairs of spending units; and

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

§5A-2-3. Requests for appropriations; copies to legislative auditor.

The spending officer of each spending unit, other than the legislative and the judicial branches of state government, shall on or before the first day of September of each year, submit to the secretary, a request for appropriations for the fiscal year next ensuing. On or before the same date, the spending officer shall also transmit two copies of such request to the legislative auditor for the use of the finance committees of the Legislature.

If the spending officer of any spending unit fails to transmit to the legislative auditor two copies of the request for appropriations within the time specified in this section, the legislative auditor shall notify the secretary, auditor and treasurer of such failure, and thereafter no funds appropriated to such spending unit shall be encumbered or expended until the spending officer thereof has transmitted such copies to the legislative auditor.

If a spending officer submits to the secretary an amendment to the request for appropriations, two copies of such amendment shall forthwith be transmitted to the legislative auditor.

Notwithstanding any provision in this section to the contrary, the state superintendent of schools, shall on
or before the fifteenth day of December of each year, submit to the secretary a request for appropriations for the fiscal year next ensuing for state aid to schools and two copies of such request to the legislative auditor for the use of the finance committees of the Legislature. The request for appropriation shall be accompanied with copies of certified enrollment and employee lists from all county superintendents for the current school year. If certified enrollment and employee lists are not available to the state superintendent from any of the county school boards, the state superintendent shall notify those school boards and no funds shall be expended for salary or compensation to their county superintendent until the certified lists of enrollment and employees are submitted.


1. A request for an appropriation 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 use of the spending agency during the next preceding fiscal year and anticipated collections for the fiscal year next ensuing;

   (2) A statement by purposes and objects, of the amount of appropriations requested for the spending unit without deducting the amount of anticipated collections of special revenue, federal funds or other receipts;

   (3) A statement showing the actual expenditures of the spending unit for the preceding year and estimated expenditures for the current fiscal year itemized by purposes and objects, including those from regular and supplementary appropriations, federal funds, 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 compensation of persons employed by the spending unit distinguishing between regular, special and casual employees during the preceding fiscal year and
24 during the current fiscal year. The statement shall
25 show the personnel requirements in similar form for
26 the ensuing fiscal year for which appropriations are
27 requested;
28 (5) A statement showing in detail the purposes for
29 which increased amounts of appropriations, if any, are
30 requested, and giving a justification statement for the
31 expenditure of the increased amount. A construction
32 or other improvement request shall show in detail the
33 kind and scope of construction or improvement
34 requested;
35 (6) A statement of money claims against the state
36 arising out of the activities of the spending unit; and
37 (7) Such other information as the secretary may
38 request.

§5A-2-5. Form of requests.

1 The secretary shall specify the form and detail of
2 itemization of requests for appropriations and state-
3 ments to be submitted by a spending unit: Provided,
4 That such request for appropriations must include at
5 a minimum the information required by section four
6 of this article. The secretary shall furnish blank forms
7 for this purpose.

§5A-2-6. Information concerning state finances.

1 The secretary shall ascertain for the preceding year
2 and as estimated for the current fiscal year:
3 (1) The condition of each of the funds of the state;
4 (2) A statement of all revenue collections both
5 general and special; and
6 (3) Such other information relating to the finances of
7 the state as the governor may request.


1 The governor shall transmit to the secretary the
2 appropriations required by law for the judiciary for
3 the fiscal year next ensuing and which have been
4 certified to the governor by the auditor. The auditor
shall certify such appropriations to the governor in accordance with Section 51, Article VI of the state constitution, on or before September first of each year.

§5A-2-8. Examination of requests for appropriations.

The secretary 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 secretary 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 secretary shall assist spending officers in the preparation of their requests.

§5A-2-9. Appropriation requests by other than 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 secretary on or before the first day of September of each year. The request shall be in the form prescribed by the secretary and shall be accompanied by a justification statement.


The secretary shall supervise and control the expenditure of appropriations made by the Legislature excluding those made to the Legislature and those made to the judicial branch of the state government. The expenditure of an appropriation made by the Legislature except that made for the Legislature itself and the judicial branch of state government shall be conditioned upon compliance by the spending unit with the provisions of this article. An appropriation made by the Legislature except that made for the Legislature itself and the judicial branch of state government shall be expended only in accordance
§5A-2-11. Estimates of revenue; reports on revenue collections; withholding department funds on noncompliance.

Prior to the beginning of each fiscal year the secretary shall estimate the revenue to be collected month by month by each classification of tax for that fiscal year as it relates to the official estimate of revenue for each tax for that fiscal year and the secretary shall certify this estimate to the governor and the legislative auditor by the first day of July for that fiscal year.

The secretary shall ascertain the collection of the revenue of the state and shall determine for each month of the fiscal year the proportion which the amount actually collected during a month bears to the collection estimated by him for that month. The secretary shall certify to the governor and the legislative auditor, as soon as possible after the close of each month, and not later than the fifteenth day of each month, and at such other times as the governor or legislative auditor may request, the condition of the state revenues and of the several funds of the state and the proportion which the amount actually collected during the preceding month bears to the collection estimated by him for that month. The secretary shall include in this certification the same information previously certified for prior months in each fiscal year. For the purposes of this section, the secretary shall have the authority to require all necessary estimates and reports from any spending unit of the state government.

If the secretary fails to certify to the governor and the legislative auditor the information required by this section within the time specified herein, the legislative auditor shall notify the auditor and treasurer of such failure, and thereafter no funds appropriated to the department of administration shall be expended until the secretary has certified the information required by this section.
§5A-2-12. Submission of expenditure schedules; contents; submission of information on unpaid obligations; copies to legislative auditor.

Prior to the beginning of each fiscal year, the spending officer of a spending unit shall submit to the secretary a detailed expenditure schedule for the ensuing fiscal year. The schedule shall be submitted in such form and at such time as the secretary may require.

The schedule shall show:

1. A proposed monthly rate of expenditure for amounts appropriated for personal services;
2. Each and every position budgeted under personal services for the next ensuing fiscal year, with the monthly salary or compensation of each such position;
3. A proposed quarterly rate of expenditure for amounts appropriated for employee benefits, current expenses, equipment and repairs and alterations classified by a uniform system of accounting as called for in section twenty-five of this article for each item of every appropriation;
4. A proposed yearly plan of expenditure for amounts appropriated for buildings and lands; and
5. A proposed quarterly plan of receipts itemized by type of revenue.

The secretary may accept a differently itemized expenditure schedule from a spending unit to which the above itemizations are not applicable.

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

Within fifteen days after the end of each month of the fiscal year, the head of every spending unit shall certify to the legislative auditor the status of obligations and payments of the spending unit for amounts of employee benefits, including but not limited to obligations and payments for social security withholding and employer matching, public employees insur-
When a spending officer submits an expenditure schedule to the secretary as required by this section, the spending officer shall at the same time transmit a copy thereof to the legislative auditor and the joint committee on government and finance or its designee. If a spending officer of a spending unit fails to transmit such copy to the legislative auditor on or before the beginning of the fiscal year, the legislative auditor shall notify the secretary, auditor and treasurer of such failure, and thereafter no funds appropriated to such spending unit shall be encumbered or expended until the spending officer thereof has transmitted such copy to the legislative auditor.

In the event the legislative auditor determines from certified reports or from other sources that any spending unit is not making all payments and transfers for employee benefits from funds appropriated for that purpose, the legislative auditor shall notify the secretary of administration, auditor and treasurer of such determination and thereafter no funds appropriated to such spending unit shall be encumbered or expended for the salary or compensation to the head of the spending unit until the legislative auditor shall determine that such payments or transfers are being made on a timely basis.

§5A-2-13. Examination and approval of expenditure schedules; amendments; copies to legislative auditor.

The secretary shall examine the expenditure schedule of each spending unit, and if he finds that it conforms to the appropriations made by the Legislature, the requirements of this article, and is in accordance with sound fiscal policy, he shall approve the schedule.

The expenditure of the 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 secretary, or unless
appropriations are reduced in accordance with the provisions of sections twenty to twenty-three inclusive, of this article. The spending officer of a spending unit shall transmit to the legislative auditor a copy of each and every requested amendment to such schedule at the same time that such requested amendment is submitted to the secretary. The secretary shall send to the legislative auditor copies of any schedule amended with the secretary’s approval.


The secretary, with the approval of the governor, may require that an expenditure schedule provide 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 secretary in consultation with the spending officer.

§5A-2-15. Requests for quarterly allotments; approval or reduction by governor.

At least thirty days prior to the beginning of each quarter of the fiscal year, each spending officer shall submit to the secretary 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 secretary 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 governor. The secretary 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 governor shall consider the amount of requests for allotment and the collection of revenues. If the governor finds that the collection of revenue warrants the expenditure of the amount requested in the allotment, he shall approve the allotment of funds for the ensuing quarter and send copies of the requests to
the legislative auditor after approval. If the governor finds that the collection of revenue does not warrant the allotment of the requested amount, he may reduce the amount of allotments pending the collection of sufficient revenue.

§5A-2-16. Limitation on expenditures.

The expenditures of a spending unit during a quarter of the fiscal year shall not exceed the amount of the approved allotment, unless the governor 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.

§5A-2-17. Transfers between items of appropriation of executive, legislative and judicial branches.

Notwithstanding any other provision of law to the contrary, there shall be no transfer of amounts between items of appropriations nor shall moneys appropriated for any particular purpose be expended for any other purpose by any spending unit of the executive, legislative or judicial branch except as hereinafter provided:

(1) Any transfer of amounts between items of appropriations for the executive branch of state government shall be made only as specifically authorized by the Legislature.

(2) Any transfer of amounts between items of appropriations for the legislative branch of state government shall be made only pursuant to the joint rules adopted by such body and any amendments thereto, as certified to the state auditor, the state treasurer and the legislative auditor.

(3) Any transfer of amounts between items of appropriations for the judicial branch of state government shall be made only pursuant to rules adopted by the supreme court of appeals and any amendments thereto, as certified to the state auditor, the state treasurer and the legislative auditor.
§5A-2-18. Expenditure of excess in collections; notices to auditor and treasurer.

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 secretary:

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 secretary shall submit the request to the governor with his recommendation.

If the governor 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, he/she may authorize the use of the surplus during the current fiscal year. Notices of such authorization shall be sent to the state auditor, the state treasurer and the legislative auditor.

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

§5A-2-19. Reports by spending units; copies to legislative auditor.

A spending unit shall submit to the secretary such reports with respect to the work and expenditures of the unit as the secretary may request for the purposes of this article. Upon receipt thereof, the secretary shall immediately send copies of all such reports to the legislative auditor.

1. The governor may reduce appropriations according to any of the methods set forth in sections twenty-one and twenty-two of this article.


1. If the governor determines that the amounts, or parts thereof, appropriated from the general revenue cannot be expended without creating an overdraft or deficit in the general fund, he may instruct the secretary 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.

§5A-2-22. Reduction of appropriations — Pro rata reduction of appropriations from other funds.

1. The governor, in the manner set forth in section twenty-one may reduce appropriations from:

   (1) Funds supported by designated taxes or fees; and

   (2) Fees or other collections set aside for the support of designated activities or services.

2. 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.

§5A-2-23. Approval of secretary of requests for changes and receipt and expenditure of federal funds by state agencies; copies or sufficient summary information to be furnished to secretary and legislative auditor; and consolidated report of federal funds.

1. Every agency of the state government when making requests or preparing budgets to be submitted to the federal government for funds, equipment, material or services, the grant or allocation of which is conditioned upon the use of state matching funds, shall have such request or budget approved in writing by the secretary
before submitting it to the proper federal authority. At
the time such agency submits such a request or budget
to the secretary for approval, it shall send a copy
thereof to the legislative auditor. When such federal
authority has approved the request or budget, the
agency of the state government shall resubmit it to the
secretary for recording before any allotment or
encumbrance of the federal funds can be made and
the secretary shall send a copy of the federally
approved request or budget to the legislative auditor.
Whenever any agency of the state government shall
receive from any agency of the federal government a
grant or allocation of funds which do not require state
matching, the state agency shall report to the secre-
tary and the legislative auditor for their information
the amount of the federal funds so granted or allocated.

Unless contrary to federal law, any agency of state
government, when making requests or preparing
budgets to be submitted to the federal government for
funds for personal services, shall include in such
request or budget the amount of funds necessary to
pay for the costs of any fringe benefits related to such
personal service. For the purposes of this section
“fringe benefits” means any employment benefit
granted by the state which involves state funds,
including, but not limited to, contributions to insur-
ance, retirement and social security, and which does
not affect the basic rate of pay of an employee.

In addition to the other requirements of this section,
the secretary shall, as soon as possible after the end of
each fiscal year but no later than the first day of
October of each year, submit to the governor and the
legislative auditor a consolidated report which shall
contain a detailed itemization of all federal funds
received by the state during the preceding and current
fiscal years, as well as those scheduled or anticipated
to be received during the next ensuing fiscal year.
Such itemization shall show: (a) each spending unit
which has received or is scheduled or expected to
receive federal funds in either of such fiscal years, (b)
the amount of each separate grant or distribution
received or to be received, and (c) a brief description of the purpose of every such grant or other distribution, with the name of the federal agency, bureau or department making such grant or distribution: Provided, That it shall not be necessary to include in such report an itemization of federal revenue sharing funds deposited in and appropriated from the revenue sharing trust fund, or federal funds received for the benefit of the division of highways of the department of transportation.

The secretary is authorized and empowered to obtain from the spending units any and all information necessary to prepare such report.

Notwithstanding the other provisions of this section and in supplementation thereof, the Legislature hereby determines that the department of administration and its secretary need to be the single and central agency for receipt of information and documents in respect of applications for, and changes, receipt and expenditure of, federal funds by state agencies. Every agency of state government, when making application for federal funds in the nature of a grant, allocation or otherwise; when amending such applications or requests; when in receipt of such federal funds; or when undertaking any expenditure of federal funds; in all such respective instances, shall provide to the secretary of administration document copies or sufficient summary information in respect thereof as to enable the secretary to provide approval in writing for such activity in respect to the federal funds, and such state agencies shall, at the same time, provide such a document copy or sufficient summary information report to the legislative auditor’s office in order to permit continuing meaningful cooperative overview of federal funds and their use budgetarily and in establishing state fiscal policies.


1 It is the intent of this section to establish a centralized accounting system for the offices of the auditor, treasurer, secretary of administration and each spend-
ing unit of state government to provide more accurate
and timely financial data and increase public
accountability.

Notwithstanding any provision of this code to the
contrary, the secretary shall develop and implement a
new centralized accounting system for the planning,
reporting and control of state expenditures in accor-
dance with generally accepted accounting principles to
be used by the auditor, treasurer, secretary and all
spending units. The accounting system shall provide
for adequate internal controls, accounting procedures,
recording income collections, systems operation proce-
dures and manuals, and periodic and annual general
purpose financial statements, as well as provide for the
daily exchange of needed information among users.

The financial statements shall be audited annually
by outside independent certified public accountants,
who shall also issue an annual report on federal funds
in compliance with federal requirements.

The secretary shall implement the centralized
accounting system no later than the thirty-first day of
December, one thousand nine hundred and ninety-
three, and, after approval of the system by the
governor, shall require its use by all spending units.
The auditor, treasurer, secretary and every spending
unit shall maintain their computer systems and data
files in a standard format in conformity with the
requirements of the centralized accounting system.
Any system changes must be approved in advance of
such change by the secretary. The auditor, treasurer
and secretary shall provide on-line interactive access
to the daily records maintained by their offices.

§5A-2-25. System of accounting to be certified to legislative
auditor.

The secretary shall certify the system of accounting
and reporting installed pursuant to the provisions of
this article, and any changes made therein, to the
legislative auditor.

1. The expenditure of an appropriation made by the Legislature shall be conditioned upon compliance by the spending unit with the following provisions of this article.

§5A-2-27. Expenditure of appropriations — Other than for purchases of commodities.

1. 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 approved expenditure schedule, and otherwise conforms to the provisions of this article;

   (3) If the director approves the requisition, he/she 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; and

   (4) If the director disapproves the requisition, he/she shall return it to the spending unit with a statement of his reasons.


1. If a requisition is a request for a purchase of commodities, the spending unit shall transmit the requisition to the budget section for the purpose of ascertaining whether it conforms to the expenditure schedule. If it does not so conform, the requisition shall be returned by the budget section to the spending unit. If it conforms, the budget section shall transmit the requisition to the purchasing division for
purchase in accordance with article three of this chapter. When a copy of the purchase order issued pursuant thereto is received from the purchasing division by the director in accordance with the provisions of section fourteen, article three of this chapter, the director shall ascertain whether the unencumbered balance in the appropriation concerned, in excess of all unpaid obligations, is sufficient to defray the cost of such order, and, if so, shall encumber the proper account and so certify the fact to the purchasing division, and, if not, shall notify the purchasing division which, upon receipt of such notification, shall return the requisition to the spending unit.

§5A-2-29. Expenditure of appropriations — Payment of personal services.

A requisition for the payment of personal services shall upon receipt by the director be checked against the personnel schedule of the spending unit making the requisition. The director shall approve a requisition for personal services only if the amounts requested are in accordance with the personnel schedule of the spending unit.


The provisions of sections twenty-nine and thirty 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 the case of appropriations made for the judiciary, the clerk of the court shall present his requisition or claim directly to the auditor. In the case of appropriations made for criminal charges, the clerk or the proper officer shall present his claim directly to the auditor.

§5A-2-31. Appropriations for officers, commissions, boards or institutions without office at capitol.

All appropriations now or hereafter made for offic-
ers, commissions, boards or institutions, public or private, other than state institutions of higher edu-
cation, state charitable institutions, state hospitals and sanitariums and state penal and correctional institu-
tions, not having an office at the state capitol, shall, unless otherwise provided by law, be expended on requisitions of such officer, commission, board or institution, after approval by the secretary of the department of administration.

§5A-2-32. Submission of requests, amendments, reports, etc., to legislative auditor; penalty for noncompliance.

The provisions of sections three, eleven, twelve, thirteen, nineteen, twenty-three and twenty-five of this article requiring the secretary or the spending officer of the spending units, as the case may be, to supply copies of the documents specified therein to the legislative auditor, shall be strictly adhered to by all such persons. Any failure by any person to do so shall be a misdemeanor, and, upon conviction thereof, such person shall be fined the sum of one thousand dollars. Such penalty shall be in addition to other penalties provided elsewhere in this article and other remedies provided by law.

ARTICLE 3. PURCHASING DIVISION.

§5A-3-1. Division created; purpose; director; applicability of article.

There is hereby created the purchasing division of the department of administration for the purpose of establishing centralized offices to provide purchasing, travel and leasing services to the various state agencies.

No person shall be appointed director of the purchasing division unless that person is, at the time of appointment, a graduate of an accredited college or university and shall have spent a minimum of ten of the fifteen years immediately preceding his appointment employed in an executive capacity in purchasing for any unit of government or for any business, commercial or industrial enterprise.
The provisions of this article shall apply to all of the spending units of state government, except as is otherwise provided by this article or by law: Provided, That the provisions of this article shall not apply to the legislative branch unless otherwise provided or the Legislature or either house thereof requests the director to render specific services under the provisions of this chapter, nor to purchases of stock made by the alcohol beverage control commissioner, nor to purchases of text books for the state board of education.

§5A-3-la. Prescription drug products.

In addition to other provisions of this article, the division is authorized, on behalf of the public employees insurance agency, the schools of medicine of the state colleges and universities, the department of vocational rehabilitation and the department of health and human resources, to negotiate and enter into agreements directly with manufacturers and distributors whose prescription drug products are sold in the state for sole-source and multiple-source drugs to be paid for under a state program for eligible recipients. Such agreements shall provide for a rebate of a negotiated percentage of the total product cost to be paid by the manufacturer or distributor of a specific product. Each agency is authorized to establish, either singularly or together with other agencies, a drug formulary.

Prescription drug products are included in the drug formulary only upon completion of the application to and approval of the division. Those products for which a rebate is successfully negotiated are automatically included in the drug formulary for a period of time coterminous with the negotiated rebate.

If there has been a failure to negotiate or renew a rebate agreement for a specific prescription drug product, the pharmaceutical manufacturer of that product shall disclose to the division its most favorable pricing arrangements available to state and nonstate government purchasers. If the division determines that the product needs to be included in the drug
formulary, with the approval of the agency the division shall establish the amount to be reimbursed for the product based upon the price information provided by the manufacturer. The determination as to whether a product should be included in the drug formulary is based on the product's efficiency, cost, medical necessity and safety. Any rebate returns, as a result of the provisions of this section regarding prescription drugs, shall be deposited in the general revenue fund.

It is expressly recognized that no other entity may interfere with the discretion and judgment given to the single state agency that administers the state's medicaid program. Therefore, the department of health and human resources is authorized to negotiate rebates as provided for in this section.

§5A-3-2. Books and records of director.

The director shall keep in his offices accurate books, accounts and records of all transactions of his division, and such books, accounts and records shall be public records, and shall at all proper times be available for inspection by any taxpayer of the state.

§5A-3-3. Powers and duties of director of purchasing.

The director, under the direction and supervision of the secretary, shall be the executive officer of the purchasing division and shall have the power and duty to:

(1) Direct the activities and employees of the purchasing division;

(2) Ensure that the purchase of or contract for commodities and printing shall be based, whenever possible, on competitive bid;

(3) Purchase or contract for, in the name of the state, the commodities and printing required by the spending units of the state government;

(4) Apply and enforce standard specifications established in accordance with section five of this article as hereinafter provided;
(5) Transfer to or between spending units or sell commodities that are surplus, obsolete or unused as hereinafter provided;

(6) Have charge of central storerooms for the supply of spending units;

(7) Establish and maintain a laboratory for the testing of commodities and make use of existing facilities in state institutions for that purpose as hereinafter provided;

(8) Suspend the right and privilege of a vendor to bid on state purchases when the director has evidence that such vendor has violated any of the provisions of the purchasing law or the rules and regulations of the director;

(9) Examine the provisions and terms of every contract entered into for and on behalf of the state of West Virginia that impose any obligation upon the state to pay any sums of money for commodities or services and approve each such contract as to such provisions and terms; and the duty of examination and approval herein set forth does not supersede the responsibility and duty of the attorney general to approve such contracts as to form: Provided, That the provisions of this subdivision do not apply in any respect whatever to construction or repair contracts entered into by the division of highways of the department of transportation: Provided, however, That the provisions of this subdivision do not apply in any respect whatever to contracts entered into by the university of West Virginia board of trustees or by the board of directors of the state college system, except to the extent that such boards request the facilities and services of the director under the provisions of this subdivision; and

(10) Assure that the specifications and commodity descriptions in all "requests for quotations" are prepared so as to permit all potential suppliers-vendors who can meet the requirements of the state an opportunity to bid and to assure that the specifications and descriptions do not favor a particular brand
or vendor. If the director determines that any such
specifications or descriptions as written favor a partic-
ular brand or vendor or if it is decided, either before
or after the bids are opened, that a commodity having
different specifications or quality or in different
quantity can be bought, the director may rewrite the
“requests for quotations” and the matter shall be
rebid.

§5A-3-4. Rules and regulations of director.

(a) The director shall adopt and amend rules and
regulations to:

1. Authorize a spending unit to purchase specified
commodities directly and prescribe the manner in
which such purchases shall be made;

2. Authorize, in writing, a spending unit to pur-
chase commodities in the open market for immediate
delivery in emergencies, define such emergencies and
prescribe the manner in which such purchases shall be
made and reported to the director; and for the
purposes mentioned in subdivision (1) and this subdi-
vision (2), the head of any spending unit, or the
financial governing board of any institution, may, with
the approval of the director, make requisitions upon
the auditor for a sum to be known as an advance
allowance account, in no case to exceed five percent of
the total of the appropriations for any such spending
unit, and the auditor shall draw his warrant upon the
treasurer for such accounts; and all such advance
allowance accounts shall be accounted for by the head
of the spending unit or institution once every thirty
days or oftener if required by the state auditor or
director;

3. Prescribe the manner in which commodities shall
be purchased, delivered, stored and distributed;

4. Prescribe the time for making requisitions and
estimates of commodities, the future period which
they are to cover, the form in which they shall be
submitted and the manner of their authentication;

5. Prescribe the manner of inspecting all deliveries
of commodities, and making chemical and physical
tests of samples submitted with bids and samples of
deliveries to determine compliance with specifications;

(6) Prescribe the amount of deposit or bond to be
submitted with a bid or contract and the amount of
deposit or bond to be given for the faithful perfor-
ance of a contract;

(7) Prescribe a system whereby the director shall be
required upon the payment by a vendor of an annual
fee established by the director, to give notice to such
vendor of all bid solicitations for commodities of the
type with respect to which such vendor specified
notice was to be given, but no such fee shall exceed
the cost of giving the notice to such vendor, nor shall
such fee exceed the sum of forty-five dollars per fiscal
year, nor shall such fee be charged to persons seeking
only reimbursement from a spending unit;

(8) Prescribe that each state contract entered into by
the purchasing division shall contain provisions for
liquidated damages, remedies, and/or provisions for
the determination of the amount or amounts which
the vendor shall owe as damages, in the event of
default under such contract by such vendor; and

(9) Provide for such other matters as may be neces-
sary to give effect to the foregoing rules and regula-
tions and the provisions of this article.

(b) The director shall also adopt and amend rules
and regulations to prescribe qualifications to be met by
any person who, on and after the effective date of this
section, is to be employed in the purchasing division as
a state buyer. Such rules and regulations shall provide
that no person shall be so employed as a state buyer
unless such person at the time of employment either
is (1) a graduate of an accredited college or university
or (2) has at least four years' experience in purchasing
for any unit of government or for any business,
commercial or industrial enterprise. Those persons
now serving as state buyers shall remain subject to the
provisions of article six of chapter twenty-nine of this
code, and those persons employed as state buyers on
and after the effective date of this section shall be subject to the provisions of said article ten.

§5A-3-5. Purchasing section standard specifications — Promulgation and adoption by director; applicable to all purchases.

The director shall promulgate and adopt standard specifications based on scientific and technical data for appropriate commodities, which shall establish the quality to which such commodities to be purchased and services to be contracted for by the state must conform. Standard specifications shall apply to every future purchase of or contract for the commodities described in the specifications. The purchases of no spending unit may be exempt from compliance with the standard specifications so established, but the director, whenever he deems it necessary and advisable, may exempt therefrom the purchase of particular items. The director shall update the standard specifications, as necessary.

§5A-3-6. Purchasing section standard specifications — Advisers from spending units.

The secretary may from time to time request any official or employee of any spending unit to aid and advise the director in formulating, revising or amending the schedule of standard specifications provided for in section five of this article. Such official or employee shall act at the request of the secretary and shall be entitled to receive his necessary expenses incurred in compliance therewith, but shall receive no additional compensation therefor.

§5A-3-7. Director to advise with heads of state and other institutions producing commodities, services and printing.

The director shall advise with the heads of the various state and other institutions producing commodities, services and printing, with the view to making these articles suitable for the needs of state spending units. Notwithstanding any provision of this code to the contrary, in the event of conflict between
state and other institutions producing commodities, services and printing with preference in accordance with the code, the director shall determine which institution shall provide a commodity, service or printing, basing such determination on quality, price and the efficient and economical operation of state government.

§5A-3-8. Facilities of division available to local governmental bodies.

The director shall make available the facilities and services of his division to counties, county schools, municipalities, urban mass transportation authorities, created pursuant to article twenty-seven, chapter eight of this code, mass transportation divisions of county and municipal governments, volunteer fire departments, and other local governmental bodies within this state. The actual expenses incurred thereby shall be paid by the local governmental body.

§5A-3-9. Examination and testing of purchases; report required.

Within the limit of funds available, the director, or some person appointed by the director, shall determine whether commodities delivered or services performed conform to contractual requirements. Nonconformity shall be reported to the director and chief officer of the spending unit purchasing such commodities or services for remedial action.

§5A-3-10. Competitive bids; publication of solicitations for sealed bids; purchase of products of nonprofit workshops; employee to assist in dealings with nonprofit workshops.

A purchase of and contract for commodities, printing and services shall be based, whenever possible, on competitive bids.

The director shall solicit sealed bids for the purchase of commodities and printing which is estimated to exceed ten thousand dollars. No spending unit shall issue a series of requisitions which would circumvent this ten thousand dollar maximum. The director may
permit bids by facsimile transmission machine to be accepted in lieu of sealed bids: Provided, That an original bid is received within two working days following the date specified for bid opening. Bids shall be obtained by public notice. The notice may be published by any advertising medium the director deems advisable. The director may also solicit sealed bids by sending requests by mail to prospective suppliers and by posting notice on a bulletin board in his office: Provided, however, That the director shall, without competitive bidding, purchase commodities and printing produced and offered for sale by non-profit workshops, as defined in section one, article one of this chapter, which are located in this state: Provided, further, That such commodities and printing shall be of a fair market price and of like quality comparable to other commodities and printing otherwise available as determined by the director with the advice of the committee on the purchase of commodities and services from the handicapped.

Toward the end of effecting the making of contracts for commodities and printing of nonprofit workshops, the director shall employ a person whose responsibilities in addition to other duties shall be to identify all commodities and printing available for purchase from such nonprofit workshops, to evaluate the need of the state for such commodities and printing to coordinate the various nonprofit workshops in their production efforts and to make available to such workshops information about available opportunities within state government for purchase of commodities or printing which might be produced and sold by such workshops. Funds to employ such a person shall be included annually in the budget.

§5A-3-11. Purchasing in open market on competitive bids; bids to be based on standard specifications; period for alteration or withdrawal of bids; awards to lowest responsible bidder; uniform bids; record of bids, and exception.

The director may make a purchase of commodities, printing, and services of ten thousand dollars or less in
amount in the open market, but such purchase shall, wherever possible, be based on at least three competitive bids.

The director may authorize spending units to purchase commodities, printing and services in the amount of one thousand dollars in the open market without competitive bids.

Bids shall be based on the standard specifications promulgated and adopted in accordance with the provisions of section five of this article, and shall not be altered or withdrawn after the appointed hour for the opening of such bids. All open market orders, purchases based on advertised bid requests or contracts made by the director or by a state department shall be awarded to the lowest responsible bidder, taking into consideration the qualities of the articles to be supplied, their conformity with specifications, their suitability to the requirements of the government and the delivery terms: Provided, That state bids on school buses shall be accepted from all bidders who shall then be awarded contracts if they meet the state board's "Minimum Standards for Design and Equipment of School Buses". County boards of education may select from those bidders who have been awarded contracts and shall pay the difference between the state aid formula amount and the actual cost of bus replacement. Any or all bids may be rejected. If all bids received on a pending contract are for the same unit price or total amount, the director shall have authority to reject all bids, and to purchase the required commodities, printing and services in the open market, if the price paid in the open market does not exceed the bid prices.

All bidders submitting bid proposals to the purchasing division are required to submit an extra or duplicate copy to the state auditor.

Both copies must be received at the respective offices prior to the specified date and time of the bid openings. The failure to deliver or the nonreceipt of these bid forms at either of these offices prior to the
appointed date and hour are grounds for rejection of the bids. In the event of any deviation between the copies submitted to the purchasing division and the state auditor, such bids as to which there is such deviation shall be rejected, if the deviation relates to the quantity, quality or specifications of the commodities, printing or services to be furnished or to the price therefor or to the date of delivery or performance. After the award of the order or contract, the director, or someone appointed by him for that purpose, shall indicate upon the successful bid and its copy in the office of the state auditor that it was the successful bid. Thereafter, the copy of each bid in the possession of the director and the state auditor shall be maintained as a public record by both of them, shall be open to public inspection in the offices of both the director and the state auditor and shall not be destroyed by either of them without the written consent of the legislative auditor: Provided, That the board of regents may certify in writing to the director the need for a specific item essential to a particular usage either for instructional or research purposes at an institution of higher education and the director upon review of such certification may provide for the purchase of said specific items in the open market without competitive bids. If the director permits bids by facsimile transmission machine to be accepted in lieu of sealed bids pursuant to the provisions of section ten of this article, a duplicate facsimile transmission machine bid shall be transmitted to the state auditor pursuant to this section: Provided, however, That an original bid is received by the state auditor within two working days following the date specified for bid opening.

§5A-3-12. Prequalification disclosure and payment of annual fee by vendors required; form and contents; register of vendors; false affidavits, etc.; penalties.

The director shall not accept any bid received from any vendor unless the vendor has paid the annual fee specified in section four of this article and has filed with the director an affidavit of the vendor or the
5 affidavit of a member of the vendor’s firm, or, if the
6 vendor is a corporation, the affidavit of an officer,
7 director or managing agent, of such corporation,
8 disclosing the following information:
9
10 (1) If the vendor is an individual, his name and
11 residence address, and, if he has associates or partners
12 sharing in his business, their names and residence
13 addresses;
14
15 (2) If the vendor is a firm, the name and residence
16 address of each member, partner or associate of the
17 firm;
18
19 (3) If the vendor is a corporation created under the
20 laws of this state or authorized to do business in this
21 state, the name and business address of the corpora-
22 tion; the names and residence addresses of the presi-
23 dent, vice-president, secretary, treasurer and general
24 manager, if any, of the corporation; and the names and
25 residence addresses of each stockholder of the corpora-
26 tion owning or holding at least ten percent of the
27 capital stock thereof;
28
29 (4) A statement of whether the vendor is acting as
30 agent for some other individual, firm or corporation,
31 and if so, a statement of the principal authorizing such
32 representation shall be attached to the affidavit or
33 whether the vendor is doing business as another
34 entity;
35
36 (5) The vendor’s latest Dun & Bradstreet rating, if
37 there is any such rating as to such vendor; and
38
39 (6) A list of one or more banking institutions to serve
40 as references for such vendor.
41
42 Whenever a change occurs in the information here-
43 tofore submitted as required, such change shall be
44 reported immediately in the same manner as required
45 in the original disclosure affidavit.
46
47 The affidavit and information so received by the
48 director shall be kept in a register of vendors which
49 shall be a public record and open to public inspection
50 during regular business hours in the director’s office.
and made readily available to the public at such time.

The director may waive the above requirements in
the case of any corporation listed on any nationally
recognized stock exchange and in the case of any
vendor who or which is the sole source for the
commodity in question.

Any person who makes such affidavit falsely or who
shall knowingly file or cause to be filed with the
director, an affidavit containing a false statement of a
material fact or omitting any material fact, shall be
guilty of a misdemeanor, and, upon conviction thereof,
shall be fined not more than one thousand dollars,
and, in the discretion of the court, confined in jail not
more than one year. In any such case, an individual so
convicted shall be adjudged forever incapable of
holding any office of honor, trust or profit in this state,
or of serving as a juror.

§5A-3-13. Contracts to be approved as to form; filing.

Contracts shall be approved as to form by the
attorney general. A contract that requires more than
six months for its fulfillment shall be filed with the
state auditor.

§5A-3-14. Copies of purchase orders sent to finance division;
certificates required before contracts awarded.

A copy of all purchase orders shall be transmitted to
the director of the finance division so that the proper
account may be encumbered before they are sent to
the vendors. Except in an emergency, an order or
contract shall not be awarded until it has been
certified to the director by the secretary as director of
the budget that the unencumbered balance in the
appropriation concerned, in excess of all unpaid
obligations, is sufficient to defray the cost of such
order or contract.

§5A-3-15. Emergency purchases in open market.

The director may authorize, in writing, a state
spending unit to purchase in the open market, without
filing requisition or estimate, specific commodities for immediate delivery to meet bona fide emergencies arising from unforeseen causes, including delays by contractors, delays in transportation and unanticipated volume of work. A report of any such purchase, together with a record of the competitive bids upon which it was based, shall be submitted at once to the director by the head of the state spending unit concerned, together with a full account of the circumstances of the emergency: Provided, That the director may waive the need for the record of competitive bids. Such report shall be entered on a record and shall be open to public inspection.

§5A-3-16. Special fund; purposes; how composed.

There is hereby created a special revenue fund to be administered by the director to facilitate the following functions of the director:

(1) Purchase commodities in volume and maintain stocks to supply the needs of state spending units; and

(2) Performance of mimeographing, photostating, microfilming, multilithing, multigraphing and other work needed by spending units as provided by section twenty-seven of this article.

The amount of the fund may be fixed and changed by the governor upon the recommendation of the secretary. If at the end of each fiscal year the cash balance plus value of commodity inventories on hand exceeds the amount so fixed, the excess in cash shall be transferred by the governor upon recommendation of the secretary to the general revenue fund and become a part of the general revenue of the state. The fund shall be composed of the following:

(1) The cash balance and inventories of the fund heretofore established by this section; and

(2) Charges made by the director for commodities sold and services rendered to the state spending units as herein described: Provided, That charges shall not exceed total cost to the fund, which total cost shall include storage, supplies, equipment and salaries and
wages of employees necessary to supply commodities
and services in addition to purchase price of
commodities.

§5A-3-17. Purchases or contracts violating article void;
personal liability.
1 If a spending unit purchases or contracts for com-
modities contrary to the provisions of this article or
the rules and regulations made thereunder, such
purchase or contract shall be void and of no effect. The
head of such spending unit shall be personally liable
for the costs of such purchase or contract, and, if
already paid out of state funds, the amount thereof
may be recovered in the name of the state in an
appropriate action instituted therefor.

§5A-3-18. Substituting for commodity bearing particular
trade name or brand.
1 If a spending unit requests the purchase of a com-
modity bearing a particular trade name or brand, and
if the commodity is covered by standard specifications
adopted as provided by section five of this article, the
director may substitute a commodity bearing a differ-
ent trade name or brand, if the substituted commodity
reasonably conforms to the adopted standard specifica-
tions and can be obtained at an equal or lower price.

§5A-3-19. Purchases from federal government and other
sources.
1 Notwithstanding any other provision of this article,
the director may, upon the recommendation of a state
spending unit, make purchases from the federal
government, from federal government contracts or
from the university of West Virginia board of trustees
or board of directors of the state college system
contracts, if available and financially advantageous.

§5A-3-20. Spending units to submit lists of expendable
commodities.
1 The head of every spending unit shall submit a list
of expendable commodities such spending unit has on
hand whenever requested to do so by the director.
§5A-3-21. Contracts for public printing and paper for spending units; printing plants at institutions.

1 The director shall contract for public printing and for printing paper for the use of spending units in the manner provided for contracts under sections ten through nineteen of this article, and in accordance with the specifications adopted as provided by section five of this article: Provided, That the provisions of this article shall not be construed to prohibit the state from maintaining printing plants for the purpose of instruction or for printing for a state spending unit at educational, benevolent, penal or correctional institutions.

§5A-3-22. Legislative printing.

1 Notwithstanding any other provision of this article, the letting of all contracts for legislative printing shall be subject only to the provisions of this section.

4 Upon request of the Legislature, or either house thereof, all contracts for legislative printing shall be let on competitive bids by the director to the lowest responsible bidder. Each such contract shall be subject to the approval of the governor, and in case of his disapproval the contract shall be relet on competitive bids submitted in the same manner as the original bids on the contract that was disapproved. Each bid on every such contract shall be within the maximum limits that may be fixed from time to time by concurrent resolution of the Legislature. The clerk of the senate and the clerk of the house of delegates shall have exclusive control of all printing authorized by their respective legislative bodies, and shall approve the specifications included in any contract before an invitation for bids is released by the director of purchasing. Before presenting for payment any bill for such legislative printing, the printer shall have the same approved by the purchasing division as correct and according to contract specifications. A copy of all bills for legislative printing shall be furnished the clerk of the house for which such printing was done. When properly approved bills are presented to the
clerk of the senate, or to the clerk of the house of
delegates, he shall draw his requisition upon the
auditor in the amount of the bill, payable from the
legislative printing fund, and the auditor shall honor
the requisition and issue to the printer a state draft
therefor.

§5A-3-23. Publication of reports of supreme court of appeals.

Notwithstanding any of the provisions of this article,
the official reporter of the supreme court of appeals
shall have charge and supervision of the printing and
binding of the reports of the decisions of the supreme
court of appeals of the state, and shall contract for
their publication in the same manner that the director
of the purchasing division contracts under sections ten
through nineteen of this article. Such contract shall
provide for the publication of such number of copies as
the reporter and the supreme court of appeals may
jointly direct. If the reporter and the supreme court of
appeals do not agree on the number of copies for
which the publication contract shall provide, the
contract shall provide for the publication of the
greater number of copies directed by either the
reporter or the supreme court of appeals. In no event
shall the number of copies published exceed one
thousand five hundred. Copies of the reports of the
decisions of the supreme court of appeals shall be on
such paper and be bound in accordance with directions
and specifications specified by the reporter by and
with the concurrence of the court. The size of type and
page shall be prescribed by the reporter with the
concurrence of the court. A volume shall be published
according to the terms of the contract whenever
ordered by the court. The reporter shall secure the
copyright of each volume for the benefit of the state.
The reports shall be styled “West Virginia Reports.”

The printing and binding of the reports shall be
done under the direction of and in the manner
prescribed by the reporter, subject to the control of
the court. The reporter shall prefix to the printed
report of each case the dates when the same was
submitted and decided. Each volume shall, if practic-
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able, contain the reports of at least eighty cases
decided by the court, and shall contain approximately
one thousand pages unless otherwise ordered by the
court, exclusive of the index and table of cases
reported and cited. Galley sheets or proof sheets shall
be furnished by the printer to the reporter in such
number as may be required by the reporter for the
purposes of this section. It shall be the duty of the
reporter to proof such galley sheets or proof sheets
against the various cases, including the court’s syllabi,
as such cases and the court’s syllabi appear in the most
recent bound volume of the appropriate regional
reporter in which such cases are reported. Neither
galley sheets nor proof sheets need be submitted to the
court or the clerk thereof for any purpose. Thereafter
the reporter shall make such corrections and modifica-
tions as he shall deem appropriate and all such
corrections and modifications shall be made by the
printer as the reporter may direct. If the work is not
done in the manner required by law, the reporter
shall not approve the volume and shall not accept it.

The reports of the decisions of the supreme court of
appeals may be published in pamphlet form in
advance of the publication of the bound volumes of the
"west virginia reports", periodically, or at such times
as may be directed by the reporter and the supreme
court of appeals. The reporter shall secure the copy-
right of each pamphlet of opinions so published in
advance. Each pamphlet shall contain the report of
such number of cases as the supreme court of appeals
and the reporter shall deem advisable.

The contract for the publication of such advance
sheets shall be made in the manner provided for the
publication of bound volumes of the "west virginia
reports".

A charge of not less than the actual cost of printing
and distribution shall be made for such advance
sheets.
§5A-3-24. Publication of departmental reports; uniform standards; limiting number of publications; requiring division to perform printing and binding.

The director shall have charge and supervision of the printing and binding of all reports transmitted to the governor as required by section twenty, article one, chapter five of this code. Said reports shall be printed annually as soon as possible after the close of the fiscal year.

The director shall specify the uniform maximum standards as to form and format to be used in the preparation and publication of annual reports by the various departments, agencies, boards, commissions and institutions.

The number of copies of such reports shall be limited to the minimum quantity necessary for use of the reporting spending unit and for legally required distribution and exchange, the exact number of copies of such reports to be expressly subject to the approval of the governor.

The director shall furnish to each spending unit sufficient copies of its report to satisfy the above purposes within the limits set by the governor.

The printing and binding of all such reports shall be done by the department of administration in the printing shop maintained by the department.

Subject to the approval of the secretary of administration and the governor, the director shall have authority to limit the number of any other report, bulletin and other publication ordered to be printed by each spending unit.

Nothing herein shall be construed as preventing the director from utilizing less expensive methods of printing and binding than those prescribed above.

§5A-3-25. Printing, binding and stationery to be paid from current expense appropriations.

Printing, binding and stationery for all spending
§5A-3-26. Custodian of reports and acts; delivery to state law librarian for distribution; sale.

The director shall be custodian of the "West Virginia Reports" after they are printed and bound and approved by the reporter, and of the acts of the Legislature after they are printed and bound and approved by the clerk of the house of delegates. As soon as practicable after any new volume of such reports or acts has been delivered to the director, not including reprints of former volumes, he shall deliver to the state law librarian sufficient copies to enable him to make distribution thereof in the manner prescribed by sections five and six, article eight, chapter fifty-one of this code.

The director shall sell such copies of the reports and acts as remain after the distribution provided by law has been made at a price to be fixed by him with the approval of the secretary, but in no case shall such price be less than the actual cost to the state of the publication thereof.

§5A-3-27. Director to establish central duplicating office; exemption of particular spending units; contracts for duplicating.

Mimeographing, photostating, microfilming, multilith, multigraphing, and other duplicating work required to be done by or for any spending unit shall be done by a central duplicating office, which office shall be established by and under the supervision of the director.

Mimeographing, photostating, microfilming, multilith, multigraphing, and other duplicating equipment, supplies, personnel and the funds appropriated therefor shall be transferred to the central duplicating office, upon determination by the director to consolidate.

If the director is of the opinion that any spending unit is capable of doing such duplicating work as may
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15 be required by such particular spending unit more
16 efficiently and economically than can the central
17 duplicating office, he may, in his discretion, exempt
18 such particular spending unit from the provisions of
19 this section; or if the director believes economy or
20 efficiency can be effected by letting such work or any
21 part thereof to contract, then he may do so in the
22 manner provided for contracts under sections ten
23 through nineteen of this article.

§5A-3-28. Financial interest of secretary, etc.; receiving
reward from interested party; penalty; application of bribery statute.

1 Neither the secretary, nor the director nor any
2 employee of the division of purchasing, shall be
3 financially interested, or have any beneficial personal
4 interest, directly or indirectly, in the purchase of any
5 commodities or printing, nor in any firm, partnership,
6 corporation or association furnishing them. Neither
7 the secretary, nor the director nor any employee of
8 the division of purchasing shall accept or receive
9 directly or indirectly from any person, firm or corpo-
10 ration, known by such secretary, director or employee
11 to be interested in any bid, contract or purchase, by
12 rebate, gift or otherwise, any money or other thing of
13 value whatsoever, or any promise, obligation or
14 contract for future reward, or compensation.

15 A person who violates this section shall be guilty of
16 a misdemeanor, and, upon conviction thereof, shall be
17 confined in jail not less than three months nor more
18 than one year, or fined not less than fifty nor more
19 than one thousand dollars, or both, in the discretion of
20 the court: Provided, That any person who violates any
21 of the provisions of the last sentence of the first
22 paragraph of this section under circumstances consti-
23 tuting the crime of bribery under the provisions of
24 section three, article five-a, chapter sixty-one of this
25 code, shall, upon conviction of bribery, be punished as
26 provided in said article five-a.

§5A-3-29. Penalty for violation of article.

1 Any person who violates a provision of this article,
except where another penalty is prescribed, shall be
guilty of a misdemeanor, and, upon conviction thereof,
shall be confined in jail not less than ten days nor
more than one year, or fined not less than ten nor
more than five hundred dollars, or both, in the
discretion of the court.

§5A-3-30. Obtaining money and property under false
pretenses or by fraud from state; penalties.

It shall be unlawful for any person to obtain from
the state under any contract made under the provi-
sions of this article, by false pretense, token or
representation, or by delivery of inferior commodities,
with intent to defraud, any money, goods or other
property, and upon violation thereof, such person shall
be guilty of a felony, and, upon conviction thereof,
shall be confined in the penitentiary not less than one
year nor more than five years, and be fined not
exceeding one thousand dollars.

§5A-3-31. Corrupt combinations, collusions or conspiracies
prohibited; penalties.

It shall be unlawful for any person to corruptly
combine, collude or conspire with one or more other
persons with respect to the purchasing or supplying of
commodities or printing to the state under the provi-
sions of this article if the purpose or effect of such
combination, collusion or conspiracy is either to (1)
lessen competition among prospective vendors, or (2)
cause the state to pay a higher price for such commod-
ities or printing than would be or would have been
paid in the absence of such combination, collusion or
conspiracy, or (3) cause one prospective vendor or
vendors to be preferred over one or more other
prospective vendor or vendors. Any person who
violates any provision of this section shall be guilty of
a felony, and, upon conviction thereof, shall be con-
fined in the penitentiary not less than one nor more
than five years, and be fined not exceeding five
thousand dollars.

§5A-3-32. Power of director to suspend right to bid; notice
of suspension.

The director shall have the power and authority, to
2 suspend, for a period not to exceed one year, the right
3 and privilege of a vendor to bid on state purchases
4 when the director has reason to believe that such
5 vendor has violated any of the provisions of the
6 purchasing law or the rules and regulations of the
7 director. Every vendor whose right to bid has been so
8 suspended shall be notified thereof by a letter posted
9 by certified mail containing the reason for such
10 suspension.

§5A-3-33. Review of suspension by secretary.

1 Any vendor whose right to bid on state purchases
2 has been suspended by the director under the author-
3 ity of the preceding section shall have the right to
4 have the director's action reviewed by the secretary,
5 who shall have the power and authority to set aside
6 such suspension.

§5A-3-34. Authority over inventories and property.

1 The director shall, under the direction and supervi-
2 sion of the secretary, have full authority over inven-
3 tories and property.

§5A-3-35. Submission of annual inventories.

1 The head of every spending unit of state govern-
2 ment shall, on or before July fifteenth of each year,
3 file with the director an inventory of all real and
4 personal property, and of all equipment, supplies and
5 commodities in its possession as of the close of the last
6 fiscal year, as directed by the director.

§5A-3-36. Inventory of removable property; maintenance
  and repair of office furniture, machinery and
  equipment.

1 The director shall have the power and duty to:
2 (1) Make and keep current an inventory of all
3 removable property belonging to the state. Such
4 inventory shall be kept on file in the office of the
5 director as a public record. The inventory shall
6 disclose the name and address of the vendor, the date
7 of the purchase, the price paid for the property
therein described and the disposition thereof;

(2) Provide for the maintenance and repair of all office furniture, machinery and equipment belonging to the state, either by employing personnel and facilities under his direction or by contracting with state agencies or private parties.

§5A-3-37. Preference for resident vendors; preference for vendors employing state residents; exceptions.

(a) Other provisions of this article notwithstanding, effective the first day of July, one thousand nine hundred ninety, through the thirtieth day of June, one thousand nine hundred ninety-four, in any instance involving the purchase of construction services or for the construction, repair or improvement of any buildings or portions thereof, where the total aggregate cost thereof, whether one or a series of contracts are awarded in completing the project, is estimated by the director to exceed the sum of fifty thousand dollars, and where the director or any state department is required under the provisions of this article to make such purchase, construction, repair or improvement upon competitive bids, the successful bid shall be determined as provided in this section. The secretary of the department of tax and revenue shall promulgate such rules and regulations necessary to (i) determine that vendors have met the residence requirements described in this section; (ii) establish the procedure for vendors to certify such residency requirements at the time of submitting their bids; (iii) establish a procedure to audit bids which make a claim for preference permitted by this section and to reject noncomplying bids; and (iv) otherwise accomplish the objectives of this section. In prescribing such rules and regulations, the secretary shall use a strict construction of the residence requirements set forth in this section. For purposes of this section, a successful bid shall be determined and accepted as follows:

(1) From an individual resident vendor who has resided in West Virginia continuously for the four
years immediately preceding the date on which the bid is submitted or from a partnership, association or corporation resident vendor which has maintained its headquarters or principal place of business within West Virginia continuously for four years immediately preceding the date on which the bid is submitted, if such resident vendor’s bid does not exceed the lowest qualified bid from a nonresident vendor by more than two and one-half percent of the latter bid, and if such resident vendor has made written claim for such preference at the time the bid was submitted: Provided, That for purposes of this subparagraph (1), any partnership, association or corporation resident vendor of this state, which does not meet the requirements of this subparagraph solely because of the continuous four-year residence requirement, shall be deemed to meet such requirement if at least eighty percent of the ownership interest of such resident vendor is held by another individual, partnership, association or corporation resident vendor who otherwise meets the requirements of this subparagraph, including the continuous four-year residency requirement: Provided, however, That the secretary of the department of tax and revenue shall promulgate rules and regulations relating to attribution of ownership among several such resident vendors for purposes of determining the eighty percent ownership requirement; or

(2) From a resident or nonresident vendor, if, for purposes of producing or distributing the commodities or completing the project which is the subject of such vendor’s bid and continuously over the entire term of such project, on average at least sixty percent of such vendor’s employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years and such vendor’s bid does not exceed the lowest qualified bid from a nonresident vendor by more than two and one-half percent of the latter bid, and if such vendor has certified the residency requirements above and made written claim for such preference, at the time the bid was submitted; or,
(3) From a vendor who meets the requirements of both subparagraphs (1) and (2) set forth above, if such bid does not exceed the lowest qualified bid from a nonresident vendor by more than five percent of the latter bid, and if such resident vendor has certified the residency requirements above and made written claim for such preference at the time the bid was submitted.

(b) If the secretary of the department of tax and revenue determines under any audit procedure that a vendor who received a preference under this section fails to continue to meet the requirements for such preference at any time during the term of the project for which such preference was received the secretary may: (1) reject such vendor's bid; or (2) assess a penalty against such vendor of not more than five percent of such vendor's bid on the project.

(c) Political subdivisions of the state including county boards of education may grant the same preferences to any vendor of this state who has made a written claim for such preference at the time a bid is submitted, but for the purposes of this subsection, in determining the lowest bid, any political subdivision shall exclude from the bid the amount of business occupation taxes which must be paid by a resident vendor to any municipality within the county comprising or located within such subdivision as a result of being awarded the contract which is the object of the bid; in the case of a bid received by a municipality, the municipality shall exclude only such business and occupation taxes as will be paid to such municipality: Provided, That prior to soliciting any such competitive bids, any such political subdivision may, by majority vote of all its members in a public meeting where all such votes shall be recorded, elect not to exclude from the bid the amount of business and occupation taxes as provided herein.

(d) If any of the requirements or provisions set forth in this section jeopardize the receipt of federal funds, then such requirement or provisions shall be void and of no force and effect for that specific project.
(e) If any provision or clause of this section or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable.

(f) This section may be cited as the "Jobs for West Virginians Act of 1990".

§5A-3-37a. Preference for resident vendors; exceptions; reciprocal preference.

Except where the provisions of section thirty-seven of this article may apply, in any instance where a purchase of commodities or printing by the director or by a state spending unit is required under the provisions of this article to be made upon competitive bids, preference shall be given to vendors resident in West Virginia as against vendors resident in any state that gives or requires a preference for the purchase of commodities or printing produced, manufactured or performed in that state. The amount of the preference shall be equal to the amount of the preference applied by the other state.

A vendor shall be deemed to be a resident of this state if such vendor is an individual, partnership, association or corporation in good standing under the laws of the state of West Virginia who (1) is a resident of the state or a foreign corporation authorized to transact business in the state; (2) maintains an office in the state; (3) has paid personal property taxes pursuant to article five, chapter eleven of this code on equipment used in the regular course of supplying services of the general type offered; and (4) has paid business taxes pursuant to chapter eleven of this code. In addition, in the case of a vendor selling tangible personal property, a resident vendor is one who has a stock of materials held in West Virginia for sale in the ordinary course of business, which stock is of the general type offered, and which is reasonably sufficient in quantity to meet the ordinary requirements of
If any of the requirements or provisions set forth in this section jeopardize the receipt of federal funds, then such requirements or provision shall be void and of no force and effect.

§5A-3-38. Leases for space to be made in accordance with article; exception.

Notwithstanding any other provision of this code, no department, agency or institution of state government shall lease, or offer to lease, as lessee, any grounds, buildings, office or other space except in accordance with this article: Provided, That the provisions of this article except as to office space shall not apply in any respect whatever to the division of highways of the department of transportation.

§5A-3-39. Leasing of space by secretary; delegation of authority.

The secretary is authorized to lease, in the name of the state, any grounds, buildings, office or other space required by any department, agency or institution of state government: Provided, That the secretary may expressly delegate, in writing, the authority granted to him by this article to the appropriate department, agency or institution of state government when the rental and other costs to the state do not exceed the sum specified by regulation in any one fiscal year or when necessary to meet bona fide emergencies arising from unforeseen causes.

§5A-3-40. Selection of grounds, etc.; acquisition by contract or lease; long-term leases; requiring approval of secretary for permanent changes.

The secretary shall have sole authority to select and to acquire by contract or lease, in the name of the state, all grounds, buildings, office space or other space, the rental of which is necessarily required by any spending unit, upon a certificate from the chief executive officer or his designee of said spending unit that the grounds, buildings, office space or other space requested is necessarily required for the proper
function of said spending unit, that the spending unit will be responsible for all rent and other necessary payments in connection with the contract or lease and that satisfactory grounds, buildings, office space or other space is not available on grounds and in buildings now owned or leased by the state. The secretary shall, before executing any rental contract or lease, determine the fair rental value for the rental of the requested grounds, buildings, office space or other space, in the condition in which they exist, and shall contract for or lease said premises at a price not to exceed the fair rental value thereof.

The secretary is hereby authorized to enter into long-term agreements for buildings, land and space for periods longer than one fiscal year: Provided, That such long-term lease agreements shall not be for periods in excess of forty years and shall contain, in substance, all the following provisions: (1) That the department of administration, as lessee, shall have the right to cancel the lease without further obligation on the part of the lessee upon giving thirty days' written notice to the lessor, such notice being given at least thirty days prior to the last day of the succeeding month; (2) that the lease shall be considered canceled without further obligation on the part of the lessee if the state Legislature or the federal government should fail to appropriate sufficient funds therefor or should otherwise act to impair the lease or cause it to be canceled; and (3) that the lease shall be considered renewed for each ensuing fiscal year during the term of the lease unless it is canceled by the department of administration before the end of the then current fiscal year.

A spending unit which is granted any grounds, buildings, office space or other space leased in accordance with this section may not order or make permanent changes of any type thereto, unless the secretary has first determined that the change is necessary for the proper, efficient and economically sound operation of the spending unit. For purposes of this section, a “permanent change” means any addi-
tion, alteration, improvement, remodeling, repair or other change involving the expenditure of state funds for the installation of any tangible thing which cannot be economically removed from the grounds, buildings, office space or other space when vacated by the spending unit.

§5A-3-41. Leases and other instruments for space signed by secretary or director; approval as to form; filing.

Leases and other instruments for grounds, buildings, office or other space shall be signed by the secretary or director in the name of the state. They shall be approved as to form by the attorney general. A lease or other instrument for grounds, buildings, office or other space that contains a term, including any options, of more than six months for its fulfillment shall be filed with the state auditor.

§5A-3-42. Leasing for space rules and regulations.

The secretary shall have the power and authority to promulgate such rules and regulations as he may deem necessary to carry out the provisions of sections thirty-eight, thirty-nine, forty and forty-one of this article.

§5A-3-43. State agency for surplus property created.

There is hereby established within the purchasing division and under the supervision of the director of the purchasing division the state agency for surplus property.

§5A-3-44. Authority and duties of state agency for surplus property.

(a) The state agency for surplus property is hereby authorized and empowered (1) to acquire from the United States of America such property, including equipment, materials, books or other supplies under the control of any department or agency of the United States of America as may be usable and necessary for educational, fire protection and prevention, rescue, or public health purposes, including research; (2) to
warehouse property acquired; and (3) to distribute the
property to tax-supported medical institutions, hospi-
tals, clinics, fire departments, rescue squads, health
centers, school systems, schools, colleges and universi-
ties within the state, and to other nonprofit medical
institutions, hospitals, clinics, volunteer fire depart-
ments, volunteer rescue squads, health centers,
schools, colleges and universities within the state
which have been held exempt from taxation under the
Internal Revenue Code of 1986, as amended.

(b) For the purpose of executing its authority under
this article, the state agency for surplus property is
authorized and empowered to adopt, amend or rescind
rules and regulations as may be deemed necessary,
and take other action necessary and suitable in the
administration of this article, including the enactment
and promulgation of rules and regulations necessary to
bring this article and its administration into confor-
mity with any federal statutes or rules and regulations
promulgated under federal statutes for the acquisition
and disposition of surplus property.

(c) The state agency for surplus property is au tho-
razed and empowered to appoint advisory boards or
committees necessary to the end that this article and
the rules and regulations promulgated hereunder
conform with federal statutes and rules and regula-
tions promulgated under federal statutes for the
acquisition and disposition of surplus property.

(d) The state agency for surplus property is autho-
rized and empowered to take action, make expendi-
tures and enter into contracts, agreements and under-
takings for and in the name of the state, require
reports, and make investigations as may be required
by law or regulation of the United States of America
in connection with the receipt, warehousing and
distribution of property received by the state agency
for surplus property from the United States of
America.

(e) The state agency for surplus property is autho-
rized and empowered to act as a clearinghouse of
information for the public and private nonprofit institutions and agencies referred to in subsection (a) of this section, to locate property available for acquisition from the United States of America, to ascertain the terms and conditions under which the property may be obtained, to receive requests from the above-mentioned institutions and agencies and to transmit to them all available information in reference to the property, and to aid and assist the institutions and agencies in every way possible in the consummation or acquisition of transactions hereunder.

(f) The state agency for surplus property shall cooperate to the fullest extent consistent with the provisions of this article, with the departments or agencies of the United States of America and shall make reports in the form and containing the information the United States of America or any of its departments or agencies may from time to time require, and it shall comply with the laws of the United States of America and the rules and regulations of any of the departments or agencies of the United States of America governing the allocation, transfer, use or accounting for property donated or donated to the state.

§5A-3-45. Disposition of surplus state property; semiannual report; application of proceeds from sale.

The agency shall have the exclusive power and authority to make disposition of commodities or expendable commodities now owned or in the future acquired by the state when any such commodities are or become obsolete or unusable or are not being used or should be replaced.

The agency shall determine what commodities or expendable commodities should be disposed of and shall make such disposition in the manner which will be most advantageous to the state, either by transferring the particular commodities or expendable commodities between departments, by selling such commodities to county commissions, county boards of education, municipalities, public service districts,
county building commissions, airport authorities, parks and recreation commissions, nonprofit domestic corporations qualified as tax exempt under section 501 (c)(3) of the Internal Revenue Code of 1986, as amended, and volunteer fire departments in this state, when such volunteer fire departments have been held exempt from taxation under section 501 (c) of the United States Internal Revenue Code, by trading in such commodities as a part payment on the purchase of new commodities, or by sale thereof to the highest bidder by means of public auctions or sealed bids, after having first advertised the time, terms and place of such sale as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county wherein the sale is to be conducted. The sale may also be advertised in such other advertising media as the agency may deem advisable. The agency may sell to the highest bidder or to any one or more of the highest bidders, if there is more than one, or, if the best interest of the state will be served, reject all bids.

Upon the transfer of commodities or expendable commodities between departments, or upon the sale thereof to an eligible organization described above, the agency shall set the price to be paid by the receiving eligible organization, with due consideration given to current market prices.

The agency may sell expendable, obsolete or unused motor vehicles owned by the state to an eligible organization, other than volunteer fire departments. In addition, the agency may sell expendable, obsolete or unused motor vehicles owned by the state with a gross weight in excess of four thousand pounds to an eligible volunteer fire department. The agency, with due consideration given to current market prices, shall set the price to be paid by the receiving eligible organization, for motor vehicles sold pursuant to this provision: Provided, That the sale price of any motor vehicle sold to an eligible organization shall not be less than the “average loan” value, as published in the
most recent available eastern edition of the National Automobile Dealer's Association (N.A.D.A.) Official Used Car Guide, if such a value is available, unless the fair market value of the vehicle is less than the N.A.D.A. "average loan" value, in which case the vehicle may be sold for less than the "average loan" value. Such fair market value must be based on a thorough inspection of the vehicle by an employee of the agency who shall consider the mileage of the vehicle, and the condition of the body, engine and tires as indicators of its fair market value. If no such value is available, the agency shall set the price to be paid by the receiving eligible organization with due consideration given to current market prices. The duly authorized representative of such eligible organization, for whom such motor vehicle or other similar surplus equipment is purchased or otherwise obtained, shall cause ownership and proper title thereto to be vested only in the official name of the authorized governing body for whom the purchase or transfer was made. Such ownership or title, or both, shall remain in the possession of that governing body and be nontransferable for a period of not less than one year from the date of such purchase or transfer. Resale or transfer of ownership of such motor vehicle or equipment prior to an elapsed period of one year may be made only by reason of certified unserviceability.

The agency shall report to the legislative auditor, semiannually, all sales of commodities or expendable commodities made during the preceding six months to eligible organizations. The report shall include a description of the commodities sold, the price paid by the eligible organization, which received the commodities; and the report shall show to whom each commodity was sold.

The proceeds of such sales or transfers shall be deposited in the state treasury to the credit on a pro rata basis of the fund or funds out of which the purchase of the particular commodities or expendable commodities was made. Provided, That the agency may charge and assess fees reasonably related to the
costs of care and handling with respect to the transfer, warehousing, sale and distribution of state property disposed of or sold pursuant to the provisions of this section.

§5A-3-46. Warehousing, transfer, etc., charges.

1 Any charges made or fees assessed by the state agency for surplus property for the acquisition, warehousing, distribution or transfer of any property acquired by donation from the United States of America for educational purposes or public health purposes, including research, shall be limited to those reasonably related to the costs of care and handling in respect to its acquisition, receipts, warehousing, distribution or transfer by the state agency for surplus property. All charges designated herein shall be used by the state agency for surplus property to defray the general operating expenses of the state agency for surplus property.

§5A-3-47. Department of agriculture and other agencies exempted.

1 Notwithstanding any provisions or limitations of this article, the state department of agriculture and any other state departments or agencies hereafter so designated are authorized and empowered to distribute food, food stamps, surplus commodities and agricultural products under contracts and agreements with the federal government or any of its departments or agencies, and the state department of agriculture and any other state departments or agencies hereafter so designated are authorized and empowered to adopt rules and regulations in order to conform with federal requirements and standards for such distribution and also for the proper distribution of such food, food stamps, commodities and agricultural products. To the extent set forth in this section, the provisions of this article shall not apply to the state department of agriculture and any other state departments or agencies hereafter so designated for the purposes set forth in this section.
§5A-3-48. Travel rules and regulations; exceptions.

The secretary of administration shall promulgate rules and regulations relating to the ownership, purchase, use, storage, maintenance, and repair of all motor vehicles and aircraft owned by the state of West Virginia and in the possession of any department, institution, or agency thereof: Provided, That the provisions of sections forty-eight through fifty-three of this article shall not apply to the division of highways of the department of transportation or to the division of public safety of the department of public safety. If, in the judgment of the secretary, economy or convenience indicate the expediency thereof, the secretary may require all vehicles and the aircraft subject to regulation by this article, or such of them as he may designate, to be kept in such garages, and other places of storage, and to be made available in such manner and under such terms for the official use of such departments, institutions, agencies, officers, agents and employees of the state as the secretary may designate by any such rule or regulation as he may from time to time promulgate. The secretary shall also have the authority to administer the travel regulations promulgated by the governor in accordance with section eleven, article three, chapter twelve of this code, unless otherwise determined by the governor.

§5A-3-49. Central motor pool for state-owned vehicles and aircraft.

The secretary may create a central motor pool, which pool shall be maintained by the purchasing division of the department of administration, subject to such rules and regulations as the secretary may from time to time promulgate. Said division shall be responsible for the storage, maintenance, and repairs of all vehicles and aircraft assigned to it.

§5A-3-50. Acquiring and disposing of vehicles and aircraft.

The secretary shall be empowered to purchase new vehicles and aircraft and dispose of old vehicles and aircraft as is practical from time to time.
§5A-3-51. Maintenance and service to vehicles and aircraft.

The secretary may utilize any building or land owned by the state, any department, institution or agency thereof, for the storing, garaging, and repairing of such motor vehicles and aircraft. The secretary shall provide for the employment of personnel needed to manage said motor pool and to repair and service such vehicles and aircraft and for the purchase of gasoline, oil, and other supplies for use in connection therewith, and may utilize the facilities, services and employees of any department, institution or agency of the state to effectuate the purposes thereof.

§5A-3-52. Special fund for travel management created.

There is hereby created a special fund in the state treasury, out of which all costs and expenses incurred pursuant to this section shall be paid. All allocations of costs and charges for operating, repairing and servicing motor vehicles and aircraft made against any institution, agency or department shall be paid into such special fund by said department or agency. All funds so paid or transferred into this special fund are hereby appropriated for the purposes of this section and shall be paid out as the secretary may designate; said funds to be transferred to include all appropriations for the acquisition, maintenance, repair and operation of motor vehicles and aircraft and for personnel.

§5A-3-53. Enforcement of travel management regulations.

If any state officer, agent or employee fails to comply with any rule or regulation of the secretary made pursuant to section forty-eight of this article, the state auditor shall, upon order of the secretary, refuse to issue any warrant or warrants on account of expenses incurred, or to be incurred, in the purchase, operation, maintenance, or repairs of any motor vehicle or aircraft now or to be in the possession or under the control of such officer, agent or employee. The secretary may take possession of any state-owned vehicle or aircraft and transfer it to the central motor pool or to make such other disposition thereof as the
 §5A-3-54. Payment of legitimate uncontested invoices; interest on late payments.

(a) Any properly registered and qualified vendor who supplies services or commodities to any state agency shall be entitled to prompt payment upon presentation to that agency of a legitimate uncontested invoice.

(b) (1) Except as provided in subdivision (2) of this subsection, for purchases of services or commodities made on or after the first day of July, one thousand nine hundred ninety-one, a state check shall be issued in payment thereof within sixty days after a legitimate uncontested invoice is received by the state agency receiving the services or commodities. Any state check issued after such sixty days shall include interest at the current rate, as determined by the state tax commissioner under the provisions of section seventeen-a, article ten, chapter eleven of this code, which interest shall be calculated from the sixty-first day after such invoice was received by the state agency until the date on which the state check is mailed to the vendor.

(2) For purchases of services or commodities made on or after the first day of July, one thousand nine hundred ninety-two, by the division of highways, the public employees insurance agency, and by the department of health and human resources, a state check shall be issued in payment thereof within sixty days after a legitimate uncontested invoice is received by any of such agencies receiving the services or commodities. Any state check issued after sixty days shall include interest at the current rate, determined in the manner provided in subdivision (1) of this subsection, which interest shall be calculated from the sixtieth day after such invoice was received by any of such agencies until the date on which the state check is mailed to the vendor.

(3) For purposes of this subsection, an invoice shall be deemed to be received by a state agency on the date

secretary may direct.
on which the invoice is marked as received by the agency, or three days after the date of the postmark made by the United States postal service as evidenced on the envelope in which the invoice is mailed, whichever is earlier: Provided, That in the event an invoice is received by a state agency prior to the date on which the commodities or services covered by the invoice are delivered and accepted or fully performed and accepted, the invoice shall be deemed to be received on the date on which the commodities or services covered by the invoice were actually delivered and accepted or fully performed and accepted.

(c) The state auditor shall deduct the amount of any interest due for late payment of an invoice from any appropriate account of the state agency responsible for the late payment: Provided, That if two or more state agencies are responsible for the late payment the state auditor shall deduct the amount of interest due on a pro-rata basis.

(d) The state agency initially receiving a legitimate uncontested invoice shall process such invoice for payment within ten days from its receipt: Provided, That in the case of the department of health and human resources, the division of highways and the public employees insurance agency, such invoices shall be processed within fifteen days of their receipt. No state agency shall be liable for payment of interest owed by another state agency under this section.

(e) Any other state agency charged by law with processing a state agency's requisition for payment of a legitimate uncontested invoice shall either process the claim or reject it for good cause within ten days after such state agency receives it. Failure to comply with the requirements of this subsection shall render such state agency liable for payment of the interest mandated by this section when there is a failure to promptly pay a legitimate uncontested invoice: Provided, That no such state agency shall be liable for payment of interest owed by another state agency under this section.
(f) For purposes of this section, the phrase “state agency” means any agency, department, board, office, bureau, commission, authority or any other entity of state government.

(g) This section may be cited as the “Prompt Pay Act of 1990”.

ARTICLE 3A. CENTRAL NONPROFIT COORDINATING AGENCY AND COMMITTEE FOR THE PURCHASE OF COMMODITIES AND SERVICES FROM THE HANDICAPPED.

§5A-3A-1. Purpose.

The purpose of this article is to further the state’s policy of encouraging disabled persons to achieve maximum personal independence by engaging in productive activities and in addition to provide state agencies, institutions and political subdivisions with a method for achieving conformity with purchasing procedures and requirements of nondiscrimination, affirmative action, in employment matters related to disabled persons.

§5A-3A-2. Central nonprofit agency.

A central nonprofit agency approved by the director of the division of rehabilitation services is established for the purpose of coordinating purchases under the provisions of section ten, article three of this chapter, between various “spending units” of the state and “nonprofit workshops”. This agency shall have the following responsibilities:

(a) Represent qualified nonprofit workshops in dealing with state purchasing agents and the other bodies charged with purchasing responsibilities;

(b) Evaluating the qualifications and capabilities of workshops and entering, as necessary, into contracts with government procuring entities for the furnishing of the commodities or services provided by the workshops;

(c) Overseeing workshops to ensure compliance with contract performance and quality standards; list the commodities and services of participating workshops,
research and assist the workshops in developing new
products and upgrading existing ones, and shall survey
applicable private industry to provide input on fair
market prices; and

(d) Present an annual report for each fiscal year
concerning the operations of its nonprofit workshops
to the director of the division of rehabilitation services.

§5A-3A-3. Committee for the purchase of commodities and
services from the handicapped.

(a) The committee for the purchase of commodities
and services from the handicapped is hereby created
as a part of the department of administration and shall
be composed of the following six members who are to
be appointed by the governor with the advice and
consent of the senate: A private citizen who is conver-
sant with the problems incidental to the employment
of handicapped persons; a representative of a produc-
ing nonprofit workshop; a representative of the divi-
sion of rehabilitation services; a representative of the
department of administration who is knowledgeable in
the purchasing requirements of the state; a represen-
tative of private business who is knowledgeable in the
activities involved in the sale of commodities or
services to governmental entities; and a representative
of organized labor who is knowledgeable in matters
relating to employment of the disabled. The governor
shall appoint one member to serve as chairperson.

(b) Members of the committee are appointed to
serve two-year terms expiring on the thirty-first day
of January of odd-numbered years. Members who are
not state employees shall receive compensation for
their service of fifty dollars per day for each day
actually engaged in the work of the committee and all
members shall receive reimbursement by the state for
expenses incurred in performing their duties as
members.

(c) The committee shall have as an executive secre-
tary the person charged with program management in
section ten, article three of this chapter. The executive
secretary shall be responsible for the day-to-day
management of the committee and shall coordinate with the central nonprofit agency to perform the duties outlined in section ten, article three of this chapter.

§5A-3A-4. Responsibilities of the committee for the purchase of commodities and services from the handicapped.

The committee shall have the following duties and responsibilities:

(a) Determining the fair market price of all commodities, printing and services produced by nonprofit workshops and offered for sale by the central nonprofit agency to the various departments and political subdivisions of the state. Prices shall be revised periodically to reflect changing market conditions.

(b) Monitoring the activities of the central nonprofit agency to assure that the interests of the state's handicapped citizens are advanced by the agency. The committee shall make rules necessary to monitor the agency as well as matters related to the state's use of the products and services produced by the handicapped. Except as stated in section ten, article three of this chapter, rules shall reflect agreement with the policies and procedures established by the state's purchasing units.

(c) Monitoring the performance of the central nonprofit agency to see that the commodities and services produced meet state specifications (or in the absence of specifications meet standards in use by the federal government or industry) as to quality and delivery. The committee shall provide procedures for formal and informal resolution of provider and consumer grievances or complaints.

(d) Maintaining records pertaining to its activities under the act including records of sales, formal grievances, number of handicapped workers employed, a summary of disabilities for workers providing services, a list of workshop products and services, and the geographic distribution of provider
workshops. On or before the first day of January of each year the committee shall file with the governor and the presiding officer of each house of the Legislature a written report summarizing the above records and giving a detailed accounting for all funds received and disbursed by the committee during the preceding year.


1 The committee may adopt rules for the implementation, extension, administration, or improvement of the program authorized by this article.


1 Exceptions from the operation of the mandatory provisions of section ten, article three of this chapter may be made in any case where the commodity or printing so produced or provided does not meet the reasonable requirements of the purchasing unit, cannot be reasonably provided by a nonprofit workshop in the opinion of the committee or the central nonprofit agency, or is not of a fair market price and of like quality to other commodities or printing otherwise available as determined by the director of purchasing with the advice of the committee for the purchase of commodities and services from the handicapped. No spending unit may evade the intent of this section when required goods or services are reasonably available from nonprofit workshops.

ARTICLE 4. GENERAL SERVICES DIVISION.

§5A-4-1. General services division; director.

1 There is hereby created a new general services division of the department of administration for the purpose of having the care, custody and control of the capitol buildings. The division shall be under the supervision of a director.

§5A-4-2. Care, control and custody of capitol buildings and grounds.

1 The director shall be charged with the full responsibility for the care, control and custody of the capitol
buildings and in this connection he shall:

1. Furnish janitorial services, such services to be provided by employees of the department of administration for the main capitol building, including east and west wings, together with all the departments therein, or connected therewith, regardless of the budget or budgets, departmental or otherwise, from which such janitorial services are paid, and shall furnish janitorial supplies, light, heat and ventilation for all the rooms and corridors of the buildings: Provided, That nothing herein shall be construed to prohibit contracts for janitorial services with sheltered workshops. The president of the senate and speaker of the house of delegates, or their respective designees, shall have charge of the halls and committee rooms of their respective houses and any other quarters at the state capitol provided for the use of the Legislature or its staff, and keep the same properly cleaned, warmed and in good order, and shall do and perform such other duties in relation thereto as either house may require;

2. Landscape and take care of the lawns and gardens;

3. Direct the making of all minor repairs to and alterations of the capitol buildings and governor's mansion and the grounds of such buildings and mansion. Major repairs and alterations shall be made under the supervision of the director, subject to the direction of the secretary.

The offices of the assistants and employees appointed to perform these duties shall be located where designated by the secretary, except that they shall not be located in any of the legislative chambers, offices, rooms or halls. Office hours shall be so arranged that emergency or telephone service shall be available at all times. The hours shall be so arranged that janitorial service shall not interfere with other employment during regular office hours.

§5A-4-3. Security officers; appointment; oath; carrying weapons; powers and duties generally, etc.

In addition to the other powers given and assigned
to the secretary in this chapter, he is hereby author-
ized to appoint bona fide residents of this state to act
as security officers upon any premises owned or leased
by the state of West Virginia and under the jurisdic-
tion of the secretary, subject to the conditions and
restrictions hereinafter imposed. Before entering upon
the performance of his duties as such security officer,
each person so appointed shall qualify therefor in the
same manner as is required of county officers by
taking and filing an oath of office as required by
article one, chapter six of this code. No such person
shall have authority to carry a gun or any other
dangerous weapon until he shall have obtained a
license therefor in the manner prescribed by section
two, article seven, chapter sixty-one of this code.

It shall be the duty of any person so appointed and
qualified to preserve law and order on any premises
under the jurisdiction of the secretary to which he
may be assigned by the secretary. For this purpose he
shall as to offenses committed on such premises have
and may exercise all the powers and authority and
shall be subject to all the responsibilities of a deputy
sheriff of the county. The assignment of security
officers to any premises under the jurisdiction of the
secretary shall not be deemed to supersede in any way
the authority or duty of other peace officers to
preserve law and order on such premises.

The secretary may at his pleasure revoke the
authority of any such officer by filing a notice to that
effect in the office of the clerk of each county in which
his oath of office was filed, and in the case of officers
licensed to carry a gun or other dangerous weapon, by
notifying the clerk of the circuit court of the county in
which the license therefor was granted.

§5A-4-4. Unlawful to kill or molest animals, birds or fowls
upon grounds of capitol; powers and duties of
security officers; penalties.

In addition to the duties of persons appointed and
qualified as security officers pursuant to section three,
article four, chapter five-a of this code, to preserve law
and order on any premises under the jurisdiction of
the secretary to which he may be assigned by the
secretary, such security officers shall have authority
and it shall be the duty of such security officers to
enforce the provisions of this section. This authority
and duty of security officers shall not be deemed to
supersede in any way the authority or duty of other
peace officers to enforce the provisions of this section.

It shall be unlawful at any time to kill or molest in
any manner, any animals, birds or fowls on the
grounds of the capitol buildings or governor's mansion,
except as may be deemed necessary by the secretary
for the control or extermination of animals, birds or
fowls deemed by him to be pests or a danger to the
health and safety. Any person who kills or molests in
any manner, or knowingly allows a dog or other
animal owned by him to kill or molest in any manner
any animals, birds or fowls on the grounds of the
capitol buildings or governor's mansion shall be guilty
of a misdemeanor, and, upon conviction thereof, be
fined not less than fifty dollars nor more than five
hundred dollars or, in the discretion of the court, be
imprisoned in the county jail for not more than six
months, or both such fine and imprisonment.

It shall be unlawful for any person to knowingly
allow a dog owned by him to be upon the grounds of
the capitol buildings or governor's mansion unless
such dog is under control by leash. Any person who
knowingly allows a dog owned by him to be upon the
grounds of the capitol buildings or governor's mansion
while not under control by leash shall be guilty of a
misdemeanor, and, upon conviction thereof, be fined
not less than twenty-five nor more than one hundred
dollars.

It shall further be unlawful for any person to
knowingly allow a dog or other animal owned by him
or under his control to defecate upon the grounds of
the capitol buildings or governor's mansion. In the
event that a dog or other animal owned by or under
the control of a person defecates upon the grounds of
the capitol buildings or governor's mansion, the person
shall remove such defecation. Any person who knowingly allows a dog or other animal owned by him or under his control to defecate upon the grounds of the capitol buildings or governor’s mansion and who subsequently fails to remove said defecation, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than twenty-five nor more than one hundred dollars.

§5A-4-5. Regulation of parking on state-owned property in Charleston; penalties; jurisdiction.

The secretary is vested with authority to regulate parking of motor vehicles in accordance with the provisions of this section with regard to the following state-owned property in the city of Charleston, Kanawha county:

(a) The east side of Greenbrier Street between Kanawha Boulevard and Washington Street, East;

(b) The west side of California Avenue between Kanawha Boulevard and Washington Street, East;

(c) Upon the state-owned grounds upon which state Office Building No. 3 is located;

(d) Upon the state-owned grounds upon which state Office Building No. 4, 112 California Avenue, is located;

(e) In the state-owned parking garage at 212 California Avenue and upon the state-owned grounds upon which such parking garage is located;

(f) Upon the state-owned property at Michigan Avenue and Virginia Terrace; and

(g) Upon any other property now or hereafter owned by the state and used for parking purposes in conjunction with the state capitol or state office buildings numbers three and four, including the Laidley field complex.

The secretary is authorized to promulgate rules and regulations respecting parking and to allocate parking spaces to public officers and employees of the state
upon all of the aforementioned property of the state:

Provided, That during sessions of the Legislature, including regular, extended, extraordinary, and interim sessions, parking on the east side of Greenbrier Street between Kanawha Boulevard and Washington Street, East, in the science and culture center parking lot, on the north side of Kanawha Boulevard between Greenbrier Street and California Avenue, and on the west side of California Avenue between Kanawha Boulevard and Washington Street, East, shall be subject to rules and regulations promulgated jointly by the speaker of the house of delegates and the president of the senate. Any person parking any vehicle contrary to the rules and regulations promulgated under authority of this section shall be subject to a fine of not less than one dollar nor more than twenty-five dollars for each offense. In addition, the secretary or the Legislature, as the case may be, may cause the removal at owner expense of any vehicle that is parked in violation of such rules and regulations. Magistrates in Kanawha county shall have jurisdiction of all such offenses.

The secretary is authorized to employ such persons as may be necessary to enforce the parking rules and regulations promulgated under the provisions of this section.

On or before the first day of December, one thousand nine hundred ninety, the secretary shall perform a study of the parking requirements at the capitol complex, which study shall include the need, estimated cost and availability of a suitable location, for a parking building at the capitol complex.

ARTICLE 5. GOVERNOR’S MANSION ADVISORY COMMITTEE.

§5A-5-1. Committee continued; appointment, terms, etc., of members; meetings and responsibilities; annual report.

There is hereby continued the governor’s mansion advisory committee within the department of administration. The secretary of administration or his designated representative, the commissioner of culture
and history or his designated representative, and the spouse of any governor during the term of office of that governor, or the designated representative of such governor, shall be ex officio members of the committee. In addition, the governor shall appoint three additional members of the committee, one to be a curator in the field of fine arts, one to be an interior decorator who is a member of the American institute of decorators, and one to be a building contractor. The appointive members of the committee shall serve for a term of four years. The members of the committee shall serve without compensation but shall be reimbursed for reasonable and necessary expenses actually incurred in the performance of their duties; except that in the event the expenses are paid, or are to be paid, by a third party, the member shall not be reimbursed by the state. The governor shall designate from the committee a chairman to serve for a term of one year. The secretary of administration shall serve as secretary. The committee shall meet upon the call of the chairman annually and may meet at such other times as may be necessary for the performance of its functions.

The committee shall be charged with the following responsibilities:

(1) To make recommendations to the governor for the maintaining, preserving and replenishing of all articles of furniture, fixtures, decorative objects, linens, silver, china, crystal and objects of art used or displayed in the state rooms of the governor’s mansion, which state rooms shall consist of the front hall, the reception room, the ballroom and its sitting room, the state dining room, the front upstairs hall and the music room;

(2) To make recommendations to the governor as to the decor and arrangements best suited to enhance the historic and artistic values of the mansion in keeping with the architecture thereof and of such articles of furniture, fixtures, decorative objects, linens, silver, china, crystal and objects of art, which recommendations shall be considered by the governor in decorating
46 said mansion; and
47 (3) To invite interested persons to attend its meet-
48 ings or otherwise to assist in carrying out its functions.
49 All departments, boards, agencies, commissions,
50 officials and employees of the state are hereby autho-
51 rized to cooperate with and assist the committee in the
52 performance of its functions and duties whenever
53 possible. As soon after the close of each fiscal year as
54 possible, the committee shall make an annual report to
55 the governor and the Legislature with respect to its
56 activities and responsibilities.

§5A-5-2. Office of governor's mansion director created;
duties and responsibilities.
1 There is hereby created the office of governor's
2 mansion director, who shall be qualified by back-
3 ground and experience for such a position and shall be
4 appointed by the governor to serve at the will and
5 pleasure of the governor. The mansion director shall
6 be charged with the following duties and responsibil-
7 ities: To protect and preserve all articles of furniture,
8 fixtures, table linens, silver, china, crystal and objects
9 of art displayed in the state rooms in the mansion. The
10 mansion director shall assist the governor and/or the
11 governor's spouse in the scheduling of state govern-
12 ment functions and entertainment at the mansion.

§5A-5-3. Official use of state rooms in governor's mansion;
vacating private rooms of mansion.
1 (a) The state rooms of the mansion shall be used for
2 official state government functions and entertainment:
3 Provided, That tours of the state rooms of the mansion
4 shall be permitted, and the mansion director shall
5 assist in the scheduling of said tours and prescribe
6 rules and regulations governing same.
7 (b) No personal furniture or furnishings of the first
8 family may be placed in the state rooms of the
9 mansion except for home entertainment equipment.
10 (c) No furniture or furnishings in the state rooms
11 located on the first floor of the mansion may be
replaced, removed or sold without prior approval of
the governor’s mansion advisory committee.

(d) No items in the state rooms purchased by the
West Virginia mansion preservation foundation, inc.,
may be replaced, removed or sold without prior
approval of such corporation.

(e) The outgoing governor and his family shall
vacate the private rooms of the mansion at least seven
days prior to the inauguration of a new governor so
that the mansion may be made suitable for the change
in occupancy.

ARTICLE 7. INFORMATION SERVICES AND COMMUNICATIONS
DIVISION.

§5A-7-1. Definitions.

Unless the context in which used clearly requires a
different meaning, as used in this article:

(a) “Data-processing equipment” means: (1) Any
equipment having stored program capabilities; (2) any
equipment designed to handle electronic input-output
devices; or (3) any other similar equipment specified
by the director;

(b) “Director” means the director of the information
services and communications division;

(c) “Division” means the information services and
communications division established in section two
hereof;

(d) “Secretary” means the secretary of the depart-
ment of administration;

(e) “Telecommunications equipment” means: (1)
Any equipment used in the transmission, emission or
reception of signals, writings, images, sounds or other
forms of communication by electromagnetic or visual
means; or (2) any other similar equipment specified by
the director.

§5A-7-2. Division created; purpose; use of facilities; rules
and regulations.

There is hereby created the information services
and communications division of the department of administration for the purpose of establishing, developing and improving data processing and telecommunication functions in the various state agencies, for promulgating standards in the utilization of data processing and telecommunication equipment and for promoting the more effective and efficient operation of all branches of state government. The facilities of the division shall be available, subject to rules and regulations established by the secretary, to the legislative, executive and judicial branches of state government. Such rules and regulations shall be promulgated in accordance with the provisions of article three, chapter twenty-nine-a of this code.

§5A-7-3. Director; appointment and qualifications.

The division shall be under the supervision and control of a director. The secretary shall appoint a director of the division. The director must have extensive knowledge in the principles and practices of administration, five years’ experience in data processing and telecommunications operations and extensive knowledge of the procedures and techniques used in conducting highly complex systems analyses.

§5A-7-4. Powers and duties of division generally; review of findings by governor; authority of governor to order transfer of equipment and personnel; professional staff.

The division shall be responsible for the planning of an informational and analytical system for use by all branches of state government. The division shall also evaluate the economic justification, system design and suitability of equipment and systems used in state government. The director shall report to the secretary.

The governor shall review such findings and recommendations and is hereby authorized to order the transfer, in whole or in part, to the division from any other department or agency of state government, except the Legislature, the judiciary and the university of West Virginia board of trustees and board of directors for the state college system, of all data
processing and telecommunication activities, and the
equipment, supplies, personnel and funds appropriated
therefor utilized for data processing and telecommu-
ication purposes: Provided, That any such transfer
shall not be effective until ninety days following the
entry of the transfer order by the governor.

The director shall be responsible for the develop-
ment of personnel to carry out the technical work of
the division and is hereby authorized to approve
reimbursement of costs incurred by employees to
obtain education and training.

Any procurements or changes in data processing
and/or telecommunication equipment or services by
any spending unit shall be referred to the director and
payment for any such procurement or change will not
be honored unless approved by the director.

An accounting system shall be implemented and
maintained by the director for all telephone service to
the state.

§5A-7-5. Control over central mailing office.

The central mailing office heretofore controlled by
the director of the general services division shall
hereinafter be under the control of the director of the
information services and communications division.

§5A-7-6. Central mailing office employees.

The director shall employ such persons as shall be
necessary to carry out the provisions of section seven,
eight, nine and ten of this article.

§5A-7-7. Central mailing office responsibilities.

The director shall have the general charge and
supervision of the central mailing office, and shall be
responsible for its efficient administration. The direc-
tor shall be required to: (1) charge each spending unit
of state government served by the central mailing
office for providing such services; (2) keep proper
account of the receipts and disbursements of the
central mailing office; (3) render to the secretary a
report each month showing the receipts and expenses
of the central mailing office for the preceding month, and shall render such other reports as the secretary may require; (4) keep the central mailing office open during regularly stated hours to serve state spending units; and (5) provide rules and regulations for the efficient and prompt dispatch of the mail.

§5A-7-8. Use of the central mailing office.

All state spending units having their offices in the capitol, except the legislative branch of government, shall dispatch all mail through the central mailing office: *Provided*, that mail prepared after gathering time and mail for special handling may be posted without utilizing the central mailing office upon approval of the director.

§5A-7-9. Preparation of mail for special rates.

All mail received by the central mailing office shall be processed and presorted in order to receive the most favorable mailing rates, unless otherwise directed by the director. The director is authorized to make such expenditures as are necessary to process and presort all outgoing mail or to enter into contracts with any person, firm or corporation engaged in such business to supply the service.

§5A-7-10. Special fund created; payments into fund; charges for services; disbursements from fund.

For the operation of the division, there is hereby created in the state treasury a special revolving fund to be known and designated as the "information services and communications fund". This fund shall consist of appropriations made by the Legislature, funds transferred in accordance with the provisions of section four of this article, funds received for data processing, telecommunication and central mailing office services rendered to other agencies, departments, units of state and local government and any other entity, and funds received from the federal government or any agency or department thereof, which federal funds the division is hereby authorized to receive. Each agency, department, unit of state or
local government or any other entity served by the
information services and communications division, is
hereby authorized and directed to transmit to the
division for deposit in said special fund the charges
made by the agency for data processing, telecommu-
ication and central mailing office services rendered,
such charges to be those fixed in a schedule or
schedules prepared by the director and approved by
the governor. Disbursements from the fund shall be
made in accordance with an approved expenditure
schedule as provided by article two, chapter five-a of
this code and shall be made under the direct supervi-
sion of the secretary.

§5A-7-11. Confidential records.

1 Under no circumstances whatever shall the head of
2 any state department or agency deliver to the division
3 any records required by law to be kept confidential,
4 but such head may extract information from such
5 records for data processing by such division, provided
6 the integrity of such confidential records is fully
7 protected.

ARTICLE 8. PUBLIC RECORDS MANAGEMENT AND PRESERVATION
ACT.

§5A-8-1. Short title.

This article shall be known as the “Records Manage-
ment and Preservation of Essential Records Act”.

§5A-8-2. Declaration of policy.

The Legislature declares that programs for the
efficient and economical management of state and
local records will promote economy and efficiency in
the day-to-day record-keeping activities of state and
local government and will facilitate and expedite
government operations; that records containing infor-
mation essential to the operation of government and to
the protection of the rights and interests of persons
must be protected against the destructive effects of all
forms of disaster and must be available when needed.
It is necessary, therefore, to adopt special provisions
for the selection and preservation of essential state and
local records thereby providing for the protection and availability of such information.

§5A-8-3. Definitions.

As used in this article:

(a) "Disaster" means any occurrence of fire, flood, storm, earthquake, explosion, epidemic, riot, sabotage or other condition of extreme peril resulting in substantial damage or injury to persons or property within this state, whether such occurrence is caused by an act of God, nature or man, including an enemy of the United States.

(b) "Record" means document, book, paper, photograph, sound recording or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents are not included within the definition of records as used in this article.

(c) "State record" means:

(1) A record of a department, office, commission, board or other agency, however designated, of the state government.

(2) A record of the state Legislature.

(3) A record of any court of record, whether of statewide or local jurisdiction.

(4) Any record designated or treated as a state record under state law.

(d) "Local record" means a record of a county, city, town, authority or any public corporation or political entity whether organized and existing under charter or under general law unless the record is designated or treated as a state record under state law.

(e) "Agency" means any department, office, com-
mission, board or other unit, however designated, of
the executive branch of state government.

(f) "Preservation duplicate" means a copy of an
essential state record which is used for the purpose of
preserving such state record pursuant to this article.

§5A-8-4. Categories of records to be preserved.

State or local records which are within the following
categories are essential records which shall be pre-
served pursuant to this article:

Category A. Records containing information neces-
sary to the operation of government in the emergency
created by a disaster.

Category B. Records not within category A but
containing information necessary to protect the rights
and interest of persons or to establish and affirm the
powers and duties of governments in the resumption
of operations after a disaster.

§5A-8-5. State records administrator.

The secretary of the department of administration is
hereby designated the state records administrator,
hereinafter called the administrator. The administra-
tor shall establish and administer in the department of
administration of the executive branch of state gov-
ernment a records management program, which will
apply efficient and economical management methods
to the creation, utilization, maintenance and retention,
preservation and disposal of state records; and shall
establish and maintain a program for the selection and
preservation of essential state records and shall advise
and assist in the establishment of programs for the
selection and preservation of essential local records.

§5A-8-6. Records management and preservation advisory
committee.

A records management and preservation advisory
committee is continued within the department of
administration, to advise the administrator and to
perform such other duties as this article requires. The
records management and preservation advisory com-
mittee shall be composed of the following members: the governor, auditor, attorney general, president of the Senate, speaker of the House of Delegates, the chief justice of the supreme court of appeals, a judge of a circuit court to be appointed by the governor, the director of the office of emergency services, and the director of the section of archives and history of the division of culture and history, or their respective designated representatives. The advisory committee shall designate one of its members to be chairman, and it shall adopt rules for the conduct of its business. The advisory committee shall meet whenever called by its chairman or the administrator. The members of the advisory committee shall serve without compensation but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties as members of the advisory committee; except that in the event the expenses are paid, or are to be paid, by a third party, the member shall not be reimbursed by the state.

§5A-8-7. Duties of administrator.

The administrator shall, with due regard for the functions of the agencies concerned:

(a) Establish standards, procedures, and techniques for effective management of records.

(b) Make continuing surveys of paper work operations and recommend improvements in current records management practices including the use of space, equipment and supplies employed in creating, maintaining, storing and servicing records.

(c) Establish standards for the preparation of schedules providing for the retention of state records of continuing value and for the prompt and orderly disposal of state records no longer possessing sufficient administrative, legal, or fiscal value to warrant their further keeping.

(d) Select the state records which are essential and determine their category pursuant to this article. In accordance with the rules and regulations promul-
gated by the administrator, each person who has custody or control of state records shall (1) inventory the state records in his custody or control; (2) submit to the administrator a report thereon containing such information as the administrator directs and containing recommendations as to which state records are essential; and (3) periodically review his inventory and his report and, if necessary, revise the report so that it is current, accurate and complete.

(e) Obtain reports from agencies as are required for the administration of the program.

§5A-8-8. Rules and regulations.

1 The administrator shall promulgate such rules and regulations concerning the management and selection and preservation of essential state records as are necessary or proper to effectuate the purpose of this article.


1 The head of each agency shall:

(a) Establish and maintain an active, continuing program for the economical and efficient management of the records of the agency.

(b) Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency designed to furnish information to protect the legal and financial rights of the state and of persons directly affected by the agency’s activities.

(c) Submit to the administrator, in accordance with the standards established by him, schedules proposing the length of time each state record series warrants retention for administrative, legal or fiscal purposes after it has been received by the agency. The head of each agency also shall submit lists of state records in custody that are not needed in the transaction of current business and that do not have sufficient administrative, legal or fiscal value to warrant their
further keeping for disposal in conformity with the requirements of section ten of this article.

(d) Cooperate with the administrator in the conduct of surveys made pursuant to the provisions of this article.

(e) Comply with the rules, regulations, standards and procedures issued by the administrator.

(f) First obtain the administrator's written approval before purchasing or acquiring any equipment or supplies used or to be used to store or preserve records of the agency. If such approval is obtained the agency will submit a requisition to the finance division together with a copy of the administrator's said approval.

§5A-8-10. Essential state records — Preservation duplicates.

(a) The administrator may make or cause to be made preservation duplicates or may designate as preservation duplicates existing copies of essential state records. A preservation duplicate shall be durable, accurate, complete and clear, and a preservation duplicate made by means of photography, microphotography, photocopying, film or microfilm shall be made in conformity with the standards prescribed therefor by the administrator.

(b) A preservation duplicate made by a photographic, photostatic, microfilm, microcard, miniature photographic, or other process which accurately reproduces or forms a durable medium for so reproducing the original, shall have the same force and effect for all purposes as the original record whether the original record is in existence or not. A transcript, exemplification or certified copy of such preservation duplicate shall be deemed for all purposes to be a transcript, exemplification or certified copy of the original record.

§5A-8-11. Essential state records — Safekeeping.

(a) The administrator shall prescribe the place and manner of safekeeping of essential state records and
preservation duplicates and may establish, with the
approval of the Legislature, storage facilities therefor.
The administrator may provide for storage outside the
state.

(b) When in the opinion of the administrator the
legally designated or customary location of an essential
state record is such that the essential state record may
be destroyed or unavailable in the event of a disaster
causued by an enemy of the United States:

(1) The administrator shall store a preservation
duplicate at another location and permit such state
record to remain at its legally designated or customary
location; or

(2) The administrator shall store such state record at
a location other than its legally designated or custom-
ary location and deposit at the legally designated or
customary location a preservation duplicate for use in
lieu of the state record; or

(3) The administrator may store such state record at
a location other than its legally designated or custom-
ary location, without providing for a preservation
duplicate, upon a determination that it is impractica-
bly to provide for a preservation duplicate and that the
state record is not frequently used. Such determina-
ion shall be made by the administrator and the
regularly designated custodian of such state record,
but if they disagree the determination shall be made
by the administrator.

(c) The requirements of subsection (b) of this section
shall not prohibit the administrator from removing an
essential state record or preservation duplicate from
the legally designated or customary location of the
state record if a disaster caused by an enemy of the
United States has occurred or is imminent.

§5A-8-12. Essential state records — Maintenance, inspection
and use.

(a) The administrator shall properly maintain essen-
tial state records and preservation duplicates stored by
him.
(b) An essential state record or preservation duplicate stored by the administrator may be recalled by the regularly designated custodian of the state record for temporary use when necessary for the proper conduct of the office and shall be returned by such custodian to the administrator immediately after such use.

(c) When an essential state record is stored by the administrator, the administrator, upon request of the regularly designated custodian of the state record, shall provide for its inspection, or for the making or certification of copies thereof, and such copies when certified by the administrator shall have the same force and effect as if certified by the regularly designated custodian.


When a state record is required by law to be treated in a confidential manner and is an essential state record, the administrator in effectuating the purpose of this article with respect to such state record, shall protect its confidential nature.


The administrator shall review periodically but at least once a year the program for the selection and preservation of essential state records, including the classification of records and the provisions for preservation duplicates, and for safekeeping of essential state records or preservation duplicates to ensure that the purposes of this article are accomplished.

§5A-8-15. Records management and preservation of local records.

The governing body of each county, city, town, authority or any public corporation or political entity, whether organized and existing under a charter or under general law, shall promote the principles of efficient records management and preservation of local records. Such governing body may, as far as practical, follow the program established for the management and preservation of state records. The
§5A-8-16. Assistance to legislative and judicial branches.

Upon request, the records administrator shall assist and advise in the establishment of records management programs in the legislative and judicial branches of state government and shall, as required by them, provide program services similar to those available to the executive branch of state government pursuant to the provisions of this article.

§5A-8-17. Disposal of records.

No record shall be destroyed or otherwise disposed of by any agency of the state, unless it is determined by the administrator and the director of the section of archives and history of the division of culture and history that the record has no further administrative, legal, fiscal, research or historical value.

§5A-8-18. Destruction of nonrecord materials.

Nonrecord materials or materials not included within the definition of records as contained in this article may, if not otherwise prohibited by law, be destroyed at any time by the agency in possession of such materials without the prior approval of the administrator. The administrator may formulate procedures and interpretations to guide in the disposal of nonrecord materials.

§5A-8-19. Annual report.

The administrator shall make an annual written report to the governor for transmission to the Legislature. The report shall describe the status and progress of programs established pursuant to this article and shall include the recommendations of the administrator for improvements in the management and preservation of records in state government.
ARTICLE 9. VOLUNTARY GILDING THE DOME CHECK-OFF PROGRAM.

§5A-9-3. Contributions credited to special fund.
1 The tax division of the department of tax and revenue shall determine by the first day of July of each year the total amount designated pursuant to this legislation and shall report such amount to the state treasurer who shall credit such amount to a special department of administration fund.

CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

ARTICLE 3. APPROPRIATIONS, EXPENDITURES AND DEDUCTIONS.

§12-3-17. Liabilities incurred by state boards, commissions, officers or employees which cannot be paid out of current appropriations.
1 Except as provided in this section, it shall be unlawful for any state board, commission, officer or employee: (1) To incur any liability during any fiscal year which cannot be paid out of the then current appropriation for such year or out of funds received from an emergency appropriation; or (2) to authorize or to pay any account or bill incurred during any fiscal year out of the appropriation for the following year: Provided, That nothing contained herein shall prohibit entering into a contract or lease for buildings, land and space, the cost of which exceeds the current year's appropriation, even though the amount is not available during the then current year, if the aggregate cost does not exceed the amount then authorized by the Legislature. Nothing contained herein shall repeal the provisions of the general law relating to the expiration of appropriations for buildings and land.

18 Any member of a state board or commission or any officer or employee violating any provision of this section shall be personally liable for any debt unlawfully incurred or for any payment unlawfully made.

CHAPTER 14. CLAIMS DUE AND AGAINST THE STATE.

ARTICLE 3. INTEREST ON PUBLIC CONTRACTS.

§14-3-1. Payment of interest by the state on contracts when final payment is delayed.
1 All public contracts let in accordance with article
three, chapter five-a of the code or let by the state
board of education, the University of West Virginia
board of trustees, the board of directors of the state
college system, state armory board or by any other
board, agency or commission of the state, entered into
on and after the first day of March, one thousand nine
hundred sixty-nine, and prior to the first day of July,
one thousand nine hundred ninety-one, except the
state road commissioner, shall contain the following
paragraph:

"Within ninety days after the completion of this
contract is certified by the approving authority to be
complete in accordance with terms of the plans or
specifications, or both where appropriate, or is
accepted by the authorized spending officer as com-
plete, or is occupied by the owner, or is dedicated for
public use by the owner, whichever occurs first, the
balance due the contractor herein shall be paid in full.
Should such payment be delayed for more than ninety
days beyond the day the completion of this contract is
certified by the authorized spending officer or is
accepted by the owner as complete, or is occupied by
the owner, or is dedicated for public use by the owner,
said contractor shall be paid interest, beginning on the
ninety-first day, at the current rate, as determined by
the state tax commissioner under the provisions of
section seventeen-a, article ten, chapter eleven of this
code per annum on any unpaid balance: Provided,
That whenever the approving authority reasonably
determines that delay in completing the contract or in
accepting payment for the contract is the fault of the
contractor herein, the approving authority may accept
and use the commodities or printing or the project
may be occupied by the owner or dedicated for public
use by the owner without payment of any interest on
amounts withheld past the ninety-day limit."

All public construction contracts relating to roads or
bridges let by the commissioner of the division of
highways, entered into on and after the first day of
March, one thousand nine hundred sixty-nine, and
prior to the first day of July, one thousand nine
“Within one hundred fifty days after the approving authority notifies the contractor, in writing, of the final acceptance by such approving authority of the project for which this contract provides, the balance due the prime contractor shall be paid in full. Should such payment be delayed for more than one hundred fifty days beyond the date that the approving authority notifies the contractor of the final acceptance of the project in accordance with the terms of the contract and the plans and specifications thereof, said prime contractor shall be paid interest, beginning on the one hundred fifty-first day, at the current rate, as determined by the state tax commissioner under the provisions of section seventeen-a, article ten, chapter eleven of this code per annum on such unpaid balance: Provided, That if the prime contractor does not agree to the amount of money determined by the approving authority to be due and owing to the prime contractor and set forth on the final estimate document, and the approving authority makes an offer to pay the amount of the final estimate to the said prime contractor, then the prime contractor shall not be entitled to receive any interest on the amount set forth in said final estimate, but shall only be entitled to the payment of interest current rate, as determined by the state tax commissioner under the provisions of section seventeen-a, article ten, chapter eleven of this code per annum on the amount of money finally determined to be due and owing to the said prime contractor, less the amount of the final estimate that the approving authority had originally offered to pay to the said prime contractor.”

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 6. CIVIL SERVICE SYSTEM.

§29-6-7. Director of personnel; appointment; qualifications; powers and duties.

(a) The secretary of the department of administra-
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tion shall appoint the director. The director shall be a
person knowledgeable of the application of the merit
principles in public employment as evidenced by the
obtainment of a degree in business administration,
personnel administration, public administration or the
equivalent and at least five years of administrative
experience in personnel administration.

(b) The director shall:

(1) Consistent with the provisions of this article
administer the operations of the division, allocating
the functions and activities of the division among
sections as the director may establish;

(2) Maintain a personnel management information
system necessary to carry out the provisions of this
article;

(3) Supervise payrolls and audit payrolls, reports or
transactions for conformity with the provisions of this
article;

(4) Plan, evaluate, administer and implement per-
sonnel programs and policies in state government and
to political subdivisions after agreement by the parties;

(5) Supervise the employee selection process and
employ performance evaluation procedures;

(6) Develop programs to improve efficiency and
effectiveness of the public service, including, but not
limited to, employee training, development, assistance
and incentives;

(7) Establish pilot programs and other projects for a
maximum of one year outside of the provisions of this
article, subject to approval by the board, to be
included in the annual report;

(8) Establish and provide for a public employee
interchange program and may provide for a voluntary
employee interchange program between public and
private sector employees;

(9) Establish an internship program;

(10) Assist the governor and secretary of the depart-
(1) Make an annual report to the governor and Legislature and all other special or periodic reports as may be required;

(2) Assess cost for special or other services;

(3) Recommend rules to the board for implementation of this article; and

(4) Conduct schools, seminars or classes for supervisory employees of the state regarding handling of complaints and disciplinary matters and the operation of the state personnel system.

§29-6-23. Special fund; appropriations; cost of administering article; acceptance of grants or contribution; disbursements.

For the operation of the division, there is hereby created in the state treasury a special revolving fund to be known and designated as the "division of personnel fund". This fund shall consist of appropriations made by the Legislature, funds transferred in accordance with the provisions of section nine of this article, funds received for personnel services rendered to other agencies, departments, divisions and units of state and local government, and funds received by grant or contribution from the federal government or any other entity which funds the division is hereby authorized to receive: Provided, That for fiscal year one thousand nine hundred ninety all funds remaining in account numbers 5840-00, 5840-35 and 5840-17 shall be transferred to the division of personnel fund on the effective date of this article. Each agency, department, division or unit of state or local government served by the division of personnel is hereby authorized and directed to transmit to the division for deposit in said special fund the charges made by the division of personnel for personnel services rendered, such charges to be those fixed in a schedule or schedules prepared by the director and approved by the secretary of the department of administration. Disburse-
ments from the fund shall be made in accordance with
an approved expenditure schedule as provided by
article two, chapter five-a of this code and shall be
made under the direct supervision of the director.

The director shall maintain accurate records reflect-
ing the cost of administering the provisions of this
article.
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.

To take effect July 1, 1990.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within law was approved this the ______ day of __________, 1990.

Governor