WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1997

---

ENROLLED

SENATE BILL NO. 543

(By Senator Craigo)

---

PASSED APRIL 12, 1997

In Effect From Passage
ENROLLED

Senate Bill No. 563

(By Senator Craigo)

[Passed April 12, 1997; in effect from passage.]

AN ACT to repeal section thirteen, article four, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to repeal sections nine-g and eighteen, article six of said chapter; to repeal sections two and two-a, article eight, chapter twenty-seven of said code; to repeal article six-b, chapter forty-four of said code; to amend and reenact section six, article two, chapter five-f of said code; to amend and reenact section one, article seven, chapter six of said code; to amend and reenact section one, article five, chapter seven of said code; to amend and reenact section one, article five, chapter seven of said code; to amend and reenact section one, two, four, five, seven, eight, nine, ten, eleven, twelve and thirteen, article one, chapter twelve of said code; to amend and reenact sections two, three, four and five, article two of said chapter; to amend and reenact
sections one, one-a, one-b, four, ten-a and thirteen-b, article three of said chapter; to further amend said article by adding thereto two new sections, designated sections ten-c and ten-d; to amend and reenact sections two, three, four, six, seven, eight and nine, article four of said chapter; to further amend said article by adding thereto two new sections, designated sections three-a and eight-a; to amend and reenact sections two, four, five and six, article five of said chapter; to further amend said article by adding thereto a new section designated section seven; to amend and reenact sections one, one-a, two, three, four, five, eight, nine-c, nine-e, twelve, thirteen, fifteen, sixteen and nineteen, article six of said chapter; and that said article be further amended by adding thereto four new sections, designated sections six, nine, nine-a and eleven; to amend and reenact sections two, three, five and six, article six-a of said chapter; to further amend said chapter by adding thereto a new article, designated article six-b; to amend and reenact section three, article three, chapter thirteen of said code; to amend and reenact section two-a, article three, chapter fifty of said code; to amend and reenact section seven-a, article one, chapter fifty-seven of said code; and to amend and reenact section twelve, article one, chapter fifty-nine of said code, all relating generally to the financial and investment procedures in this state; repealing provisions relating to unreconciled items on bank accounts; repealing provisions relating to budgeting for state hospitals and local mental health programs; repealing the West Virginia trust fund act; providing for the consolidation and organization of certain boards and commissions; authorizing state officials, officers and employees to be paid twice per month; providing for collection of moneys due a county, district, municipality, magistrate court and circuit courts; establishing duties and responsibilities of the state treasurer in relation to state depositories; changing the method for the payment and deposit of taxes and other amounts due the state or any political subdivision; establishing duties and responsibilities of the state auditor and treasurer in relation to appropriations, expenditures and deductions; clarifying the accounts of treasurer and auditor; providing that the auditor is to certify condition of revenues and funds of the
state; providing method for signing of checks and warrants; facsimile signatures and use of mechanical and electrical devices; providing criminal penalties for violations of signature authority; comparison of books of auditor and treasurer; requiring the changing of the office hours of auditor and treasurer; authorizing the employment of legal counsel; changing rules relating to absence of auditor or treasurer; providing for the balancing of state accounts; establishing the state treasurer's duties and responsibilities in relation to public securities; providing that the treasurer will act as financial advisor; providing for the employment or selection of bond counsel; amending the provisions relating to the repeal of the state board of investments; creating a new public body corporate called the "West Virginia investment management board"; providing that all functions and assets of the board of investments and the West Virginia trust fund are transferred to the investment management board; terminating the board of investments and the West Virginia trust fund; providing for purposes and objects; providing legislative findings; providing definitions; providing for appointments; providing that the governor, treasurer and auditor are members of the board; providing for filling of vacancies; providing for board meetings and notices of meetings; providing for beneficiary representatives; providing for management and control of funds; providing for liability of trustees; providing for powers of the board; providing for audits and reports; establishing investment funds; providing for fees for services; providing for continuation of existing trust; authorizing investments; providing standards for investments; providing for loans for industrial development; providing for standards of care in investment management; providing for duties of the board; providing for transfers of funds to the board; providing for loans by the board; providing for debt information reporting; creating a debt capacity advisory division; allowing the use of photographic copies in evidence, for state records, and papers or documents; providing for destruction or transfer to archives of original documents; destruction of canceled checks; and paid and canceled bonds and coupons.
Be it enacted by the Legislature of West Virginia:

That section thirteen, article four, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that sections nine-g and eighteen, article six of said chapter be repealed; that sections two and two-a, article eight, chapter twenty-seven of said code be repealed; that article six-b, chapter forty-four of said code be repealed; that section one, article seven, chapter six of said code be amended and reenacted; that section one, article five, chapter seven of said code be amended and reenacted; that section fifteen, article thirteen, chapter eight of said code be amended and reenacted; that sections one, two, four, five, seven, eight, nine, ten, eleven, twelve and thirteen, article one, chapter twelve of said code be amended and reenacted; that sections two, three, four and five, article two of said chapter be amended and reenacted; that sections one, one-a, one-b, four, ten-a and thirteen-b, article three of said chapter be amended and reenacted; that said article be further amended by adding thereto two new sections, designated sections ten-c and ten-d; that sections two, three, four, six, seven, eight and nine, article four of said chapter be amended and reenacted; that said article be further amended by adding thereto two new sections, designated sections three-a and eight-a; that sections two, four, five and six, article five of said chapter be amended and reenacted; that said article be further amended by adding thereto a new section, designated section seven; that sections one, one-a, two, three, four, five, eight, nine-c, nine-e, twelve, thirteen, fifteen, sixteen and nineteen, article six of said chapter be amended and reenacted; and that said article be further amended by adding thereto four new sections, designated sections six, nine, nine-a and eleven; that sections two, three, five and six, article six-a of said chapter be amended and reenacted; that said chapter be further amended by adding thereto a new article, designated article six-b; that section three, article three of chapter thirteen be amended and reenacted, that section two-a, article three, chapter fifty of said code be amended and reenacted; that section seven-a, article one, chapter fifty-seven of said code be amended and reenacted; and that section twelve, article one, chapter fifty-nine of said code be amended and reenacted, all to read as follows:
CHAPTER 5F. REORGANIZATION OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT.

ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS.

§5F-2-6. Reorganization of boards issuing or incurring debt.

(a) The Legislature finds and declares that boards and commissions empowered to issue bonds, incur indebtedness and provide financing or financial services for a public purpose may in some cases benefit the public interest or operate more efficiently through consolidation of legal, technical and support staff or services, sharing of office space, consolidation of procedures, and cooperation to identify circumstances where one entity may provide services for another, including, but not limited to, circumstances where one board or commission may finance the programs of another. On or after the effective date of this section, the treasurer shall be authorized at the request of the presiding officer of the entity to provide financial services, provide technical staff services, provide support staff and services and provide for the sharing of office space among and between the following entities:

(1) The staff of the municipal bond commission provided for in article three, chapter thirteen of this code. Provided, That nothing in this section shall be construed to limit the independence and autonomy of the municipal bond commission;

(2) The staff of the hospital finance authority provided for in article twenty-nine-a, chapter sixteen of this code. Provided, That nothing in this section shall be construed to limit the independence and autonomy of the hospital finance authority; and

(3) The staff of the public energy authority provided for in article one, chapter five-d of this code.

(b) In furtherance of the goal of increased efficiency and cooperation, the director of the debt management division of the board of investments and the secretary of the department of administration are jointly charged with the responsibility of developing and presenting to the boards and commissions, to the board of investments, to the state
Enr. S. B. No. 563] 6

35 treasurer, to the governor and to the Legislature recom-
36 mendations for administrative and statutory change.
37 (c) On the effective date of this section, any funds,
38 equipment, personnel or office facilities associated with
39 those responsibilities that are transferred from the board
40 of investments or any other agency, to the treasurer's
41 office shall be transferred within thirty days of the
42 transfer of those responsibilities.

CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.

ARTICLE 7. COMPENSATION AND ALLOWANCES.

§6-7-1. State officials, officers and employees to be paid twice per month; effective date.

1 All full-time and part-time salaried and hourly officials,
2 officers and employees of the state and the board of
3 trustees of the university system of West Virginia and the
4 board of directors of the state college system shall be paid
5 twice per month, and under the same procedures and in
6 the same manner as the state auditor currently pays
7 agencies on such basis: Provided, That on and after the
8 first day of July, one thousand nine hundred ninety-nine,
9 or any date thereafter, as determined by the auditor, all
10 officials, officers or employees, except elected officials and
11 employees whose compensation is fixed by statute, shall
12 be paid one pay cycle in arrears. Any employee whose
13 employment with the state begins on or after the first day
14 of July, one thousand nine hundred ninety-nine, as
15 determined by the auditor, shall not receive his or her first
16 pay until the end of the second regular payroll cycle after
17 beginning employment. The auditor shall propose a
18 legislative rule in accordance with article three, chapter
19 twenty-nine-a of this code to determine the manner to
20 implement the payment of employees in arrears. Nothing
21 contained in this section is intended to increase or dimin-
22 ish the salary or wages of any official, officer or employee.

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 5. FISCAL AFFAIRS.

§7-5-1. Sheriff ex officio county treasurer.
The sheriff shall be ex officio county treasurer and as such treasurer shall receive, collect and disburse all moneys due such county or any district thereof, and shall also receive, collect and disburse to the treasurer of the county board of education all school money for the county, unless the sheriff is designated by the board of education as its treasurer, as provided in section six, article nine, chapter eighteen of this code. The sheriff shall keep his office at the courthouse for the county, in a suitable room or rooms provided for that purpose by the county court (county commission), in which all money and property in his possession shall be kept, unless deposited by him in a county depository, in which case an accurate daily deposit account thereof shall be kept in his office. He shall keep in his office a fair and accurate account of all receipts and disbursements by him, showing the time when, from whom, to whom and on what account received and paid, and he shall so arrange his books that the amount received and paid on account of separate and distinct funds, or specific appropriations, shall be exhibited in separate and distinct accounts, and he shall also keep separate and distinct accounts for the funds of each fiscal year.

When any money is paid to the sheriff, except for taxes, the sheriff shall give to the person paying the same duplicate receipts thereof, stating briefly the fund or account for which paid; one of which receipts such person shall forthwith deposit with the clerk of the county court (county commission), who shall, in a well-bound book to be kept by him in his office for the purpose, charge the sheriff therewith and preserve such receipt in his office.

The sheriff and his sureties on his official bond shall be held liable for all public moneys coming into his hands as ex officio treasurer from every source whether or not the same shall be deposited in a bank: Provided, That nothing in this article prohibits the payment of funds due the county treasurer by credit or check card. Allowing for the collection of funds by credit or check card shall be at the discretion of the county commission.

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 13. TAXATION AND FINANCE.

1 Unless otherwise provided, it shall be the duty of the
treasurer of the municipality or other individual who may
be designated by general law, by charter provisions or by
the governing body, to collect and promptly pay into the
municipal treasury all taxes, fines, special assessments or
other moneys due the municipality. All such taxes, fines,
special assessments (except assessments for permanent or
semipermanent public improvements) and other moneys
due the municipality are hereby declared to be debts
owing to the municipality, for which the debtor shall be
personally liable, and the treasurer, or other individual so
designated, may enforce this liability by appropriate civil
action in any court of competent jurisdiction, and is
hereby vested with the same rights to distraint for the same
as is vested in the sheriff for the collection of taxes. Such
treasurer or other individual shall give a bond, condi-
tioned according to law, in such penalty and with such
security as the governing body may require: Provided,
That nothing in this article shall prohibit the payment of
taxes, fines, special assessments or other moneys due the
municipality by credit or check card. Allowing for the
collection of these funds by credit or check card shall be
at the discretion of the municipality.

CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

ARTICLE 1. STATE DEPOSITORIES.

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

1 The Legislature finds and declares that the efficient
collection, disbursement, management and investment of
public moneys in the state treasury will benefit the
citizens, teachers and public employees of this state by
reducing the costs of government and providing sources of
increased revenue without the necessity of increased
taxation; and to achieve these goals, the state treasurer
shall provide a stable and continuous source of profes-
sional financial management, and shall be given the
authority to develop and maintain modern systems,
consistent with sound financial practices, for the collec-
tion, disbursement, management and investment of such
moneys in conjunction with the state treasurer.

§12-1-2. Depositories for demand deposits; categories of demand deposits; competitive bidding for disbursement accounts; maintenance of deposits by state treasurer.

The state treasurer shall designate the state and national banks in this state which shall serve as depositories for all state funds placed in demand deposits. Any such state or national bank shall, upon request to the treasurer, be designated as a state depository for such deposits, if such bank meets the requirements set forth in this chapter.

Demand deposit accounts shall consist of receipt and disbursement. Receipt accounts shall be those accounts in which are deposited moneys belonging to or due the state of West Virginia or any official, department, board, commission or agency thereof.

Disbursement accounts shall be those accounts from which are paid moneys due from the state of West Virginia or any official, department, board, commission, political subdivision or agency thereof to any political subdivision, person, firm or corporation, except moneys paid from investment accounts.

Investment accounts shall be those accounts established by the West Virginia investment management board for the buying and selling of securities for investment for the state of West Virginia or any official, department, board, commission or agency thereof or to meet obligations to paying agents or for paying charges incurred for the custody, safekeeping and management of such securities pursuant to the provisions of section five, article five of this chapter, or for paying the charges of any bank or trust company acting as paying agent or copaying agent for a bond issue of the state pursuant to the provisions of section seven-a, article one, chapter fifty-seven of this code.

The state treasurer shall promulgate rules, in accordance with the provisions of article three, chapter twenty-nine-a of this code, concerning depositories for receipt accounts prescribing the selection criteria, procedures, compensa-
tion and such other contractual terms as it considers to be
in the best interests of the state giving due consideration
to: (1) The activity of the various accounts maintained
therein; (2) the reasonable value of the banking services
rendered or to be rendered the state by such depositories;
and (3) the value and importance of such deposits to the
economy of the communities and the various areas of the
state affected thereby.

The state treasurer shall select depositories for disburse-
ment accounts through competitive bidding by eligible
banks in this state. The treasurer shall promulgate rules
and regulations, in accordance with the provisions of
article three, chapter twenty-nine-a of this code, prescrib-
ing the procedures and criteria for the bidding and
selection. The treasurer shall, in the invitations for bids,
specify the approximate amounts of deposits, the duration
of contracts to be awarded and such other contractual
terms as it considers to be in the best interests of the state,
consistent with obtaining the most efficient service at the
lowest cost.

The amount of money needed for current operation
purposes of the state government, as determined by the
state treasurer, shall be maintained at all times in the
state treasury, in cash or in disbursement accounts with
banks designated as depositories in accordance with the
provisions of this section. No state officer or employee
shall make or cause to be made any deposits of state funds
in banks not so designated.

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

1 Before allowing any money to be deposited with any
2 eligible depository in excess of the amount insured by an
3 agency of the federal government, the state treasurer shall
4 require the depository to give a collaterally secured bond,
in the amount of not less than ten thousand dollars,
6 payable to the state of West Virginia, conditioned upon
7 the prompt payment, whenever lawfully required, of any
8 state money, or part thereof, that may be deposited with
9 that depository, or of any accrued interest on deposits.
10 The bond shall be a continuous bond but may be increased
11 or decreased in amount or replaced by a new bond with
the approval of the state treasurer. The collateral security for the bond shall consist of bonds of the United States, of the federal land banks, of the federal home loan banks, or bonds of the state of West Virginia or of any county, district or municipality of this state, or other bonds or securities approved by the treasurer. All bonds so secured are here designated as collaterally secured bonds. Withdrawal or substitution of any collateral pledged as security for the performance of the conditions of such bond may be permitted with the approval in writing of the treasurer. All depository bonds shall be recorded by the treasurer in a book kept in his or her office for the purpose, and a copy of the record, certified by the treasurer, shall be prima facie evidence of the execution and contents of the bond in any suit or legal proceeding. All collateral securities shall be delivered to or deposited for the account of the treasurer of the state of West Virginia, and in the event said securities are delivered to the treasurer, he or she shall furnish a receipt therefor to the owner thereof. The treasurer and his or her bondsmen shall be liable to any person for any loss by reason of the embezzlement or misapplication of the securities by the treasurer or any of his or her employees, and for the loss thereof due to his or her negligence or the negligence of his or her employees; and the securities shall be delivered to the owner thereof when liability under the bond which they are pledged to secure has terminated. The treasurer may permit the deposit under proper receipt of the securities with one or more banking institutions within or outside the state of West Virginia and may contract with any such institution for safekeeping and exchange of any such collateral securities, and may prescribe the rules and regulations for handling and protecting the collateral securities.

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

The amount of state funds on deposit in any depository in excess of the amount insured by an agency of the federal government shall not exceed ninety percent of the value of collateral pledged on the collaterally secured bond given by the depository. The value of the collateral shall be determined by the treasurer.
§12-1-7. Rules of the state treasurer; depositors, agreements.

In addition to rules specially authorized in this article, the West Virginia investment management board and state treasurer are generally authorized to promulgate any rules necessary to protect the interests of the state, its depositaries and taxpayers. All rules promulgated shall be subject to the provisions of article three, chapter twenty-nine-a of this code. Any rules previously established by the board of public works, the board of investments or the state treasurer pursuant to this article shall remain in effect until amended, superseded or rescinded.

The treasurer is also authorized to enter into any depositors’ agreements for the purpose of reorganizing or rehabilitating any depository in which state funds are deposited, and for the purpose of transferring the assets, in whole or in part, of any depository to any other lawful depository when, in the judgment of the treasurer, the interests of the state will be promoted thereby, and upon condition that no right of the state to preferred payment be waived.

§12-1-8. Conflict of interest.

No depository in this state may serve or be eligible for designation as a state depository if any member of the West Virginia investment management board, or employee of the treasurer's office, or a spouse or minor child of that member or employee, is an officer, director or employee thereof, or owns greater than two percent of the depository either in his or their own name or beneficially, an interest in such depository. A member of the board or employee of the treasurer's office shall disclose the circumstance, if any, in the sworn statement required under the provisions of section one, article one, chapter six-b of this code.

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

Subject to applicable banking regulations or state law, the treasurer may transfer funds by check or electronic funds transfer whenever actually needed to pay the warrants drawn by the auditor upon the treasury, to
equalize deposits or to provide funds to purchase investments for the account of the state. All checks drawn for transfer of funds shall have printed or stamped on the face of same “for transfer of funds only”, or if the transfer is made by electronic funds transfer, the electronic funds transfer and supporting documents shall be marked “for transfer of funds only”.

§12-1-10. The treasurer to keep accounts with depositories; settlements with depositories; statements of depository balances; reconciliation of statements and records.

The treasurer shall keep in his office or her office a record showing the account of each depository. Under the account of each depository an entry shall be made showing the amount and date of each deposit, the amount and date of each withdrawal and the balance on deposit. The treasurer shall cause the state’s account with each depository to be settled at the end of every month of the year and the balance in the depository to the credit of the treasury to be carried forward to the account of the next month.

All the statements and records shall be reconciled monthly and the reconciled reports shall be kept in the treasurer’s office. The reconciled records for each month shall be kept in the treasurer’s office for a period of five years.

§12-1-11. Reports by depositories to treasurer; discontinuance of depositories.

Each depository of state funds shall at the end of each quarter cause its president or cashier to report to the treasurer the amount of state funds on deposit and the report shall be verified by the affidavit of the officer making it. The form and contents of the report shall be prescribed by the treasurer. For the failure to file the report, or for other good cause, the treasurer may discontinue any depository as an eligible depository and cause all state funds to be withdrawn from any depository or depositories so discontinued. When a depository is discontinued, the treasurer shall immediately notify such depository of its discontinuance, and shall immediately
withdraw by current checks or by transfer to another
depository or depositories the full amount of the deposits
held by any depository so discontinued. After discontinu-
ance, it shall be unlawful for the treasurer to deposit any
state funds in any depository so discontinued until such
time as the depository may be reinstated to eligibility.

§12-1-12. When treasurer shall make funds available to the
investment management board; depositories
outside the state.

When the funds in the treasury exceed the amount
needed for current operational purposes, as determined by
the treasurer, the treasurer shall make all of such excess
available for investment by the investment management
board which shall invest the same for the benefit of the
general revenue fund.

Whenever the funds in the treasury exceed the amount
for which depositories within the state have qualified, or
the depositories within the state which have qualified are
unwilling to receive larger deposits, the treasurer may
designate depositories outside the state, disbursement
accounts being bid for in the same manner as required by
depositories within the state, and when such depositories
outside the state have qualified by giving the bond
prescribed in section four of this article, the state trea-
surer shall deposit funds therein in like manner as funds
are deposited in depositories within the state under this
article.

The treasurer or board of investments may transfer
funds to banks outside the state to meet obligations to
paying agents outside the state and any such transfer must
meet the same bond requirements as set forth in this
article.

§12-1-13. Payment of banking services and litigation costs for
prior investment losses.

(a) The treasurer is authorized to pay for banking
services, and services ancillary thereto, by either a com-
penating balance in a noninterest-bearing account
maintained at the financial institution providing the
services or with a state warrant as described in section
(b) The investment management board is authorized to pay for the investigation and pursuit of claims against third parties for the investment losses incurred during the period beginning on the first day of August, one thousand nine hundred eighty-four, and ending on the thirty-first day of August, one thousand nine hundred eighty-nine. The payment may be in the form of a state warrant.

(c) If payment is made by state warrant, the investment management board, at the request of the treasurer, is authorized to establish within the consolidated fund an investment pool which will generate sufficient income to pay for all banking services provided to the state and to pay for the investigation and pursuit of the prior investment loss claims. All income earned by the investment pool shall be paid into a special account of the treasurer to be known as the banking services account and shall be used solely for the purpose of paying for all banking services and services ancillary to the banking services provided to the state, for the investigation and pursuit of the prior investment loss claims, amortize the balance in the investment imbalance fund.

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

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

(a) All officials and employees of the state authorized by statute to accept moneys due the state of West Virginia shall keep a daily itemized record of moneys so received for deposit in the state treasury and shall deposit within twenty-four hours with the state treasurer all moneys received or collected by them for or on behalf of the state for any purpose whatsoever. The treasurer shall be authorized to review the procedures and methods used by officials and employees authorized to accept moneys due the state and change such procedures and methods if he or she determines it to be in the best interest of the state. Provided, That the treasurer shall not be authorized to review or amend the procedures by which the department
of tax and revenue accepts moneys due the state. The treasurer shall propose rules, in accordance with the provisions of article three, chapter twenty-nine-a of this code governing the procedure for deposits.

The official or employee making such deposits with the treasurer shall prepare deposit lists in the manner and upon report forms as may be prescribed by the treasurer. Certified or receipted copies shall be immediately forwarded by the state treasurer to the state auditor and to the secretary of administration. The original of the deposit report shall become a part of the treasurer’s permanent record.

(b) All moneys received by the state from appropriations made by the Congress of the United States shall be recorded in special fund accounts, in the state treasury apart from the general revenues of the state, and shall be expended in accordance with the provisions of article eleven, chapter four of this code. All moneys, other than federal funds, defined in section two, article eleven, chapter four of this code, shall be credited to the state fund and treated by the auditor and treasurer as part of the general revenue of the state except the following funds which shall be recorded in separate accounts:

(1) All funds excluded by the provisions of section six, article eleven, chapter four of this code;

(2) All funds derived from the sale of farm and dairy products from farms operated by any agency of the state government other than the farm management commission;

(3) All endowment funds, bequests, donations, executive emergency funds, and death and disability funds;

(4) All fees and funds collected at state educational institutions for student activities;

(5) All funds derived from collections from dormitories, boardinghouses, cafeterias and road camps;

(6) All moneys received from counties by institutions for the deaf and blind on account of clothing for indigent pupils;
(7) All insurance collected on account of losses by fire and refunds;

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

(9) All moneys collected and belonging to the capitol building fund, state road fund, state road sinking funds, general school fund, school fund, state fund (moneys belonging to counties, districts and municipalities), state interest and sinking funds, state compensation funds, the fund maintained by the public service commission for the investigation and supervision of applications, and all fees, money, interest or funds arising from the sales of all permits and licenses to hunt, trap, fish or otherwise hold or capture fish and wildlife resources and money reimbursed and granted by the federal government for fish and wildlife conservation;

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

(c) All moneys, excepted as provided in subdivisions (1) through (9), inclusive, subsection (b) of this section, shall be paid into the state treasury in the same manner as collections not so excepted, and shall be recorded in separate accounts to be used and expended only for the purposes for which the same are authorized to be collected by law: Provided, That amounts collected pursuant to subdivision (10), subsection (b) of this section, which are found from time to time to exceed funds needed for the purposes set forth in general law may be transferred to other accounts or funds and redesignated for other purposes by appropriation of the Legislature. The gross amount collected in all cases shall be paid into the state treasury, and commissions, costs and expenses of collection authorized by general law to be paid out of the gross collection, including bank and credit or check card fees, are hereby authorized to be paid out of the moneys collected and paid into the state treasury in the same manner as other payments are made from the state treasury.
(d) The state treasurer shall have authority to establish an imprest fund or funds in the office of any state agency or institution making proper application to the board. To implement this authority, the treasurer shall propose rules in accordance with the provisions of article three, chapter twenty-nine-a of this code. The treasurer or his or her designee shall annually audit all funds and prepare a list of all such funds showing the location and amount as of fiscal year end, retaining the list as a permanent record of the treasurer until the legislative auditor has completed an audit of the imprest funds of all agencies and institutions involved.

(e) The treasurer shall be authorized to develop and implement a centralized receipts processing center. The treasurer may request the transfer of equipment and personnel from appropriate state agencies to the centralized receipts processing center in order to implement the provisions of this subsection: Provided, That the governor or appropriate constitutional officer shall have final authority to authorize the transfer of equipment or personnel to the centralized receipts processing center from the respective agency.

§12-2-3. Deposit of moneys by state officials and employees.

All officials and employees of the state authorized by statute to accept moneys due the state of West Virginia shall deposit those moneys in the manner the treasurer directs and shall promptly transmit or cause to be transmitted the deposits, together with a certificate of deposit, as soon as practicable to the depository in which they desire to make the deposit, and shall retain and record the deposit lists. All officials and employees of the state authorized to accept moneys that they have determined are not funds due the state pursuant to the provisions of section two of this article, shall request the treasurer to approve the deposit of the funds into an approved depository. The request shall be made on forms and in accordance with procedures as the treasurer establishes. No funds shall be deposited until the written approval of the treasurer is obtained. The treasurer shall be the final determining authority as to whether these funds are funds
due or not due the state pursuant to section two of this article. The treasurer shall on a quarterly basis provide the legislative auditor with a report of all accounts approved by him.

§12-2-4. Duty of depositories.

Immediately upon the receipt of a deposit from the state, it shall be the duty of the depository to credit the treasurer with the amount of the deposit, to date and sign the certificate of deposit by some legally constituted official of the depository and promptly transmit the certificate to the treasurer.

§12-2-5. Deposits in correspondent banks of state depositories.

When any payment of money has been made to the state for road bonds or other purposes outside of the state, the treasurer has the authority to place the same to the credit of one or more state depositories in one or more of its correspondent banks located within or without the state. The treasurer shall, upon making such a deposit in the correspondent bank, secure from it a proper certificate of deposit certifying the amount and the name of the state depository to whose credit the deposit was made by the treasurer. The treasurer shall forward a copy of the certificate to the state depository receiving the deposit through its correspondent bank, and it shall be the duty of the depository immediately to issue to the state of West Virginia a proper certificate of deposit for the amount deposited, dated the same day the deposit was made in the correspondent bank. Before making the deposit the treasurer shall secure written authority from the depository, designating the name and address of its correspondent bank or banks in which deposits are to be made and the maximum amount to be deposited in each. The depository bonds of all state depositories authorizing and receiving the deposits in their correspondent banks shall be liable for the deposits the same as if the deposits had been made with them directly, whether the bonds are so conditioned or not, and all depository bonds hereafter issued shall so provide.
§12-3-1. Manner of payment from treasury; form of checks.

Every person claiming to receive money from the treasury of the state shall apply to the auditor for a warrant for same. The auditor shall thereupon examine the claim, and the vouchers, certificates and evidence, if any, offered in support thereof, and for so much thereof as he or she finds to be justly due from the state, if payment thereof is authorized by law, and if there is an appropriation not exhausted or expired out of which it is properly payable, the auditor shall issue his or her warrant on the treasurer, specifying to whom and on what account the money mentioned therein is to be paid, and to what appropriation it is to be charged. The auditor shall present to the treasurer daily reports on the number of warrants issued, the amounts of the warrants and the dates on the warrants for the purpose of effectuating the investment policy of the investment management board. On the presentation of the warrant to the treasurer, the treasurer shall ascertain whether there are sufficient funds in the treasury to pay that warrant, and if he or she finds it to be so, he or she shall in that case, but not otherwise, endorse his or her check upon the warrant, directed to some depository, which check shall be payable to the order of the person who is to receive the money therein specified; or the treasurer may issue an electronic funds transfer in payment of the warrant. If the check is not presented for payment within six months after it is drawn, it shall then be the duty of the treasurer to credit it to the depository on which it was drawn, to credit the unclaimed property fund pursuant to the provisions of article eight, chapter thirty-six of this code, and immediately notify the auditor to make corresponding entries on the auditor's books. No state depository may pay a check unless it is presented within six months after it is drawn and every check shall bear upon its face the words, "Void, unless presented for payment within six months." All claims required by law to be allowed by any court, and payable out of the state treasury, shall have the seal of the court allowing or authorizing the payment of the claim affixed by the clerk of the court to his or her certificate of its allowance. No claim may be audited and paid by the
§12-3-la. Payment by deposit in bank account.

1 The auditor may issue his warrant on the treasurer to pay any person claiming to receive money from the treasury by deposit to the person's account in any bank or other financial institution by electronic funds transfer, if the person furnishes to the auditor written authorization of the method of payment. After the authorization has been approved by the auditor, it shall be forwarded to the treasurer for further processing. The auditor shall prescribe the form of the authorization. This section shall not be construed to require the auditor to utilize the method of payment authorized by this section; but the method is authorized only as an alternative method of payment to persons claiming to receive money from the treasury. A written authorization furnished pursuant to this section may be revoked by written notice furnished to the auditor. Upon the execution of such authorization and its receipt by the office of the auditor, the payment shall be made in the manner specified on the form and remitted by the treasurer to the designated bank or other financial institution: Provided, That after the first day of July, two thousand two, the state auditor shall cease issuing paper warrants except for income tax refunds. After that date all warrants, except for income tax refunds, shall be issued by electronic funds transfer: Provided, however, That the auditor, in his or her discretion, may issue paper warrants on an emergency basis.

§12-3-lb. Voluntary direct deposits by auditor treasurer of salaries of employees to banks or other financial institutions.

1 Any officer or employee of the state of West Virginia may authorize that his net wages be deposited directly to his account in any bank or other financial institution by
4 electronic funds transfer. The direct deposits may be
5 authorized on a form provided by the auditor. Upon
6 execution of such authorization and its receipt by the
7 office of the auditor, the direct deposits shall be made in
8 the manner specified on the form and remitted by the
9 treasurer to the designated bank or other financial
10 institution on or before the day or days the officer or
11 employee is due his or her net wages. Direct deposit
12 authorizations may be revoked at any time thirty days
13 prior to the date on which the direct deposit is regularly
14 made and on a form to be provided by the auditor:
15 Provided, That on and after the first day of July, two
16 thousand two, at the option of the auditor, all wages shall
17 be deposited directly into the employees' account at any
18 bank or financial institution designated by the employee
19 via electronic funds transfer.

§12-3-4. No check to be drawn on depository having insuffi-
cient funds; necessity of warrant and check or
electronic funds transfer.

1 The treasurer shall draw no check on any depository
2 unless there is money enough in the depository to the
3 credit of the treasury to pay the check when duly pre-
4 sented for payment. No depository holding money to the
5 credit of the treasury shall pay out the same, or any part
6 thereof, except upon a check of the treasurer endorsed on
7 a warrant of the auditor authorizing a check or a duly
8 authorized electronic funds transfer drawn in place of
9 such check.

§12-3-10a. Purchasing card program.

1 Notwithstanding the provisions of section ten of this
2 article, payment of claims may be made through the use of
3 the state purchasing card program authorized by the
4 provisions of this section. The auditor, in cooperation
5 with the secretary of the department of administration,
6 may establish a state purchasing card program for the
7 purpose of authorizing all spending units of state govern-
8 ment to use a purchasing card as an alternative payment
9 method when making small purchases. The purchasing
10 card program shall be conducted so that procedures and
11 controls for the procurement and payment of goods and
services are made more efficient. The program shall permit spending units to use a purchase charge card to purchase goods and services. The amount of any one purchase made with the purchase charge card shall not exceed the amount contained in the jointly proposed rules of the auditor and the purchasing division of the department of administration proposed in accordance with the provisions of article three, chapter twenty-nine-a of this code: Provided, That purchasing cards may not be utilized for the purpose of obtaining cash advances, whether the advances are made in cash or by other negotiable instrument. Purchases of goods and services must be received either in advance of or simultaneously with the use of a state purchasing card for payment for those goods or services. The auditor, by legislative rule, may eliminate the requirement for vendor invoices and provide a procedure for consolidating multiple vendor payments into one monthly payment to a charge card vendor. Selection of a charge card vendor to provide state purchase cards shall be accomplished by competitive bid. The purchasing division of the department of administration shall contract with the successful bidder for provision of state purchase charge cards. Purchase charge cards issued under the program shall be used for official state purchases only. The auditor and the director of the purchasing division of the department of administration shall jointly propose rules for promulgation in accordance with the provisions of article three, chapter twenty-nine-a of this code to govern the implementation of the purchase card program.

§12-3-10c. Transaction fees; disposition of fees.

(a) In order to promote and enhance the use of the state purchasing card program established by the provisions of section ten-a of this article and in order to maintain and develop the fiscal operations and accounting systems of the state, the auditor and the treasurer may assess joint transaction fees for all financial documents that will be processed on the central accounting system. Such transaction fees shall be prescribed by legislative rule proposed in accordance with article three, chapter twenty-nine-a of this code and may include the following:
(1) A penalty fee to be assessed against spending units of state government who submit claims for payment of goods and services when those claims are authorized to be paid by use of a state purchasing card and the spending unit has failed to utilize the state purchasing card; and

(2) A transaction fee to be assessed against spending units of state government for every transaction received, electronically or otherwise, by the auditor from the centralized accounting system.

(b) All fees collected under this section shall be deposited into the "Technology Support and Acquisition Fund" which is hereby created in the state treasury to be administered by the auditor. The auditor and treasurer shall use moneys deposited in the fund to maintain and develop the state purchasing card program, support the fiscal operations of the state, including the state centralized accounting system, and to acquire and improve the technology required to support these functions: Provided, That expenditures from the fund are authorized from collections and are to be made only in accordance with an appropriation by the Legislature and in accordance with the provision of article three of this chapter and upon fulfillment of the provisions set forth in article two, chapter five-a of this code: Provided, however, That for the fiscal year ending the thirtieth day of June, one thousand nine hundred ninety-eight, expenditures from the fund may be made from collections.

§12-3-10d. Purchasing card fund created; expenditures.

All money received by the state pursuant to any agreement with vendors providing purchasing charge cards shall be deposited in a special revenue revolving fund designated the "Purchasing Card Administration Fund", which is hereby created in the state treasury to be administered by the department of administration. All expenses of the purchasing division of the department of administration incurred in the implementation and operation of the purchasing card program shall be paid from the fund. Expenditures from the fund shall be made in accordance with appropriations by the Legislature pursuant to the provisions of article three, chapter twelve of this code and
§12-3-13b. Voluntary deductions by state auditor from salaries of employees to pay association dues or fees and to pay supplemental health and life insurance premiums.

Any officer or employee of the state of West Virginia may authorize that a voluntary deduction from his net wages be made for the payment of membership dues or fees to an employee association. Voluntary deductions may also be authorized by an officer or employee for any supplemental health and life insurance premium, subject to prior approval by the auditor. Such deductions shall be authorized on a form provided by the auditor of the state of West Virginia and shall state: (a) The identity of the employee; (b) the amount and frequency of such deductions; and (c) the identity and address of the association or insurance company to which such dues shall be paid. Upon execution of such authorization and its receipt by the office of the auditor, such deductions shall be made in the manner specified on the form and remitted to the designated association or insurance company on the tenth day of each month: Provided, That voluntary other deductions, as approved and authorized by the auditor, may be made in accordance with rules proposed by the auditor pursuant to article three, chapter twenty-nine-a of this code: Provided, however, That deductions shall be made either once or twice monthly at the option of the employee. Deduction authorizations may be revoked at any time thirty days prior to the date on which the deduction is regularly made and on a form to be provided by the office of the state auditor: Provided further, That nothing in this section shall interfere with or remove any existing arrangement for dues deduction between an employer or any political subdivision of the state and its employees.

ARTICLE 4. ACCOUNTS, REPORTS AND GENERAL PROVISIONS.

§12-4-2. Accounts of treasurer and auditor; auditor to certify condition of revenues and funds of the state.
The treasurer shall keep in his office separate accounts with each depository, and also a summary account for the state, and when money is paid into the treasury, it shall be charged to the proper depository and credited to a summary account. The auditor shall keep in his office separate accounts of the particular heads or sources of revenue, and a summary account with the treasurer, beside such individual accounts with officers and persons as may be necessary, and shall charge every sum of money received for the state as aforesaid to the treasurer's account, and credit it under the particular head of revenue to which it properly belongs, distinguishing especially in distinct accounts the receipts on account of the capital of the school fund and those on account of the income of said fund subject to annual distribution. The auditor shall certify annually to the commissioner of finance and administration the condition of the state revenues and the several funds of the state. The certification shall be used by the commissioner in the preparation of a tentative state budget as required of him by article two, chapter five-a of this code.

§12-4-3. Accounts of appropriations.

The auditor and secretary of administration shall each keep an account of every appropriation made by law, and of the several sums drawn thereon, so that the accounts may show at all times the balance undrawn on each appropriation. The account so kept shall be compared every month and errors, if any, corrected.

§12-4-3a. Accounts of the auditor.

The auditor shall at all times maintain and have available for public inspection a report containing monthly balances in the treasury, which balances shall include, but not be limited to, the general revenue surplus balance; the general revenue surplus appropriation account balance; the state general revenue reappropriated account balance; the state general revenue current account balance; the total state account balance; and the total general revenue.

§12-4-4. Accounts of expenditures; signing of checks and warrants; facsimile signatures and use of me-
chanical and electrical devices; forgery; penalty.

When the treasurer issues his check on a depository, he or she shall credit the same to the account of the depository, and charge it to the summary account provided for in section two of this article. The auditor shall keep accounts of the particular heads of expenditures, and, when he or she issues a warrant on the treasurer, shall credit the treasurer's summary account therewith and charge the same under the particular head of expenditure to which it properly belongs, distinguishing especially the disbursements on account of the capital and the annual income of the school fund, as directed in section two of this article in relation to receipts belonging to that fund. All checks when issued by the treasurer shall bear his or her signature, personally signed by the treasurer, or by employees as are, in writing, authorized by the treasurer to make his or her signature thereto, or bear a facsimile of the treasurer's signature. All warrants when issued by the auditor shall bear his or her signature, personally signed by the auditor, or by employees as are, in writing, authorized by the auditor to make his or her signature thereto, or bear a facsimile of the auditor's signature. The signature of the treasurer, or auditor, respectively, may be made, however, by means of such mechanical or electrical device as the treasurer, or auditor, respectively, may select. Any mechanical or electrical device, selected shall be safely kept in the respective offices of the treasurer or auditor so that no one has access to the device except the treasurer, or the auditor, and the employees authorized to respectively sign checks or warrants as provided by this section. If any person, other than the treasurer, or auditor, respectively, or their respective duly and respectively authorized employees sign the name of the treasurer or the auditor, respectively, by the use of any mechanical or electrical device, or otherwise, or use the facsimile of the signature of either of them, on any check or warrant, or utter or attempt to employ as true such forged check or warrant, knowing it to be forged, he or she shall be guilty of a felony and, upon conviction thereof, shall be imprisoned not less than two nor more than ten years.

§12-4-6. Comparison of books of auditor and treasurer;
monthly balances.

1. At the end of every month of the year, the summary account of the treasurer kept on the books of the auditor's office shall be compared with the summary account kept by the treasurer, and the errors, if there be any in either, corrected. The summary account of the month shall be adjusted and a balance shall be struck showing the amount then in the treasury. The balance shall be carried forward in the books of both offices to the account for the next month.

§12-4-7. Annual report of auditor.

1. The annual report of the auditor shall be furnished to the governor by the thirty-first day of December following after the end of the fiscal year. It shall contain a statement of the receipts and disbursements, under the proper general heads, during the preceding fiscal year, and show the balance in the treasury at the beginning and end of that year. It shall also contain an estimate of the revenue and expenditures for the current year, with similar statements and estimates respecting the school fund. It shall show the indebtedness of the state and the balances standing at the end of the year to the credit of the several unexpired appropriations, specifying in each case the date when the appropriation was made. The report shall be accompanied with an explanation of the amounts of receipts and disbursements and the balances and estimates reported. In it the auditor shall point out any defects which may occur to him or her in the revenue laws. Furthermore, the auditor shall suggest the remedies for those deficits. If the auditor is of the opinion, that the future revenue is likely to prove insufficient, then the auditor shall recommend plans for increasing the revenue and suggest new subjects of taxation, or additional taxes on the old, as he may deem proper.

§12-4-8. Office hours of auditor and treasurer.

1. The hours for transacting business in the offices of the auditor and treasurer shall be from eight-thirty in the morning until five o'clock in the afternoon.

12-4-8a. Employment of legal counsel.
Notwithstanding the provisions of section two, article three, chapter five of this code, the auditor and treasurer are hereby authorized to employ legal counsel: Provided, That the auditor and the treasurer, at their discretion, may use the services of the attorney general.

§12-4-9. Absence of auditor or treasurer.

When it is necessary for either the auditor or treasurer to be absent, the other shall be informed of the absence. During the absence, the duties of the officer so absent may be performed by the auditor’s or treasurer’s designee respectively. The absent officer and his sureties shall be liable for any malconduct or neglect of the person acting in his or her place.

Notwithstanding restrictions which may otherwise be provided by law concerning membership on any board, agency or commission, the auditor and treasurer each may designate a representative who is authorized to act for and on their behalf in any and all matters relating to those memberships.

ARTICLE 5. PUBLIC SECURITIES.

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

(a) The treasurer of this state, unless otherwise expressly provided by law, shall be custodian of all securities required by law to be deposited with the state or held in legal custody by the state, and all departments of this state, commissioners or agents of the state, who hold any such securities, shall transfer and deliver the same to the state treasurer to be kept and held by him as legal custodian thereof until released in the manner provided by law: Provided, That the state treasurer shall establish a list of which securities shall be acceptable securities and notify all state agencies of the contents of that list: Provided, however, That the provisions of this subsection shall not apply to the investment management board.

(b) The treasurer may by formal order of record fix fair and reasonable charges for the care, custody, exchange
16 and substitution of securities deposited by insurance 17 companies and companies issuing annuity contracts. The 18 treasurer shall collect the charges from the companies and 19 shall deposit the collections in the general revenue fund: 20 Provided, That no charge shall be made against any 21 company depositing securities of the par value of less than 22 three hundred thousand dollars.

§12-5-4. Treasurer to keep accounts and make collections.

1 It shall be the duty of the treasurer to keep an accurate 2 account of all securities received by him or her and collect 3 and account for the interest as it becomes due and payable 4 and the principal whenever it is due.

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

1 The securities retained in the treasury shall be kept in a 2 vault. The treasurer shall use due diligence in protecting 3 the securities against loss from any cause. The treasurer 4 shall designate certain employees to take special care of 5 the securities. Only the treasurer and the designated 6 employees may have access to the securities, and at least 7 two of these persons shall be present whenever the securi- 8 ties are handled in any manner. The treasurer may 9 contract with one or more banking institutions in or 10 outside the state for the custody, safekeeping and manage- 11 ment of securities. The contract shall prescribe the rules 12 for the handling and protection of the securities.

§12-5-6. When notes deemed securities; appraisal.

1 (a) Whenever, by statute of this state, any public official, 2 board, commission or department of this state is charged 3 with the approval of securities required as collateral for 4 the deposit of public or other funds, or required to be 5 deposited with the state treasurer, or an investment of 6 capital or surplus or a reserve or other fund, is required to 7 be maintained consisting of designated securities depos- 8 ited with the state treasurer, the securities shall, at the 9 discretion of that public official, board, commission or 10 department, include and mean notes executed by the 11 person or corporation required to make the deposit. The 12 securities shall be made payable to the state of West 13 Virginia upon demand, or in the event of the person or
corporation, for the benefit of those for whom the securities are deposited, when the notes are secured by duly executed deeds of trust on improved, unencumbered real property located in the state and owned by the person or corporation executing the notes, the deeds of trust to be approved by the attorney general of the state as to sufficiency of form and manner of execution and accompanied by proper abstracts of title and fire insurance policies equal to the amounts of the notes and recorded among the land records of the county in which the real property is located. Whenever any note so secured by a deed of trust on real property owned by any person or corporation is approved by any public official, board, commission or department of this state, the real property shall have an appraised value of at least thirty per centum more than the amount of the note. The value of the property shall be determined by an appraisal of two landowners, who are citizens of this state and generally recognized as experienced real estate appraisers, appointed by the public official, board, commission or department, charged with the approval of the securities. The expenses of the appraisal is to be borne by the person or corporation required to make the deposit, and each unit of that real property shall have an appraised value of at least fifty thousand dollars.

For purposes of this section, "improved real property" means all real property within the limits of an incorporated city or town on which permanent buildings suitable for residential, industrial or commercial use are located.

For purposes of this section, real property shall not be deemed to be encumbered by reason of the existence of instruments reserving rights-of-way, sewer rights and rights in walls, nor by reason of building restrictions or other restrictive covenants, nor by reason of the fact that it, or any part thereof, is subject to lease under which rents or profits are reserved to the owner: Provided, That the deed of trust for such investment is a full and unrestricted first lien upon the property.

(b) Any public official, board, commission or department of this state charged with the approval of securities
Enr. S. B. No. 563] 32

required to be deposited in accordance with this section, shall, at least annually and more often if deemed proper, appoint a disinterested person or persons, not exceeding three, to make an examination and appraisal of the securities deposited to determine if those securities meet the requirements of the law of this state. The cost of that examination and appraisal and expenses, shall be borne by the person or corporation required to make the deposits as security: Provided, That the total cost and expenses shall not be less than ten dollars nor more than twenty-five dollars per diem for each person conducting the examination.

§12-5-7. Treasurer as financial advisor; selection of necessary parties; employment of bond counsel.

1 Unless otherwise specifically provided by law, the treasurer may select or serve as financial advisor for all bonds, notes, certificates of participation, certificate transactions and all other forms of securities and indebtedness issued by the state through its departments, commissions, boards or agencies after the first day of July, one thousand nine hundred ninety-seven. Unless otherwise specifically provided by law, the governor shall coordinate the issuance of all bonds issued by the state and its departments, commissions, boards and agencies, through the department of administration and the governor shall select all other necessary parties, including, but not limited to, bond, disclosure or other counsel, underwriters, trustee, verification agent and any other professionals necessary to effectuate the issuance of the bonds: Provided, That this section shall not apply to the housing development fund created pursuant to article eighteen, chapter thirty-one of this code; the hospital finance authority created pursuant to article twenty-nine-a, chapter sixteen of this code; the West Virginia economic development authority created pursuant to article fifteen, chapter thirty-one of this code; the West Virginia parkways, economic development and tourism authority created pursuant to article sixteen-a, chapter seventeen of this code; the West Virginia public energy authority created pursuant to article one, chapter five-d of this code; the West Virginia solid waste management board created...
pursuant to article three, chapter twenty-two-c of this code; the West Virginia water development authority created pursuant to article one, chapter twenty-two-c of this code; the infrastructure and jobs development council created pursuant to article fifteen-a, chapter thirty-one of this code; the school building authority created pursuant to article nine-d, chapter eighteen of this code; and the governing boards of higher education: Provided, however, that these entities shall be governed by those provisions of law specifically designating financial and other professional counsel and personnel for bond issuances. All selections of professionals shall be competitive, but the bidding shall not be required to comply with the provisions of article three, chapter five-a of this code.

ARTICLE 6. WEST VIRGINIA INVESTMENT MANAGEMENT BOARD.

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

This article, which may be cited as the "West Virginia Investment Management Act" is enacted to modernize the procedures for the investment of funds of the state and its political subdivisions for the purpose of increasing the investment return of those funds.

§12-6-la. Legislative findings.

(a) The Legislature hereby finds and declares that all the public employees covered by the public employees retirement system, the teachers retirement system, the West Virginia state police retirement system, the death, disability and retirement fund of the division of public safety and the judges' retirement system should benefit from a prudent and conscientious staff of financial professionals dedicated to the administration, investment and management of those employees' and employer's financial contributions and that an independent board and staff should be immune to changing political climates and should provide a stable and continuous source of professional financial investment and management.

(b) The Legislature finds and declares that teachers and other public employees throughout the state are experiencing economic difficulty and that in order to reduce this economic hardship on these dedicated public employees,
and to help foster sound financial practices, the West Virginia investment management board is given the authority to develop, implement and maintain an efficient and modern system for the investment and management of the state’s money. The Legislature further finds that in order to implement these sound fiscal policies, the West Virginia investment management board shall operate as an independent board with its own full-time staff of financial professionals immune to changing political climates, in order to provide a stable and continuous source of professional financial management.

(c) The Legislature hereby finds and declares further that experience has demonstrated that prudent investment provides diversification and beneficial return not only for public employees but for all citizens of the state and that in order to have access to this sound fiscal policy, public employee and employer contributions to the consolidated pension plan are declared to be an irrevocable trust, available for no use or purpose other than for the benefit of those public employees.

(d) The Legislature hereby finds and declares further that the workers’ compensation funds and coal-workers’ pneumoconiosis fund are trust funds to be used exclusively for those workers, miners and their beneficiaries who have sacrificed their health in the performance of their jobs, and further finds that the assets available to pay awarded benefits should be prudently invested so that awards may be paid.

(e) The Legislature hereby finds and declares further that an independent public body corporate with appropriate governance shall be the best means of assuring prudent financial management of these funds under rapidly changing market conditions and regulations.

(f) The Legislature hereby finds and declares further that in accomplishing this purpose, the West Virginia investment management board, created and established by this article, is acting in all respects for the benefit of the state's public employees and ultimately the citizens of the state, and the West Virginia investment management board is empowered by this article to act as trustee for an
irrevocable trust created by this article, and to manage
and invest other state funds.

(g) The Legislature hereby finds and declares further
that the standard of care and prudence applied to trustees,
the conduct of the affairs of the irrevocable trust created
by this article and the investment of other state funds is
intended to be that applied to the investment of funds as
described in the “uniform prudent investor act” codified
as article six-c of this chapter.

(h) The Legislature further finds and declares that the
West Virginia supreme court of appeals declared the
“West Virginia Trust Fund Act” unconstitutional in its
decision rendered on the twenty-eighth day of March, one
thousand nine hundred ninety-seven, to the extent that it
authorized investments in corporate stock but the court
also recognized that there were other permissible constitu-
tional purposes of the “West Virginia Trust Fund Act”,
and that it is the role of the Legislature to determine those
purposes consistent with the court's decision and the
constitution of West Virginia.

(i) The Legislature hereby further finds and declares
that it is in the best interests of the state and its citizens to
create a new investment management board in order to:
(1) Be in full compliance with the provisions of the
constitution of West Virginia; and (2) protect all existing
legal and equitable rights of persons who have entered
into contractual relationships with the West Virginia
board of investments and the West Virginia trust fund.

§12-6-2. Definitions.

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

(1) “Beneficiaries” means those individuals entitled to
benefits from the consolidated pension plan;

(2) “Board” means the governing body for the West
Virginia investment management board, and any reference
elsewhere in this code to board of investments or West
Virginia trust fund means the board as defined herein;

(3) “Consolidated fund” means the investment fund
(4) "Consolidated pension plan" means the public employees retirement system established in article ten, chapter five of this code, the teachers retirement system established in article seven-a, chapter eighteen of this code, the West Virginia state police retirement system established in article two-a, chapter fifteen of this code, the death, disability and retirement fund of the department of public safety established in article two, chapter fifteen of this code, the judges' retirement system established in article nine, chapter fifty-one of this code, the workers' compensation fund established in article three, chapter twenty-three of this code, and the coal-workers' pneumoconiosis plan established in article four-b, chapter twenty-three of this code;

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

(6) "Participant plan" means any component system, plan or fund of the consolidated pension plan within the definition set forth in subdivision (c) of this section;

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

(8) "Trustee" means any member serving on the West Virginia investment management board: Provided, That in section nine-a of this article wherein the terms of the trust indenture are set forth, "trustee" means the West Virginia investment management board;

(9) "Securities" means all bonds, notes, debentures or other evidences of indebtedness, and other lawful investment instruments; and
§12-6-3. 

West Virginia management investment board created; body corporate; board created; trustees; nomination and appointment of trustees, qualifications and terms of appointment, advice and consent; annual and other meetings; designation of representatives and committees; board meetings with committees regarding investment policy statement required; open meetings, qualifications.

(a) There is hereby created the West Virginia investment management board. The board is created as a public body corporate and established to provide prudent fiscal administration, investment and management for the pension funds, workers' compensation and coal workers pneumoconiosis funds and other state funds.

(b) The board shall be governed by a board of trustees, consisting of thirteen members:

(1) Nominations made to the West Virginia trust fund board and the West Virginia board of investments shall remain in effect and are hereby specifically reauthorized and those members shall be members of the investment management board and shall serve out the remainder of their respective terms subject to the advice and consent of the Senate: Provided, That prior appointments which have been confirmed by the Senate are hereby specifically reauthorized without further action of the Senate.

(2) Any appointment is effective immediately upon appointment by the governor with respect to voting, constituting a quorum, receiving compensation and expenses, and all other rights and privileges of the trustee position. All appointees must have experience in pension management, institutional management or financial markets, and one trustee must be an attorney experienced in finance and investment matters, and one trustee must be a certified public accountant.

(3) The governor, the state auditor and the state trea-
surer or their designees shall serve as members of the board. They shall serve by virtue of their office and are not entitled to compensation under the provisions of this article. The governor, the auditor and the treasurer or their designees shall be subject to all duties, responsibilities and requirements of the provisions of this article, including, but not limited to, the provisions of subsections (e) and (f), section four of this article.

(c) At the end of each trustee's term, the governor may reappoint or appoint a successor who shall serve for six-year terms. No more than six of the ten appointed trustees may belong to the same political party.

(d) In the event of a vacancy among the trustees, an appointment shall be made by the governor to fill the unexpired term.

(e) The governor may remove any trustee, other than trustees who serve by virtue of their elective office, in case of gross negligence or misfeasance and may declare that position vacant and may appoint a person for the vacancy as provided in subsection (d) of this section.

(f) Each trustee, other than those enumerated in subsection (b), subdivision (3) of this section, shall be entitled to receive, and, at the trustee's option, the board shall pay to the trustee, compensation in the amount of five thousand dollars per year and additional compensation in the amount of five hundred dollars per meeting attended by the trustee in excess of the four quarterly meetings required by this section. In addition, all trustees shall receive reasonable and necessary expenses actually incurred in discharging trustee duties pursuant to this article.

(g) The board shall meet quarterly and may include in its bylaws procedures for the calling and holding of additional meetings. For any quarterly or additional meeting in which the board shall review or modify its securities list or its investment objectives pursuant to subsection (f), section twelve of this article, the board shall give ten days notice in writing to the designated representative of each participant plan selected pursuant to subdivision one,
subsection (i) of this section, and the meeting shall be open to the members and beneficiaries of the participant plans for that portion of the meeting in which the board undertakes the review or modification.

(h) The board shall hold an annual meeting within forty-five days after the issuance of the year-end financial report. The annual meeting may also serve as a quarterly meeting. The annual meeting shall be open to the public, and the board shall receive oral and written comments from representatives, members and beneficiaries of the participant plans and from other citizens of the state. At the annual meeting, the board shall adopt a fee schedule and a budget reflecting fee structures for the year.

(i) Pursuant to subsection (j) of this section, the board shall meet with committees representing the participant plans to discuss the board's drafting, reviewing or modifying the written investment policy of the trust with respect to that committee's participant plan pursuant to section twelve of this article. Representatives and committees shall be designated as follows:

(1) The West Virginia consolidated public retirement board shall promulgate procedural rules by which each pension system named in paragraphs one through five, inclusive, subsection (c), section nine-a of this article, shall designate an individual representative of each said pension system, and the West Virginia workers' compensation commission shall promulgate procedural rules by which the pneumoconiosis fund and the workers' compensation fund shall designate an individual representative of each said fund.

(2) On or before the first day of June of each year, the consolidated public retirement board shall submit in writing to the board the names of the five designated representatives, and the workers' compensation commission shall so submit the names of the two representatives.

(3) Each designated representative shall provide to the board his or her current address, updated each year on or before the first day of July, to which address the board shall provide notice of meetings of the board pursuant to
subsection (g) of this section.

(4) Each designated representative shall submit in writing to the board on or before the first day of July of each year, the names of no more than three persons comprising a committee representing the beneficiaries of that representative's participant plan.

(j) At its annual meeting, the board shall meet with each of the seven committees, formed pursuant to subdivision (1), subsection (i) of this section, for the purpose of receiving input from the committees regarding the board's drafting, reviewing or modifying its written investment policy statement for investment of the consolidated pension plan funds. In developing the investment policy statement, the trustees shall receive each committee's stated objectives and policies regarding the risk tolerances and return expectations of each participant plan, with attention to the factors enumerated in subsection (g), section twelve of this article, in order to provide for the continuing financial security of the trust and its participant plans. The board may meet with the committees or any of them at its quarterly and additional meetings for the same purpose.

(k) All meetings of the board shall be open to the representatives of the participant plans as appointed pursuant to subdivision (1), subsection (i) of this section. The representatives shall be subject to any rules, bylaws, guidelines, requirements and standards promulgated by the board. The representatives shall observe standards of decorum established by the board. The representatives shall be subject to the same code of conduct applicable to the trustees and shall be subject to all board rules and bylaws. The representatives shall also be subject to any requirements of confidentiality applicable to the trustees. Each representative shall be liable for any act which he or she undertakes which violates any rule, bylaw or statute governing ethical standards, confidentiality or other standard of conduct imposed upon the trustees or the representatives. Any meeting of the board may be closed, upon adoption of a motion by any trustee, when necessary to preserve the attorney-client privilege, to protect the
privacy interests of individuals, to review personnel matters or to maintain confidentiality when confidentiality is in the best interest of the beneficiaries of the trust.

§12-6-4. Management and control of fund; officers; staff; fiduciary or surety bonds for trustees; liability of trustees.

(a) The management and control of the board shall be vested solely in the trustees in accordance with the provisions of this article.

(b) The governor shall be the chairman of the board and the trustees shall elect a vice-chairman who may not be a constitutional officer or his or her designee to serve for a term of two years. Effective with any vacancy in the vice-chairmanship, the board shall elect a vice-chairman to a new two-year term. The vice-chairman shall preside at all meetings in the absence of the chairman. Annually, the trustees shall elect a secretary, who need not be a member of the board, to keep a record of the proceedings of the board.

(c) The trustees shall appoint a chief executive officer of the board and shall fix his or her duties and compensation. The chief executive officer shall have five years experience in investment management with public or private funds within the ten years next preceding the date of appointment. The chief executive officer additionally shall have academic degrees, professional designations and other investment management or investment oversight or institutional investment experience in such combination as the trustees consider necessary to carry out the responsibilities of the chief executive officer position as defined by the trustees.

(d) The trustees shall retain an internal auditor to report directly to the trustees and shall fix his or her compensation. The internal auditor shall be a certified public accountant with at least three years experience as an auditor. The internal auditor shall develop an internal audit plan, with board approval, for the testing of procedures and the security of transactions.

(e) Each trustee shall give a separate fiduciary or surety
bond from a surety company qualified to do business within this state in a penalty amount of one million dollars for the faithful performance of his or her duties as a trustee of the fund. The board shall purchase a blanket bond for the faithful performance of its duties, in the amount of fifty million dollars or in an amount equivalent to one percent of the assets under management, whichever is greater. The amount of the blanket bond shall be in addition to the one million dollar individual bond required of each trustee by the provisions of this section. The board may require a fiduciary or surety bond from a surety company qualified to do business in this state for any person who has charge of, or access to, any securities, funds or other moneys held by the board, and the amount of the fiduciary or surety bond shall be fixed by the board. The premiums payable on all fiduciary or surety bonds shall be an expense of the board.

The trustees and employees of the board are not liable personally, either jointly or severally, for any debt or obligation created by the board: Provided, That the trustees and employees of the board are liable for acts of misfeasance or gross negligence.

The board shall be exempt from the provisions of sections seven and eleven, article three, chapter twelve of this code and article three, chapter five-a of said code: Provided, That the trustees and employees of the board shall be subject to purchasing policies and procedures which shall be promulgated by the board. The purchasing policies and procedures may be promulgated as emergency rules pursuant to section fifteen, article three, chapter twenty-nine-a of this code.

Any employee of the West Virginia trust fund who previously was an employee of another state agency may return to the public employees retirement system pursuant to section eighteen, article ten, chapter five of this code, and may elect to either: (1) Transfer to the public employee retirement system his or her employee contributions, with accrued interest, and, if vested, his or her employer contributions, with accrued interest and retain as credited state service all time served as an employee of
the West Virginia trust fund; or (2) retain all employee
contributions with accrued interest and, if vested, his or
her employer contributions with interest, and forfeit all
service credit for the time served as an employee of the
West Virginia trust fund.

§12-6-5. Powers of the board.

The board may exercise all powers necessary or appro-
priate to carry out and effectuate its corporate purposes.
The board may:

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

(2) Sue and be sued;

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

(4) Acquire (by purchase, gift or otherwise), hold, use
and dispose of real and personal property, deeds, mort-
gages and other instruments;

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

(6) Notwithstanding any other provision of law, retain
and employ legal, accounting, financial and investment
advisors and consultants;

(7) Acquire (by purchase, gift or otherwise), hold,
exchange, pledge, lend and sell or otherwise dispose of
securities and invest funds in interest earning deposits and
in any other lawful investments;

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

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

(10) Engage in financial transactions whereby securities
held by the board are sold under an agreement providing
for the repurchase of the securities by the board at a
stated price;
(11) Consolidate and manage moneys, securities and
other assets of the other funds and accounts of the state
and the moneys of political subdivisions which may be
made available to it under the provisions of this article;

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

(13) Charge and collect administrative fees from politi-
cal subdivisions for its services;

(14) Exercise all powers generally granted to and
exercised by the holders of investment securities with
respect to management of the investment securities;

(15) Contract with one or more banking institutions in
or outside the state for the custody, safekeeping and
management of securities held by the board;

(16) Make, and from time to time, amend and repeal
bylaws, regulations and procedures not inconsistent with
the provisions of this article;

(17) Hire its own employees, consultants, managers and
advisors as it considers necessary and fix their compensa-
tion and prescribe their duties;

(18) Develop, implement and maintain its own banking
accounts and investments;

(19) Do all things necessary to implement and operate
the board and carry out the intent of this article;

(20) Require the state auditor and treasurer to transmit
state funds on a daily basis for investment: Provided, That
money held for meeting the daily obligations of state
government need not be transferred;

(21) Upon request of the treasurer, transmit funds for
deposit in the state treasury to meet the daily obligations
of state government; and

(22) Notwithstanding any other provision of the code to
the contrary, conduct investment transactions, including
purchases, sales, redemptions and income collections
which transactions shall not be treated by the auditor as
recordable transactions on the state's accounting system.

§12-6-6. Annual audits; reports and information to constitutional and legislative officers, council of finance and administration, consolidated public retirement board, workers' compensation fund and coal-workers' pneumoconiosis fund; statements and reports open for inspection.

(a) The board shall cause an annual financial and compliance audit of the consolidated pension fund to be made by a certified public accounting firm having a minimum staff of ten certified public accountants and being a member of the American institute of certified public accountants, and, if doing business in West Virginia, being a member of the West Virginia society of certified public accountants. The financial and compliance audit shall be made of the board's books, accounts and records, with respect to its receipts, disbursements, investments, contracts and all other matters relating to its financial operations. Copies of the audit report shall be furnished to the governor, state treasurer, state auditor, president of the Senate, speaker of the House of Delegates, council of finance and administration and consolidated public retirement board.

(b) The board shall produce monthly financial statements for the consolidated pension fund and the consolidated fund and cause them to be delivered to each member of the board and the executive secretary of the consolidated public retirement board as established in sections one and two, article ten-d, chapter five of this code and to the commissioner of the bureau of employment programs as administrator of the workers' compensation fund and coal-workers' pneumoconiosis fund, as established in section one, article one, chapter twenty-three of this code, and section one, article three of said chapter and section seven, article four-b of said chapter.

(c) The board shall deliver in each quarter to the council of finance and administration and the consolidated public retirement board a report detailing the investment performance of the retirement plans.
(d) The board shall cause an annual performance audit to be made by a nationally recognized fiduciary service. The board shall furnish copies of the audit report to the governor, state treasurer, state auditor, president of the Senate, speaker of the House of Delegates, council of finance and administration and consolidated public retirement board.

(e) The board shall provide any other information requested in writing by the council of finance and administration.

(f) All statements and reports with respect to participant plans required in this section shall be available for inspection by the members and beneficiaries and designated representatives of the participant plans.

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

(a) There is hereby established a special investment fund to be managed by the board and designated as the "consolidated fund".

(b) Each board, commission, department, official or agency charged with the administration of state funds is hereby authorized to make moneys available to the board for investment.

(c) Each political subdivision of this state through its treasurer or equivalent financial officer is hereby authorized to enter into agreements with the board for the investment of moneys of the political subdivision. Any political subdivision may enter into an agreement with any state agency from which it receives funds to allow the funds to be transferred to their investment account with the investment management board.

(d) Moneys held in the various funds and accounts administered by the board shall be invested as permitted in section twelve of this article and subject to the restrictions contained in that section. The treasurer shall maintain records of the deposits and withdrawals of each participant and the performance of the various funds and accounts. The board shall report the earnings on the various funds under management to the treasurer at such
times as determined by the treasurer. The board shall also establish rules for the administration of the various funds and accounts established by this section as it considers necessary for the administration of the funds and accounts, including, but not limited to: (1) The specification of minimum amounts which may be deposited in any fund or account and minimum periods of time for which deposits will be retained; and (2) creation of reserves for losses: Provided, That in the event any moneys made available to the board may not lawfully be combined for investment or deposited in the consolidated funds established by this section, the board may create special accounts and may administer and invest those moneys in accordance with the restrictions specially applicable to those moneys: Provided, however, That the consolidated fund and the moneys of the consolidated pension plan shall not be combined or deposited to a single account or fund.

§12-6-9. Fees for service.

The board shall charge fees, as adopted at the annual meeting, for the reasonable and necessary expenses incurred by the investment management board in rendering services to the participant plans and the consolidated fund. The fees shall be subtracted from the total return of the board, and the net return shall be credited to each of the participant plans and the consolidated fund. All fees which are dedicated or identified or readily identifiable to an individual participant plan or the consolidated fund shall be charged against that plan or fund, and all other fees shall be charged as a percentage of assets under management. At its annual meeting, the board shall adopt a fee schedule and a budget reflecting fee structures.

§12-6-9a. Trust indenture.

On the effective date of this section, all assets of the irrevocable trust entered into by the governor on the first day of July, one thousand nine hundred ninety-six, with the West Virginia trust fund, inc. acting as the trustee shall constitute the corpus of an irrevocable trust with the board as its trustee: Provided, That the trust shall continue to be subject to the following provisions:
(a) The Legislature hereby reserves the following rights and powers:

(1) The right by supplemental agreement to amend, modify or alter the terms of this trust without consent of the trustee, or any beneficiary; and

(2) The right to request and receive additional information from the trustee at any time.

(b) The trustee shall establish a trust for the participant plans specified by this article with the earnings and losses accounted for and charged individually to each participant plan, including, but not limited to, the following:

(1) The public employees retirement system;

(2) The teachers retirement system;

(3) The West Virginia state police retirement system;

(4) The death, disability and retirement fund of the department of public safety;

(5) The judges' retirement system;

(6) The pneumoconiosis fund; and

(7) The workers' compensation fund.

(c) In the administration of the trust created by the trust indenture, the trustee has the following powers:

(1) To purchase, retain, hold, transfer and exchange, and to sell, at public or private sale, the whole or any part of the trust estate upon such terms and conditions as it considers advisable;

(2) To invest and reinvest the trust estate or any part thereof, in any kind of property, real or personal, including, but not limited to, mortgage or mortgage participations, common stocks, preferred stocks, common trust funds, bonds, notes or other securities, notwithstanding the provisions of articles five and six, chapter forty-four of this code: Provided, That notwithstanding the provisions of this act to the contrary, the board shall not become a stockholder or owner of any company or association for any purpose whatsoever unless and until
the provisions of section six, article X of the constitution of West Virginia are amended to permit those investments;

(3) To carry the securities and other property held under the trust indenture either in the name of the trustee or in the name of its nominee;

(4) To vote, in person or by proxy, all securities held under the trust indenture, to join in or to dissent from and oppose the reorganization, recapitalization, consolidation, merger, liquidation or sale of corporations or property; to exchange securities for other securities issued in connection with or resulting from any transaction; to pay any assessment or expense which the trustee considers advisable for the protection of its interest as holder of any such securities; to deposit securities in any voting trust or with any protective or like committee, or with a trustee depository; to exercise any option appurtenant to any securities for the conversion of any securities into other securities; and to exercise or sell any rights issued upon or with respect to the securities of any corporation, all upon terms the trustee considers advisable;

(5) To prosecute, defend, compromise, arbitrate or otherwise adjust or settle claims in favor of or against the trustee or other trust estate;

(6) To employ and pay from the trust estate legal and investment counsel, brokers and such other assistants and agents as the trustee considers advisable; and

(7) To develop, implement and modify an asset allocation plan for each participant plan. The asset allocation plans shall be implemented within the management and investment of the trust fund.

(d) All trust income shall be free from anticipation, alienation, assignment or pledge by, and free from attachment, execution, appropriation or control by or on behalf of, any and all creditors of any beneficiary by any proceeding at law, in equity, in bankruptcy or insolvency.

(e) The trustee may receive any other property, real or personal, tangible or intangible, of any kind whatsoever, that may be granted, conveyed, assigned, transferred,
devised, bequeathed or made payable to it by the state, or
by any other person or entity, for the purposes of the trust
created by the trust indenture, and all such properties
shall be held, managed, invested and administered by the
trustee as provided in the trust indenture and in the "West
Virginia Investment Management Act".

(f) The trustee shall promptly cause to be paid to the
state the amounts certified by the governor as necessary
for the monthly payment of benefits to the beneficiaries of
the trust.

(g) The trustee shall render an annual accounting to the
governor not more than one hundred twenty days follow-
ing the close of the fiscal year of the trust.

(h) The trust will not be invalid by reason of any existing
law or rule against perpetuities or against accumulations
or against restraints upon the power of alienation, but the
trust may continue for such time as necessary to accom-
plish the purposes for which it is established.

(i) If any provision of the trust indenture is void, invalid
or unenforceable, the remaining provisions are neverthe-
less valid and shall be carried into effect.

§12-6-9c. Authorization of additional investments.

Notwithstanding the restrictions which may otherwise
be provided by law with respect to the investment of
funds, the board, all administrators, custodians or trustees
of pension funds, each political subdivision of this state
and each county board of education is authorized to invest
funds in the securities of or any other interest in any
investment company or investment trust registered under
the Investment Company Act of 1940, 15 U.S.C. §80a, the
portfolio of which is limited: (i) To obligations issued by
or guaranteed as to the payment of both principal and
interest by the United States of America or its agencies or
instrumentalities; and (ii) to repurchase agreements fully
collateralized by obligations of the United States govern-
ment or its agencies or instrumentalities: Provided, That
the investment company or investment trust takes delivery
of the collateral either directly or through an authorized
custodian: Provided, however, That the investment
§12-6-9e. Legislative findings; loans for industrial development; availability of funds and interest rates.

(a) The Legislature hereby finds and declares that the citizens of the state benefit from the creation of jobs and businesses within the state; that an industrial development loan program will provide for economic growth and stimulation within the state; and that loans from pools established in the consolidated fund will assist in providing the needed capital to assist industrial development. This section is enacted in view of these findings.

(b) The board may make available, on a revolving basis, up to fifteen million dollars from the consolidated fund to loan the West Virginia economic development authority for industrial development projects authorized by section seven, article fifteen, chapter thirty-one of this code: Provided, That the West Virginia economic development authority may not loan more than two million dollars for any one industrial development project. The loans shall be secured by notes, security interests or bonds issued by the West Virginia economic development authority evidencing the indebtedness of the economic development authority to the board.

The notes, security interests or bonds issued by the economic development authority shall be secured by security equal to or better than one of the three highest rating grades by an agency which is nationally known in the field of rating corporate securities or by a letter of credit guarantee issued by a bank having an unsecured legal lending limit greater than two million dollars.

(c) The interest rates and maturity dates on the loans to the West Virginia economic development authority shall be at competitive rates and maturities as determined by the board. The board shall determine the financial condition of pools within the consolidated fund and shall determine if there is sufficient liquidity within the pools to make the loans specified in this section.

Any investments made under this article shall be made in accordance with the provisions of the “Uniform Prudent Investor Act” codified as article six-c of this chapter and shall be further subject to the following requirements:

(a) Trustees shall discharge their duties with respect to the consolidated pension plan for the exclusive purpose of providing benefits to participants and their beneficiaries;

(b) Trustees shall diversify fund investment so as to minimize the risk of large losses unless, under the circumstances, it is clearly prudent not to do so;

(c) Trustees shall defray reasonable expenses of investing and operating the funds under management; and

(d) Trustees shall discharge their duties in accordance with the documents and instruments governing the trust fund or other funds under management insofar as such documents and instruments are consistent with the provisions of this article.

§12-6-12. Limitations on investments.

(a) The board shall not become a stockholder or owner of any company or association for any purpose whatsoever unless and until the provisions of section six, article X of the constitution of West Virginia are amended to provide for those investments. If at some time, after the effective date of this section, the provisions of section six, article X of the constitution of West Virginia are amended to allow the state to become a stockholder in a corporation, the board shall limit its asset allocation and types of securities to the following:

(1) For the first twelve months following authorization of the state to become a stockholder in a corporation, the board shall hold in equity investments no more than twenty percent of its total portfolio and no more than twenty percent of the assets of any individual participant plan or the consolidated fund; during the thirteenth through and including the twenty-fourth month following the authorization, the board shall hold in equity investments no more than forty percent of its total portfo-
and no more than forty percent of the assets of any
individual participant plan or the consolidated fund; and
thereafter, the board shall hold in equity investments no
more than sixty percent of its total portfolio and no more
than sixty percent of the assets of any individual partici-
pant plan or the consolidated fund.

(2) The board shall hold in international securities no
more than twenty percent of the consolidated fund or the
trust fund and no more than twenty percent of the assets
of any individual participant plan or the consolidated
fund.

(3) The board may not at the time of purchase hold more
than five percent of the trust fund or consolidated fund in
the equity securities of any single company or association:
Provided, That if a company or association has a market
weighting of greater than five percent in the Standard &
Poor's 500 index of companies, the board may hold
securities of that equity equal to its market weighting.

(b) The board shall at all times limit its asset allocation
and types of securities to the following:

(1) The board may not hold more than twenty percent of
the trust fund in commercial paper. Any commercial
paper at the time of its acquisition shall be in one of the
two highest rating categories by an agency nationally
known for rating commercial paper.

(2) At no time shall the board hold more than seventy-
five percent of the trust fund or consolidated fund in
corporate debt. Any corporate debt security at the time of
its acquisition shall be rated in one of the four highest
rating categories by a nationally recognized rating agency.

(3) No security may be purchased by the board unless
the type of security is on a list approved by the board. The
board may modify the securities list at any time, and must
give notice of that action pursuant to subsection (g),
section three of this article, and must review the list at its
annual meeting.

(c) The board, at the annual meeting provided for in
subsection (h), section three of this article, shall review,
establish and modify, if necessary, the investment objectives of the individual participant plans, as incorporated in the investment policy statements of the respective trusts so as to provide for the financial security of the trust funds giving consideration to the following:

1. Preservation of capital.
2. Diversification.
3. Risk tolerance.
4. Rate of return.
5. Stability.
6. Turnover.
7. Liquidity.
8. Reasonable cost of fees.

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

All duties vested by law in any agency, commission, official or other board of the state relating to the investment of moneys, and the acquisition, sale, exchange or disposal of securities or any other investment are hereby transferred to the board: Provided, That neither this section nor any other section of this article applies to the "board of the school fund" and the "school fund" established by section 4, article XII of the state constitution: Provided, however, That funds under the control of the municipal bond commission may, in the discretion of the commission, be made available to the board for investment to be invested by the commission as provided in article three, chapter thirteen of this code.

§12-6-15. Consolidated fund audits.

The board shall cause to be conducted an annual external audit of all investment transactions of the consolidated fund by a nationally recognized accounting firm: Provided, That the board shall on a monthly basis provide to each state agency and any other entity investing moneys in the consolidated fund an itemized statement of the agency's or the entity's account in the consolidated fund. The statement shall include the beginning balance.
§ 12-6-16. Existing investments.

The board shall be vested with ownership of all securities or other investments lawfully held by the board of investments or the West Virginia trust fund as of the effective date of this article. All obligations and assets of the board of investments and the West Virginia trust fund, inc. shall be vested in the West Virginia investment management board as of the effective date of this article.

§ 12-6-19. Authorization for loans by the board.

(a) The board, upon request of the state building commission, shall transfer moneys as a loan to the state building commission in an amount not to exceed in the aggregate twenty-one million dollars for the purposes of financing or refinancing the projects specified in subsections (b) and (d), section eight, article six, chapter five of this code. The money borrowed shall bear interest during the term of the loan at a fixed rate not to exceed the interest rate on treasury notes, bills or bonds of the same term as the term of the loan the week of closing on the loan as reported by the treasury of the United States. Loans made under this subsection shall be repaid in regular monthly or semiannual payments and shall be paid in full not later than twenty-five years from the date the loans are made with terms and conditions mutually agreed upon by the state building commission and the investment management board.

(b) The board shall upon request of the state building commission transfer moneys as a loan to the state building commission in an amount not to exceed in the aggregate eighty million dollars for the purposes of financing construction of regional jails, correctional facilities, or building extensions or improvements to regional jails and correctional facilities. Prior to the expenditure of any loan proceeds, the regional jail and correctional facility authority shall certify a list of projects to the state building commission and the joint committee on government and finance that are to be funded from loan proceeds. This certified list cannot thereafter be altered or amended.
other than by legislative enactment. Upon receipt of the certified list of projects, the state building commission shall transfer the loan proceeds to the regional jail and correctional facility authority. The money borrowed shall bear interest during the term of the loan at a fixed rate not to exceed the interest rate on treasury notes, bills or bonds of the same term as the term of the loan the week of closing on the loan as reported by the treasury of the United States.

(c) Loans made under this section for the projects specified in subsection (b) of this section and in subsection (d), section eight, article six, chapter five of this code, shall be repaid in annual payments of not less than twelve million dollars per year by appropriation of the Legislature to the board. The amount transferred for loans under subsection (a) or (b) of this section shall not exceed that amount which the board determines is reasonable given the cash flow needs of the consolidated fund. The board shall make transfers for loans first for the project specified in subsection (d), section eight, article six, chapter five of this code, second for the projects specified in subsection (b) of this section and third for projects specified in subsection (b), section eight, article six, chapter five of this code, which are in imminent danger of default in payment. The board shall take the steps necessary to increase the liquidity of the consolidated fund over a period of the next five years to allow for the loans provided in this section without increasing the risk of loss in the consolidated fund.


§12-6A-2. Legislative findings and declaration of public necessity.

(a) The Legislature hereby finds and declares that efficient and effective state government requires the procuring, maintaining and reporting of pertinent information relating to the debt of the state and its agencies, boards, commissions and authorities. The state treasurer shall perform the functions and duties necessary to serve as a central information source concerning the incurrence, recording and reporting of debt issued by the state, its
agencies, boards, commissions and authorities.

(b) The Legislature hereby finds:

(1) The credit rating and acceptance of bonds, notes, certificates of participation and other securities and indebtedness of the state and its spending units have been unstable as a result of the instability in traditional national and international markets of goods and services produced by the citizens of the state.

(2) In order to finance essential capital projects for the benefit of the citizens of the state at the lowest possible cost, the state must maintain high levels of acceptance of the indebtedness of the state and its spending units in the financial markets.

(3) In order to attain these goals, authorization of state debt must be based on the ability of the state to meet its total debt service requirements, in light of other uses of its fiscal resources.

(c) The Legislature hereby further finds that the public policies and responsibilities of the state as set forth in this article cannot be fully attained without the creation of a state division of debt management.

§12-6A-3. Division of debt management created; director.

There is hereby created within the office of the state treasurer, the division of debt management.

The division shall be under the control of a director to be appointed by the treasurer and who shall be qualified by reason of exceptional training and experience in the field of activities of his respective division and shall serve at the will and pleasure of the treasurer.


The division of debt management shall perform the following functions and duties:

(1) Develop a long-term debt plan including criteria for the issuance of debt by the state and its spending units and the continuous evaluation of the current and projected debt of the state and its spending units.
(2) Evaluate cash flow projections relative to proposed and existing revenue bond issues.

(3) Act as liaison with the Legislature on all debt matters, including, but not limited to, new debt issues and the status of debt issued by the state and its spending units.

(4) Assist the state and its spending units regarding the issuance of debt if requested.

(5) Establish reporting requirements for the issuance of debt by the state and its spending units pursuant to the provisions of this article.

(6) Make and execute contracts and other instruments and pay the reasonable value of services or commodities rendered to the division pursuant to those contracts.

(7) Contract, cooperate or join with any one or more other governments or public agencies, or with any political subdivision of the state, or with the United States, to perform any administrative service, activity or undertaking which any such contracting party is authorized by law to perform and to charge for providing such services and expend any fees collected.

(8) Do all things necessary or convenient to effectuate the intent of this article and to carry out its powers and functions.

(9) Provide staff services to the debt capacity advisory division established in article six-b of this chapter.

§12-6A-6. Debt information reporting.

(a) Within fifteen days following the end of each calendar quarter, each state spending unit shall provide the division and the legislative auditor, in the manner provided by this article and in such form and detail as the state treasurer may by regulation require, a statement of the total debt of each such state spending unit incurred during the calendar quarter and owing at the end of such calendar quarter, which statement shall include, but not be limited to, the name of the state spending unit, the amounts and types of debt incurred during the calendar
quarter and outstanding at the end of the calendar
time, the cost and expenses of incurring the debt, the
maturity date of each debt, the terms and conditions of the
debt, the current debt service on the debt, the current
interest rate on the debt, the source of the proceeds
utilized for repayment of the debt, the amounts of repay-
ment during the calendar quarter, the repayment schedule
and the security for the debt. A state spending unit having
no outstanding debt shall not be required to provide the
quarterly report but shall file an annual report, on forms
established by the division of debt management: Provided. That the state spending unit shall immediately
notify the division of debt management of any change in
the spending unit's outstanding debt condition.

(b) Not less than thirty days prior to a proposed offering
of debt to be issued by a state spending unit, written
notice of such proposed offering and the terms thereof
shall be given to the division by such state spending unit
in the form as the division may by regulation require.
Within thirty days after closing, the terms shall be re-
ported to the division in the form as the division may, by
regulation require.

(c) On or before the thirty-first day of January and the
thirty-first day of July of each year, the treasurer shall
prepare and issue a report of all debt of the state and its
spending units and of all proposed debt issuances of which
the treasurer has received notice and shall furnish a copy
of such report to the governor, the president of the Senate,
the speaker of the House of Delegates, the legislative
auditor and upon request to any legislative committee and
any member of the Legislature. The report shall be kept
available for inspection by any citizen of the state. The
treasurer shall also prepare updated reports of all debt of
the state and its spending units which shall be available
for inspection at the office of the state treasurer on or
before the thirty-first day of March and the thirtieth day
of September of each year.

ARTICLE 6B. DEBT CAPACITY ADVISORY DIVISION.

§12-6B-1. Purpose.
The purpose of this article is to provide a mechanism by which necessary information may be provided to the governor and the Legislature so that they may prudently manage the state’s financial resources by attempting to keep the state within an average to low range of nationally recognized debt limits. The ratio measurements which may be taken into consideration in attempting to meet these limits include, but are not limited to, outstanding net tax supported debt per capita, net tax supported debt as a percentage of personal income, net tax supported debt as a percentage of assessed valuation, and any other criteria that recognized bond rating agencies use to judge the quality of issues of state bonds.

§12-6B-2. Debt capacity advisory division created.

There is hereby created within the offices of the state treasurer a debt capacity advisory division.

§12-6B-3. Definitions.

For the purpose of this article:

(a) “Debt” means bonds, notes, certificates of participation, certificate transactions, capital leases and all other forms of securities and indebtedness.

(b) “Debt impact statement” means a signed statement from the treasurer which shall include such information and be in such form, as determined by the division, for the Legislature or the governor to make an informed decision concerning the issuance of debt by the state or its spending units.

(c) “Division” means the debt capacity advisory division established in this article.

(d) “Net tax supported debt as a percentage of assessed valuation” means the net tax supported debt, as determined by the division, divided by the most recently available estimated assessed valuation of all taxable property in the state by the West Virginia department of tax and revenue.

(e) “Net tax supported debt as a percentage of personal income” means the net tax supported debt, as determined...
by the division, divided by the most recently available
personal income figures for the state by the West Virginia
bureau of employment programs.

(f) "Net tax supported debt per capita" means the state's
net tax supported debt, as determined by the division,
divided by the most recently available population estimate
for the state by the United States department of com-
merce.

(g) "Spending unit" means any of the state's agencies,
boards, commissions, committees, authorities, or other of
its entities with the power to issue debt and secure such
debt, but not including local political subdivisions of the
state.

(h) "Tax supported debt" means: (1) All obligations of
the state or any spending unit to which the state's full
faith and credit is pledged to pay directly or by guarantee
(provided that any such guaranteed obligations shall be
included only to the extent any such obligations are in
default); and (2) all obligations of the state or any agency
or authority thereof extending beyond one year with
respect to the lease, occupancy or acquisition of property
which are incurred in connection with debt financing
transactions, including, but not limited to, certificates of
participation, and which are payable from taxes, fees,
permits, licenses and fines imposed or approved by the
Legislature.

Tax supported obligations do not include: (1) Any
obligations of the West Virginia housing development
fund, the economic development authority, the hospital
finance authority, the West Virginia parkway authority,
the West Virginia public energy authority, the West
Virginia solid waste management board, and the West
Virginia water development authority; (2) revenue antici-
pation notes or bonds of the state; or (3) any obligations to
the extent that the debt service with respect thereto is
reasonably expected to be offset, as determined by the
division, by lease payments, user fees, federal grants or
other payments from some source other than the general
fund. Such payments shall be used expressly for the
purpose of paying debt service.
(i) "Treasurer" means the treasurer of the state of West Virginia.

§12-6B-4. Powers and duties.

1 The division shall perform the following functions and duties:

(a) Promulgate rules pursuant to article three, chapter twenty-nine-a of this code, for the management and conduct of its affairs;

(b) Annually review the size and condition of the state's tax-supported debt and submit to the governor and to the Legislature, on or before the first day of October of each year, an estimate of the maximum amount of new tax-supported debt that prudently may be authorized for the next fiscal year, together with a report explaining the basis for the estimate. The estimate shall be advisory and in no way restrict the governor or the Legislature. In preparing its annual review and estimate, the division shall, at a minimum, consider:

(1) The amount of net tax supported debt that, during the next fiscal year and annually for the following ten fiscal years: (A) Will be outstanding; and (B) has been authorized but not yet issued;

(2) Projected debt service requirements during the next fiscal year and annually for the following ten fiscal years based upon: (A) Existing outstanding debt; (B) previously authorized but unissued debt; and (C) projected bond authorizations;

(3) Any information available from the budget section of the department of administration in connection with anticipated capital expenditures projected for the next five fiscal years;

(4) The criteria that recognized bond rating agencies use to judge the quality of state bonds;

(5) Any other factor that the division finds as relevant to: (A) The ability of the state to meet its projected debt service requirements for the next fiscal year; (B) the ability of the state to meet its projected debt service requirements for the next fiscal year;
requirement for the next five fiscal years; and (C) any
other factor affecting the marketability of such bond; and
(6) The effect of authorizations of new tax-supported
debt on each of the considerations of this subsection.
(c) Conduct ongoing review of the amount and condition
of bonds, notes and other security obligations of the state's
spending units: (1) Not secured by the full faith and credit
of the state or for which the Legislature is not obligated to
replenish reserve funds or make necessary debt service
payments; (2) for which the state has a contingent or
limited liability or for which the Legislature is permitted
to replenish reserve funds or make necessary debt service
payments if deficiencies occur. When appropriate, the
division shall recommend limits on such additional
obligations to the governor and to the Legislature. Such
recommendation is advisory and shall in no way restrict
the governor, the Legislature or the spending unit.
(d) The treasurer may review all proposed offerings of
debt, as defined in this article, submitted to the division of
debt management, as provided in section six. article six-a
of this chapter. The division may also request any addi-
tional information which may be needed to issue an
advisory opinion to the governor, the speaker of the
House of Delegates and the president of the Senate as to
the impact of the proposed offering on the state's net tax-
supported debt outstanding and any other criteria which
the treasurer feels may be relevant to the marketability of
said offering and its impact on the state's credit rating.
Such advisory opinion shall in no way restrict the gover-
nor, the Legislature or the spending unit.
(e) Do all things necessary or convenient to effectuate
the intent of this article and to carry out its powers and
functions.

CHAPTER 13. PUBLIC BONDED INDEBTEDNESS.
ARTICLE 3. MUNICIPAL BOND COMMISSION.
§13-3-3. Officers; employees; chief administrative officer;
meetings; quorum; compensation and expenses;
legal representation.
(a) The tax commissioner or his or her designee shall be chair of the commission.

(b) The members of the commission shall appoint a chief administrative officer and may fix his title and duties. Notwithstanding the provisions of section two-a, article seven, chapter six of this code, the commission shall have the authority to set the compensation of the chief administrative officer. The chief administrative officer shall serve as secretary to the board and treasurer of the commission. The chair may designate a board member to serve as secretary in the absence of the chief administrative officer. The chair is authorized with the approval of the commission, to employ other employees and consultants as the commission deems advisable and fix their compensation and prescribe their duties.

(c) Appointed members of the commission shall be paid fifty dollars for each day or substantial portion thereof that they are engaged in the work of the commission. Each member of the commission may be reimbursed for all reasonable and necessary expenses actually incurred in the performance of duties on behalf of the commission.

(d) The commission shall hold at least three meetings in each fiscal year, one of which meetings shall be within sixty days of the end of the fiscal year and shall be the annual meeting. The meetings shall be held on dates and at places prescribed by the chair. Additional meetings may be held at the call of the chair or upon the written request of three members at such time and place as designated in such call or request. Three members of the commission constitute a quorum.

(e) The chair with the consent of the commission is authorized to provide or designate legal advisory services to the commission.

CHAPTER 50. MAGISTRATE COURTS.

ARTICLE 3. COSTS, FINES AND RECORDS.

§50-3-2a. Payment of fines by credit card or payment plan; suspension of licenses for failure to pay fines or appear or respond.
(a) A magistrate court may accept credit cards in payment of all costs, fines, forfeitures or penalties. The supreme court of appeals shall adopt rules regarding the use of credit or check cards to pay fines and any charges made by the credit card company may be paid from the gross credit card collections. A magistrate court may collect a portion of any costs, fines, forfeitures or penalties at the time the amount is imposed by the court so long as the court requires the balance to be paid in accordance with a payment plan which specifies: (1) The number of payments to be made; (2) the dates on which such payments and amounts shall be made; and (3) amounts due on such dates.

(b) If any costs, fines, forfeitures, restitution or penalties imposed or ordered by the magistrate court for hunting or fishing violations as described in chapter twenty of this code are not paid in full as directed by the magistrate court, the magistrate court clerk or, upon a judgment rendered on appeal, the circuit clerk, shall notify the director of the division of natural resources, of such failure to pay. If any costs, fines, forfeitures, restitution or penalties imposed by the magistrate court in a criminal case are not paid as directed by the magistrate court, the magistrate court clerk or, upon judgment rendered on appeal, the circuit clerk, shall notify the director of the division of motor vehicles of the failure to pay. Upon notice, the division of motor vehicles shall suspend the operator's or commercial driver's license and the director of the division of natural resources shall suspend the hunting or fishing license of the person defaulting on payment until such time that the costs, fines, forfeitures, restitution or penalties are paid.

(c) If a person charged with any criminal violation of this code fails to appear or otherwise respond in court, the magistrate court shall notify the director of the division of motor vehicles thereof within fifteen days of the scheduled date to appear, unless the person sooner appears or otherwise responds in court to the satisfaction of the magistrate. Upon such notice, the division of motor vehicles shall suspend the operator's or commercial driver's license of the person failing to appear or other-
wise respond in accordance with the provisions of section six, article three, chapter seventeen-b of this code.

(d) In every criminal case which involves a misdemeanor violation, a magistrate may order restitution where appropriate when rendering judgment.

(e) If all costs, fines, forfeitures, restitution or penalties imposed by a magistrate court and ordered to be paid are not paid as ordered by the judgment of the magistrate court, the clerk of the magistrate court shall notify the prosecuting attorney of the county of such nonpayment and provide the prosecuting attorney with an abstract of judgment. The prosecuting attorney shall file the abstract of judgment in the office of the clerk of the county commission in the county where the defendant was convicted and in any county wherein the defendant resides or owns property. The clerk of the county commission shall record and index the abstracts of judgment without charge or fee to the prosecuting attorney, and when so recorded, the amount stated to be owing in the abstract shall constitute a lien against all property of the defendant.

CHAPTER 57. EVIDENCE AND WITNESSES.

ARTICLE 1. LEGISLATIVE ACTS AND RESOLUTIONS; PUBLIC RECORDS.

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

(a) Any public officer of the state may, with the approval of the state records administrator cause any or all records, papers or documents kept by him to be reproduced, by any photographic, photostatic, microphotographic or by similar miniature photographic process or by nonerasable optical image disks (commonly referred to as compact disks) or by other records-retention technology approved by the state records administrator. These reproductions by photographic, photostatic, microphotographic or by similar miniature photographic process or by nonerasable optical image disks shall be of durable material and the device used to reproduce such records on such film shall
be one which accurately reproduces the originals thereof in all details.

The reproductions by photographic, photostatic, microphotographic or by similar miniature photographic process or nonerasable optical image disks shall be deemed to be an original record for all purposes, including introduction in evidence in all courts or administrative agencies. A transcript, exemplification or certified copy thereof shall, for all purposes recited herein, be deemed to be a transcript, exemplification or certified copy of the original. Whenever reproductions by photographic, photostatic, microphotographic or by similar miniature photographic process or nonerasable optical image disks have been made and put in conveniently accessible fireproof files, and provision has been made for preserving, examining and using the same, the respective heads of the departments, divisions, institutions and agencies of the state may, with the approval of the state records administrator, cause the records and papers so reproduced by photographic, photostatic, microphotographic or by similar miniature photographic process or nonerasable optical image disks, or any part thereof, to be destroyed; but before any records, papers or documents are authorized to be destroyed, the state records administrator shall obtain the advice and counsel of the state historian and archivist, or his designated representative, as to the desirability of placing the records, papers and documents in the archives of that department. In the event the administrator is of the opinion that the record has no further administrative, legal, fiscal, research or historical value, the administrator may destroy or otherwise dispose of the record, paper or document if otherwise permitted to do so after complying with the provisions of section seventeen, article eight, chapter five-a of this code.

(b) Notwithstanding any other provisions of this code to the contrary, the state treasurer may at his discretion destroy any canceled checks of the state after three years have elapsed since the date of the check, whether or not such checks have been reproduced by photographic, photostatic, microphotographic or by similar miniature photographic process or nonerasable optical image disks:
Provided, That any canceled bonds or interest coupons of any bond issues of this state in the custody of the treasurer, or for which the treasurer acts as fiscal agent or paying agent, may at his discretion be destroyed by one of the two methods below:

Method I - The treasurer shall maintain a permanent record for the purpose of recording the destruction of bonds and coupons, showing the following: (1) With respect to bonds, the purpose of issuance, the date of issue, denomination, maturity date and total principal amount; and (2) with respect to coupons, the purpose of issue and date of the bonds to which the coupons appertain, the maturity date of the coupons, and, as to each maturity date, the denomination, quantity and total amount of coupons.

After recording the specified information, the treasurer shall have the canceled bonds and coupons destroyed either by burning or shredding, in the presence of an employee of the treasurer and an employee of the legislative auditor, each of whom shall certify that he saw the canceled bonds and coupons destroyed. The certificates shall be made a part of the permanent record. Canceled bonds or coupons shall not be destroyed until after one year from the date of payment.

Method II - The treasurer may contract with any bank or trust company acting as paying agent or copaying agent for a bond issue of the state for the destruction of bonds and interest coupons which have been canceled by the paying agent. The contract shall require that the paying agent give the treasurer a certificate containing the same information required by Method I. The certificate shall be made a part of the treasurer's permanent records.

Each contract shall also require that the paying agent be responsible for proper payment and disposition of all bonds and coupons, and for any duplicate payments to unauthorized persons and nonpayment to authorized persons occurring as a result of destruction of bonds or coupons under this section. In addition, the treasurer may require the paying agent to submit an indemnity bond, in an amount to be determined by the treasurer, to assure
performance of the duties specified in this section.
Canceled bonds or coupons may not be destroyed until one
year from the date of payment.
For purposes of this section, the term "bonds" shall
include interim certificates.

CHAPTER 59. FEES, ALLOWANCES AND COSTS; NEWSPAPERS; LEGAL ADVERTISEMENTS.

ARTICLE 1. FEES AND ALLOWANCES.

§59-1-12. Payment of fines by credit card or payment plan.

A circuit court may accept credit cards in payment of all
fines, cost, forfeiture, restitution or penalties. The su-
preme court of appeals shall adopt rules regarding the use
of credit or check cards to pay fines, and any charges
made by the credit card company may be paid from the
gross credit card collections.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 25th day of April, 1991.

Governor