

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 2837**

4 (By Delegates Boggs, White, Reynolds, Hunt, Guthrie, Perdue,
5 Pethtel, Williams, Manypenny, R. Phillips and Skaff)
6 (Originating in the House Committee on Finance.)
7

8 [March 28, 2013]
9

10 A BILL to repeal §12-1-12c of the Code of West Virginia, 1931, as
11 amended; to repeal §12-6B-1, §12-6B-2, §12-6B-3 and §12-6B-4
12 of said code; to amend and reenact §5-10B-13 of said code; to
13 amend said code by adding thereto a new section, designated
14 §5-10B-14; to amend and reenact §12-1-3, §12-1-8 and §12-1-11
15 of said code; to amend and reenact §12-2-2 and §12-2-3 of said
16 code; to amend and reenact §12-3A-3 of said code; to amend
17 said code by adding thereto a new section, designated §12-4-
18 17; to amend and reenact §12-5-4 of said code; to amend and
19 reenact §12-6A-1, §12-6A-2, §12-6A-3, §12-6A-4 and §12-6A-5,
20 §12-6A-6 and §12-6A-7 of said code; to amend and reenact §12-
21 6C-7 and §12-6C-9 of said code; to amend and reenact §33-3-14d
22 of said code; and to amend and reenact §36-8-13 of said code,
23 all relating to the state treasurer's office; authorizing the
24 deferred compensation plan to accept qualified domestic

1 relations orders; authorizing Roth accounts within the
2 deferred compensation plan in accordance with the Internal
3 Revenue Code; authorizing financial institutions to offer
4 products in addition to certificates of deposit; updating
5 references to investing authorities to include the Board of
6 Treasury Investments; raising the amount of eligible deposits
7 from \$100,000 to the amount insured by a federal agency;
8 providing requirements to be eligible depositories; providing
9 for conflicts of interest for applicants and employees of the
10 Treasurer's office in connection with financial institutions;
11 authorizing depositories to submit reports in an electronic
12 format; changing the requirement that deposits are required
13 within 24 hours to one business day; establishing standards
14 for receipting of moneys, including reviewing of internal
15 controls by auditors and the Treasurer and ensuring copies of
16 audits are submitted to the Legislative Auditor; ensuring
17 confidential information in internal control procedures is
18 redacted before release; defining federal, special and general
19 revenue funds; changing the report to the Legislative Auditor
20 for accounts outside the treasury from quarterly to an annual
21 report; authorizing the Treasurer to determine the competitive
22 bidding of banking, investment and related goods and services
23 required for treasury operations; authorizing the Treasurer to
24 develop procedures for storing, retaining and disposing of

1 records for his or her office; ensuring the director of the
2 division of archives and history receives records with
3 historical value; clarifying that the Treasurer is responsible
4 for earnings received on securities, not just interest;
5 consolidating the debt capacity division into the debt
6 management division; providing legislative findings to
7 acknowledge the importance of monitoring the debt of the state
8 and its spending units; continuing division of debt management
9 as the central information source for debt issued by the state
10 and its spending units; defining debt to include debentures,
11 lease purchases, mortgages, securitizations and other types of
12 obligations with specific amounts owed and payable on demand
13 or on determinable dates; defining debt impact report, moral
14 obligation bond, net tax supported debt and tax supported
15 debt; defining spending unit; eliminating requirement for
16 developing a long-term debt plan; authorizing the division to
17 continuously evaluating debt and debt service requirements and
18 reviewing all proposed debt offerings of the state and its
19 spending units; authorizing the division to issue a debt
20 impact report if requested by the Governor, Senate President
21 or House of Delegates Speaker and that the report shall not
22 restrict the Governor, Legislature or spending unit; requiring
23 the division to monitor continuing disclosure requirements and
24 post-issuance compliance issues; eliminating requirement that

1 the debt management division provide staff for the debt
2 capacity division; providing for reporting by the division and
3 the spending units; requiring the division to prepare and
4 issue the debt capacity report; authorizing the Treasurer to
5 promulgate the rules in certain circumstances; altering the
6 bond required for the Board of Treasury Investments from \$50
7 million to at least \$10 million, as set by the board; updating
8 language pertaining to rating agencies to nationally
9 recognized statistical rating organizations; permitting pools
10 with weighted average maturity or duration of 366 days or more
11 to invest in investment grade corporate debt securities;
12 authorizing investments in money market and other fixed income
13 funds; authorizing the board to make loans specified by the
14 Legislature and to offer an equipment and software financing
15 program for state government entities; providing that
16 securities falling out of compliance with the Code do not have
17 to be sold if the investment manager and investment consultant
18 recommend retention; satisfying amounts due to and from
19 policemen's and firemen's pension and relief funds and the
20 Teachers Retirement System; authorizing expenses related to
21 operations and programs of the office of the Treasurer from
22 the Unclaimed Property Fund; authorizing transfer of moneys
23 from the Unclaimed Property Trust Fund for payment to
24 policemen's and firemen's pension and relief funds.

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

2 That §12-1-12c of the Code of West Virginia, 1931, as amended,
3 be repealed; that §12-6B-1, §12-6B-2, §12-6B-3 and §12-6B-4 of said
4 code be repealed; that §48-2-604 of said code be repealed; that §5-
5 10B-13 of said code be amended and reenacted; that said code be
6 amended by adding thereto a new section, designated §5-10B-14; that
7 §12-1-3, §12-1-8 and §12-1-11 of said code be amended and
8 reenacted; that §12-2-2 and §12-2-3 of said code be amended and
9 reenacted; that §12-3A-3 of said code be amended and reenacted;
10 that said code be amended by adding thereto a new section,
11 designated §12-4-17; that §12-5-4 of said code be amended and
12 reenacted; that §12-6A-1, §12-6A-2, §12-6A-3, §12-6A-4 and §12-6A-
13 5, §12-6A-6 and §12-6A-7 of said code be amended and reenacted;
14 that §12-6C-7 and §12-6C-9 of said code be amended and reenacted;
15 that §33-3-14d of said code be amended and reenacted; and that §36-
16 8-13 of said code be amended and reenacted, all to read as follows:

17 **CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE GOVERNOR,**
18 **SECRETARY OF STATE AND ATTORNEY GENERAL; BOARD OF PUBLIC WORKS,**
19 **MISCELLANEOUS AGENCIES, COMMISSIONS, OFFICES, PROGRAMS, ETC.**
20 **ARTICLE 10B. GOVERNMENT EMPLOYEES DEFERRED COMPENSATION PLANS.**
21 **§5-10B-13. Moneys not subject to legal process; qualified domestic**
22 **relations orders.**

23 No account, benefit or right, created pursuant to this

1 article, accrued or accruing, is subject to execution, garnishment,
2 attachment, sale to satisfy a judgment or order, the operation of
3 bankruptcy or insolvency laws, or other process of law and shall be
4 unassignable, except that accounts, benefits and contributions
5 under the plan are subject to "qualified domestic relations orders"
6 as that term is defined in Internal Revenue Code §414(p).

7 **§5-10B-14.Roth Accounts.**

8 The Treasurer or any public employer may authorize Roth
9 accounts within the plan in accordance with the Internal Revenue
10 Code, including, without limitation, conversions, deferrals,
11 rollovers and transfers.

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

13 **ARTICLE 1. STATE DEPOSITORIES.**

14 **§12-1-3.Depositories for interest earning deposits; qualifications.**

15 Any state or national bank or any state or federal savings and
16 loan association in this state shall, upon request made to the
17 State Treasurer, be designated as an eligible depository for
18 interest earning deposits of state funds if such bank or state or
19 federal savings and loan association meets the requirements set
20 forth in this chapter. For purposes of this article, the term
21 "interest earning deposits" includes certificates of deposit or
22 other financial institution products. The State Treasurer shall
23 make and apportion such interest earning deposits and shall
24 prescribe the interest rates, terms and conditions of ~~such~~

1 deposits, all in accordance with the provisions of ~~article six~~
2 articles six and six-c of this chapter: Provided, That state or
3 federal savings and loan associations insured by an agency of the
4 federal government shall be eligible for such deposits not in
5 excess of ~~one hundred thousand dollars~~ the amount insured by any
6 agency of the federal government.: ~~Provided, however, That~~
7 ~~notwithstanding any provision of this article to the contrary, no~~
8 ~~such interest earning deposits may be deposited in any depository~~
9 ~~which has been in existence over a period of five years which does~~
10 ~~not have a loan to deposit ratio of fifty percent or more and which~~
11 ~~does not have farm, single or multifamily residential unit loans in~~
12 ~~an amount greater than twenty-five percent of the amount of loans~~
13 ~~representing a loan to deposit ratio of fifty percent. For the~~
14 ~~purpose of making the foregoing calculation, the balances due the~~
15 ~~depository on the following loans shall be given effect: (1)~~
16 ~~Qualifying residential loans held by the depository; (2) qualifying~~
17 ~~loans made in participation with other financial institutions; (3)~~
18 ~~qualifying loans made in participation with agencies of the state,~~
19 ~~federal or local governments; and (4) qualifying loans originated~~
20 ~~and serviced by the depository but owned by an out-of-state~~
21 ~~investor. The computation of the criteria for eligibility specified~~
22 ~~above shall be based on the average daily balances of deposits, the~~
23 ~~average daily balances of total loans and qualifying residential~~
24 ~~loans for the period being reported.~~

1 **§12-1-8. Conflict of interest.**

2 ~~No depository in this State may serve or be eligible for~~
3 ~~designation as a State Depository if any employee of the~~
4 ~~Treasurer's office, or a spouse or minor child of that employee, is~~
5 ~~an officer, director or employee of the depository or owns greater~~
6 ~~than two percent of the depository either in his or her own name or~~
7 ~~beneficially or an interest in the depository. An employee of the~~
8 ~~Treasurer's office shall disclose the circumstance, if any, in the~~
9 ~~sworn statement required under the provisions of section one,~~
10 ~~article one, chapter six b of this code. An employee or a person~~
11 applying for a position with the office of the Treasurer shall
12 disclose to the Treasurer if he or she, or his or her spouse, is an
13 officer, director or employee of a depository or owns greater than
14 two percent of a depository. Any employee of the office of the
15 Treasurer who, or whose spouse, is an officer, director or employee
16 of a depository or owns greater than two percent of a depository
17 may not participate in any selection of or in any contract
18 negotiations with any depository.

19 **§12-1-11. Reports by depositories to Treasurer; discontinuance of**
20 **depositories.**

21 (a) Each depository of state funds shall at the end of each
22 quarter cause its president or ~~cashier~~ designated officer to report
23 to the Treasurer the amount of state funds on deposit and the
24 report shall be verified by the affidavit of the officer making it.

1 The form and contents of the report shall be prescribed by the
2 Treasurer and may be in an electronic format.

3 (b)For the failure to file the report, or for other good
4 cause, the Treasurer may discontinue any depository as an eligible
5 depository and cause all state funds to be withdrawn from any
6 depository or depositories ~~so~~ discontinued.

7 (c)When a depository is discontinued, the Treasurer shall
8 immediately notify such depository of its discontinuance, and shall
9 immediately withdraw by current checks or by transfer to another
10 depository or depositories the full amount of the deposits held by
11 any depository ~~so~~ discontinued. After discontinuance, it shall be
12 unlawful for the Treasurer to deposit any state funds in any
13 depository ~~so~~ discontinued until such time as the depository may be
14 reinstated to eligibility.

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

17 **§12-2-2. Itemized record of moneys received for deposit;**
18 **regulations governing deposits; credit to state fund; exceptions.**

19 (a) All officials and employees of the state authorized by
20 statute to accept moneys ~~due the~~ on behalf of the State of West
21 Virginia shall keep a daily itemized record of moneys received for
22 deposit in the State Treasury and shall deposit within ~~twenty-four~~
23 ~~hours~~ one business day with the State Treasurer all moneys received
24 or collected by them for or on behalf of the state for any purpose

1 ~~whatsoever. The State Treasurer may review the procedures and~~
2 ~~methods used by officials and employees authorized to accept moneys~~
3 ~~due the state and change the procedures and methods if he or she~~
4 ~~determines it is in the best interest of the state: *Provided,* That~~
5 ~~the state Treasurer may not review or amend the procedures by which~~
6 ~~the Department of Revenue accepts moneys due the state. The State~~
7 ~~Treasurer shall propose rules for legislative approval, in~~
8 ~~accordance with the provisions of article three, chapter twenty-~~
9 ~~nine-a of this code governing the procedure for deposits. The~~
10 ~~official or employee making deposits with the state Treasurer shall~~
11 ~~prepare deposit lists in the manner and upon report forms~~
12 ~~prescribed by the state Treasurer in the state accounting system.~~
13 ~~The State Treasurer shall review the deposits in the state~~
14 ~~accounting system and forward the information to the State Auditor~~
15 ~~and to the Secretary of Revenue.~~

16 ~~—— (b) All moneys received by the state from appropriations made~~
17 ~~by the Congress of the United States shall be recorded in special~~
18 ~~fund accounts, in the state Treasury apart from the general~~
19 ~~revenues of the state, and shall be expended in accordance with the~~
20 ~~provisions of article eleven, chapter four of this code. All~~
21 ~~moneys, other than federal funds, defined in section two, article~~
22 ~~eleven, chapter four of this code, shall be credited to the state~~
23 ~~fund and treated by the State Auditor and State Treasurer as part~~
24 ~~of the general revenue of the state except the following funds~~

1 ~~which shall be recorded in separate accounts.~~ The State Treasurer
2 may grant an exception to the one business day rule when
3 circumstances make compliance difficult or expensive.

4 (b)The State Treasurer shall establish standards for internal
5 controls for spending units receipting moneys, assist spending
6 units in developing and improving their internal control procedures
7 for receipting moneys and provide training. State spending units
8 accepting moneys shall establish and at least annually review
9 internal control procedures for receipting moneys that safeguard
10 assets, minimize fraud, waste and abuse, and comply with applicable
11 laws, rules and regulations. Upon request of the State Treasurer,
12 spending units, except the Department of Revenue, shall submit the
13 internal control procedures and any revisions to the internal
14 control procedures to the State Treasurer for review. The State
15 Treasurer may make revisions to or suggestions for the internal
16 control procedures if he or she believes the procedures do not
17 provide reasonable protection for moneys collected.

18 (c)Any confidential information in internal control procedures
19 shall be redacted before release of the internal control procedures
20 in accordance with a request pursuant to article one, chapter
21 twenty-nine-b of this code.

22 (d)The Treasurer may also audit the receipting of moneys by a
23 spending unit, except spending units within the Department of
24 Revenue. A copy of any audit performed by the Treasurer shall be

1 submitted to the Legislative Auditor. When a spending unit has an
2 internal audit or audit by an external firm performed that
3 evaluates and reports on the adequacy of internal control
4 procedures for receipting moneys, the spending unit shall send a
5 copy of the report to the Treasurer and Legislative Auditor within
6 thirty days of receipt of the report.

7 (e)The State Treasurer shall propose rules for legislative
8 approval, in accordance with the provisions of article three,
9 chapter twenty-nine-a of this code governing the procedure for
10 deposits.

11 (f)The official or employee making deposits with the State
12 Treasurer shall prepare deposit lists in the manner and upon report
13 forms prescribed by the State Treasurer in the state accounting
14 system. The State Treasurer shall review the deposits in the state
15 accounting system and forward the information to the State Auditor
16 and to the Secretary of Revenue.

17 (g) All moneys received by the state shall be recorded in
18 federal, general revenue and special fund accounts in the State
19 Treasury, as follows:

20 (1)All federal funds, defined in section two, article eleven,
21 chapter four of this code, received shall be recorded in federal
22 fund accounts in the state treasury apart from the general and
23 special revenues of the state, and shall be expended in accordance
24 with the provisions of article eleven, chapter four of this code.

1 (2) All moneys, other than federal and special revenue funds,
2 shall be credited to the state fund and treated by the State
3 Auditor and State Treasurer as part of the general revenue of the
4 state.

5 (3) All moneys from specific revenue sources which by
6 legislative enactments are not required to be accounted for as
7 general revenue funds or federal funds, are special revenue funds,
8 and include, but are not limited to the following funds which shall
9 be recorded in separate accounts:

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

12 ~~(2)~~ (B) All funds derived from the sale of farm and dairy
13 products from farms operated by any spending unit of the state;

14 ~~(3)~~ (C) All endowment funds, bequests, donations, executive
15 emergency funds and death and disability funds;

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

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

20 ~~(6)~~ (F) All moneys received from counties by institutions for
21 the deaf and blind on account of clothing for indigent pupils;

22 ~~(7)~~ (G) All insurance collected on account of losses by fire
23 and refunds;

24 ~~(8)~~ (H) All funds derived from bookstores ~~and sales of blank~~

1 ~~paper and stationery, and collections by the chief inspector of~~
2 ~~public offices;~~

3 ~~(9)~~ (I) All moneys collected and belonging to the capitol
4 building fund, state road fund, ~~state road sinking fund,~~ general
5 school fund, school fund, ~~state fund (moneys belonging to counties,~~
6 ~~districts and municipalities), state interest and sinking funds,~~
7 political subdivisions, state compensation funds, the fund
8 maintained by the Public Service Commission for the investigation
9 and supervision of applications and all fees, money, interest or
10 funds arising from the sales of all permits and licenses to hunt,
11 trap, fish or otherwise hold or capture fish and wildlife resources
12 and money reimbursed and granted by the federal government for fish
13 and wildlife conservation; and

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

17 ~~(e)~~ (K) All moneys, except as provided in paragraphs (A)
18 ~~subdivisions (1) through (9) (I), inclusive, subsection (b)~~
19 subdivision (3), subsection (g) of this section, shall be paid into
20 the State Treasury in the same manner as collections not excepted
21 and recorded in separate accounts for receipt and expenditure for
22 the purposes for which the moneys are authorized to be collected by
23 law: Provided, That amounts collected pursuant to ~~subdivision (10),~~
24 ~~subsection (b)~~ subdivision (3), subsection (g) of this section,

1 which are found, from time to time, to exceed funds needed for the
2 purposes set forth in general law may be transferred to other
3 accounts or funds and redesignated for other purposes by
4 appropriation of the Legislature.

5 (L) The gross amount collected in all cases shall be paid into
6 the State Treasury. Commissions, costs and expenses, including,
7 without limitation, amounts charged for use of bank, charge, credit
8 or debit cards, incurred in the collection process shall be paid
9 from the gross amount collected in the same manner as other
10 payments are made from the State Treasury.

11 ~~(d)~~ (M) The State Treasurer may establish an imprest fund or
12 funds in the office of any state spending unit upon receipt of a
13 proper application. To implement this authority, the State
14 Treasurer shall propose rules for legislative approval in
15 accordance with the provisions of article three, chapter
16 twenty-nine-a of this code. The State Treasurer or his or her
17 designee shall annually audit all imprest funds and prepare a list
18 of the funds showing the location and amount as of fiscal year end,
19 retaining the list as a permanent record of the State Treasurer
20 until the Legislative Auditor has completed an audit of the imprest
21 funds of all agencies and institutions involved.

22 ~~(e)~~ (N) The State Treasurer may develop and implement a
23 centralized receipts processing center. The State Treasurer may
24 request the transfer of equipment and personnel from appropriate

1 state agencies to the centralized receipts processing center in
2 order to implement the provisions of this section: Provided, That
3 the Governor or appropriate constitutional officer has authority to
4 authorize the transfer of equipment or personnel to the centralized
5 receipts processing center from the respective agency.

6 **§12-2-3. Deposit of moneys not due the State.**

7 (a)All officials and employees of the State authorized to
8 accept moneys that the State Treasurer determines or that this code
9 specifies are not funds due the State pursuant to the provisions of
10 section two of this article shall deposit the moneys, as soon as
11 practicable, in the manner and in the depository specified by the
12 State Treasurer. The State Treasurer shall prescribe the forms and
13 procedures for depositing the moneys.

14 (b)Notwithstanding any provision of this code to the contrary,
15 including provisions stating funds collected are not state funds
16 and provisions authorizing a spending unit to have one or more
17 accounts outside the Treasury, a spending unit shall comply with
18 the State Treasurer's procedures for the receipt and disbursement
19 of moneys not due the state and obtain written authorization from
20 the State Treasurer before depositing any moneys in an account
21 outside the Treasury. Upon the State Treasurer's written revocation
22 of the authorization, the spending unit shall deposit funds
23 deposited in an account outside the Treasury into the Treasury in
24 the manner and in the depository specified by the State Treasurer.

1 The State Treasurer is the final determining authority as to
2 whether these funds are funds due or not due the state pursuant to
3 section two of this article.

4 (c) The State Treasurer shall ~~on a quarterly basis~~ provide the
5 Legislative Auditor with an annual report of all accounts
6 authorized under this section.

7 **ARTICLE 3A. FINANCIAL ELECTRONIC COMMERCE.**

8 **§12-3A-3. Financial electronic commerce.**

9 (a) The State Auditor and the State Treasurer shall implement
10 electronic commerce capabilities for each of their offices to
11 facilitate the performance of their duties under this code. The
12 State Treasurer shall competitively bid the selection of vendors
13 needed to provide the necessary banking, investment and related
14 goods and services, and the provisions of article one-b, chapter
15 five, and articles three and seven, chapter five-a of this code
16 shall not apply, unless requested by the ~~State Auditor or State~~
17 Treasurer.

18 (b) A document or a signature received, issued or used by the
19 Auditor or the Treasurer shall be considered an original and may
20 not be denied legal effect on the ground that it is in electronic
21 form.

22 (c) The Auditor or Treasurer may, in his or her discretion,
23 require documents filed with or submitted to his or her respective
24 office be filed or submitted in a prescribed electronic format.

1 (d) The Auditor or Treasurer, in his or her discretion, may
2 waive:

3 (1) Any requirements for a document filed or submitted in an
4 electronic format; or

5 (2) Any requirements for the certification, notarization or
6 verification of a document filed or submitted in an electronic
7 format.

8 (e) The head of each spending unit is responsible for
9 adopting and implementing security procedures to ensure adequate
10 integrity, security, confidentiality, and auditability of the
11 business transactions of his or her spending unit when utilizing
12 electronic commerce.

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

14 **§12-4-17. Retention and Disposal of Treasurer's Records.**

15 The Treasurer shall develop procedures for the storage,
16 retention and disposal of records filed with, submitted to or
17 created by the Treasurer's office. The procedures shall comply
18 with the requirements for state records, as defined in section
19 three, article eight, chapter five-a of this code, and for the
20 reproduction and preservation of essential state records, as
21 defined in section four, article eight, chapter five-a of this
22 code. Preservation duplicates, as defined in section three,
23 article eight, chapter five-a of this code, shall be maintained in
24 an unalterable readable electronic media in accordance with

1 industry standards, reviewed for accuracy and indexed, and shall
2 have the same force and effect as the original records whether the
3 original records are in existence or not. The procedures shall
4 provide for the maintenance of the confidentiality of the records
5 and ensure the director of the division of archives and history
6 receives the records the director identifies as having historic
7 value. The Treasurer shall purchase the equipment and supplies
8 needed for record retention as part of his or her electronic
9 commerce activities.

10 **ARTICLE 5. PUBLIC SECURITIES.**

11 **§12-5-4. Treasurer to keep accounts and make collections.**

12 ~~It shall be the duty of the Treasurer to~~ The Treasurer shall
13 keep an accurate account of all securities received by him or her
14 and collect and account for ~~the interest as it becomes due and~~
15 ~~payable~~ earnings received and the principal whenever it is due.

16 **ARTICLE 6A. THE DEBT MANAGEMENT ACT ~~OF 1991.~~**

17 **§12-6A-1. Short title.**

18 This article shall be known and may be cited as "The Debt
19 Management Act ~~of 1991~~".

20 **§12-6A-2. Legislative findings and declaration of public necessity.**

21 ~~(a) The Legislature hereby finds and declares that efficient~~
22 ~~and effective state government requires the procuring, maintaining~~
23 ~~and reporting of pertinent information relating to the debt of the~~

1 ~~state and its agencies, boards, commissions and authorities. The~~
2 ~~State Treasurer shall perform the functions and duties necessary to~~
3 ~~serve as a central information source concerning the incurrence,~~
4 ~~recording and reporting of debt issued by the state, its agencies,~~
5 ~~boards, commissions and authorities.~~

6 ~~(b) The Legislature hereby finds:~~

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

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

18 ~~(3) In order to attain these goals, authorization of State~~
19 ~~debt must be based on the ability of the State to meet its total~~
20 ~~debt service requirements, in light of other uses of its fiscal~~
21 ~~resources. in order to maintain the strong financial management of~~
22 ~~the state, to meet the fiscal needs of state government and to~~
23 ~~facilitate financing essential capital projects at the lowest~~
24 ~~possible cost to the citizens of the state, the state must~~

1 regularly monitor the amount of debt issued by the state and its
2 spending units, ensure the state and its spending units meet all
3 debt service requirements, monitor the credit rating of the state
4 and analyze the acceptance of debt issued by the state and its
5 spending units. The Legislature further finds that in order to
6 meet these important goals, the Division of Debt Management needs
7 to be continued.

8 **§12-6A-3. Division of Debt Management ~~created~~ continued; director.**

9 ~~There is hereby created within the office of the State~~
10 ~~Treasurer, the~~ (a)The Division of Debt Management is continued in
11 the office of the State Treasurer.

12 (b)The Division shall serve as a central information source
13 concerning the incurrence, recording and reporting of debt issued
14 by the state and its spending units, and shall prepare reports
15 pertaining to the capacity of the state and its spending units to
16 issue debt.

17 ~~(c)The division shall be under the control of a Director to be~~
18 ~~appointed by the Treasurer and who shall be~~ shall appoint a
19 director, qualified by reason of exceptional training and
20 experience in the field of activities of his or her respective
21 Division, and who shall serve at the will and pleasure of the
22 Treasurer.

23 **§12-6A-4. Definitions.**

24 For the purpose of this article:

1 "Debt" means bonds, notes, certificates of participation,
2 certificate transactions, capital leases, debentures, lease
3 purchases, mortgages, securitizations and all other forms of
4 securities and indebtedness obligations evidencing specific amounts
5 owed and payable on demand or on determinable dates.

6 "Debt impact report" means a report prepared by the division
7 which includes information pertaining to a proposed issuance of
8 debt by the state or its spending units.

9 "Division" means the Division of Debt Management.

10 "Moral obligation bond" means a debt obligation for which the
11 state or a spending unit has made a nonbinding covenant to make up
12 any deficiency in debt service.

13 "Net tax supported debt" means the amount of tax supported
14 debt less any applicable refundings, defeasances, escrow accounts,
15 reserve requirements and sinking funds.

16 "State" means the State of West Virginia.

17 "Spending unit" means ~~any of the state's agencies, boards,~~
18 ~~commissions, committees, authorities or other of its entities with~~
19 ~~the power to issue debt and secure such debt, and not including~~
20 ~~local political subdivisions of the State~~ a state department,
21 agency, board, commission, committee, authority or other entity of
22 the state with the power to issue and secure debt. Spending unit
23 does not include local political subdivisions.

24 "Tax supported debt" means: (1) general obligation bonds of

1 the state; (2) moral obligation bonds of the state or a spending
2 unit; (3) capital leases, installment purchases, lease purchases,
3 mortgages, certificates of participation and any other similar debt
4 financing transaction extending beyond one year issued by the state
5 or its spending units; and (4) any other debt issued by the state
6 or a spending unit which is not self-supporting. Debt issued by
7 the West Virginia housing development fund, economic development
8 authority, hospital finance authority, parkway authority, public
9 energy authority, solid waste management board and water
10 development authority, with the exception of debt secured by
11 lottery revenues or secured by a lease with the Secretary of
12 Administration, is not tax supported debt.

13 **§12-6A-5. Powers and duties.**

14 The Division of Debt Management shall perform the following
15 functions and duties:

16 (1) ~~Develop a long-term debt plan including criteria for the~~
17 ~~issuance of debt by the State and its spending units and the~~
18 ~~continuous evaluation of~~Continuously evaluate the current and
19 projected debt and debt service requirements of the State and its
20 spending units.

21 (2) Evaluate cash flow projections relative to proposed and
22 existing revenue bond issues.

23 (3) Review all proposed offerings of debt of the state and its
24 spending units.

1 (4) Issue a debt impact report if requested by the Governor,
2 the President of the Senate or the Speaker of the House of
3 Delegates. The Division may request any additional information
4 needed to issue a debt impact report. A debt impact report shall
5 in no way restrict the Governor, the Legislature or the spending
6 unit.

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

10 (46) Assist the State and its spending units regarding the
11 issuance of debt if requested.

12 (57) Establish reporting requirements for the issuance of
13 debt by the State and its spending units pursuant to the provisions
14 of this article.

15 (68) Monitor continuing disclosure requirements and post-
16 issuance compliance issues with federal and state tax and
17 securities law, including, without limitation, arbitrage, rebate
18 and remedial measures.

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

22 (710) Contract, cooperate or join with any one or more other
23 governments or public agencies, ~~or~~ with any political subdivision
24 of the State, or with the United States, to perform any

1 administrative service, activity or undertaking which ~~any such~~ the
2 contracting party is authorized by law to perform, ~~and to~~ charge
3 for providing ~~such~~ services and expend any fees collected.

4 (~~811~~) Do all things necessary or convenient to effectuate the
5 intent of this article and to carry out its powers and functions.

6 (~~9~~) ~~Provide staff services to the debt capacity advisory~~
7 ~~division established in article six b of this chapter.~~

8 **~~§12-6A-6. Debt information reporting~~ Reporting.**

9 (a) Within fifteen days following the end of each calendar
10 quarter, each state spending unit shall provide the division and
11 the Legislative Auditor, in the manner provided by this article and
12 in such form and detail as the State Treasurer may ~~by regulation~~
13 ~~require, a statement of the total debt of each such state spending~~
14 ~~unit incurred during the calendar quarter and owing at the end of~~
15 ~~such calendar quarter, which statement shall include~~ report
16 including, but not ~~be~~ limited to, the name of the state spending
17 unit, the amounts and types of debt incurred during the calendar
18 quarter and outstanding at the end of the calendar quarter, the
19 cost and expenses of incurring the debt, the maturity date of each
20 debt, the terms and conditions of the debt, the current debt
21 service on the debt, the ~~current~~ interest rate on the debt, the
22 source of the proceeds utilized for repayment of the debt, the
23 amounts of repayment during the calendar quarter, the repayment
24 schedule and the security for the debt. A state spending unit

1 having no outstanding debt shall not be required to provide the
2 quarterly report but shall file an annual report, on forms
3 established by the Division of Debt Management: Provided, That the
4 state spending unit shall immediately notify the Division of Debt
5 Management of any change in the spending unit's outstanding debt or
6 financial condition.

7 (b) Not less than thirty days prior to a proposed offering of
8 debt ~~to be issued~~ by the state or a state spending unit, written
9 notice of ~~such~~ the proposed offering and the terms thereof shall be
10 given to the Division by ~~such~~ the state spending unit in the form
11 as the Division may ~~by regulation~~ require.

12 (c) Within thirty days after closing on an offering, ~~the terms~~
13 ~~shall be reported to the~~ responsible spending unit shall report to
14 the division the information pertaining to the offering required by
15 the division in the form ~~as the division may by regulation~~ require.

16 (d) On or before ~~the thirty-first day of~~ January 31 and ~~the~~
17 ~~thirty-first day of~~ July 31 of each year, the ~~Treasurer~~ division
18 shall prepare and issue a report of all debt of the State and its
19 spending units and of all proposed debt issuances of which the
20 ~~Treasurer~~ division has received notice and shall furnish a copy of
21 ~~such~~ the report to the Governor, the President of the Senate, the
22 Speaker of the House of Delegates, the members of the Joint
23 Committee on Government and Finance, the Legislative Auditor and
24 upon request to any other legislative committee and any member of

1 the Legislature. The report shall be kept available for inspection
2 by any citizen of the state. The ~~Treasurer~~ division shall also
3 prepare updated reports of all debt of the state and its spending
4 units as of March 31 and September 30 each year, which shall be
5 available for inspection at the office of the state Treasurer ~~on or~~
6 ~~before the thirty-first day of March and the thirtieth day of~~
7 ~~September of each year~~ within thirty days of the end of the
8 respective calendar quarter.

9 (e)On or before January 15 each year, the division shall
10 report to the Governor and to the Legislature on the capacity of
11 the state to issue additional debt. In preparing its annual review
12 and estimate, the division shall, at a minimum, consider:

13 (1)The amount of net tax supported debt outstanding and debt
14 authorized but not issued during the current and next fiscal year
15 and annually for the following ten fiscal years;

16 (2)Debt service requirements during the current and next
17 fiscal year and annually for the following ten fiscal years based
18 upon existing outstanding debt, previously authorized but unissued
19 debt and projected bond authorizations;

20 (3)Any information available from the budget office of the
21 department of revenue in connection with projected revenues and
22 anticipated capital expenditures projected for at least the next
23 five fiscal years;

24 (4)The amount of debt the state and its spending units may

1 prudently issue;

2 (5)What is needed to keep West Virginia within an average to
3 low range of nationally recognized debt limits;

4 (6)The debt ratios rating agencies and analysts use; and

5 (7)The effect of authorizations of new tax supported debt on
6 each of the considerations in this subsection.

7 **§12-6A-7. Promulgation of rules.**

8 The ~~Division of Debt Management~~ Treasurer shall ~~promulgate~~
9 ~~propose~~ rules for legislative approval relating to the reporting
10 requirements and ~~its~~ duties under this article ~~and the rules shall~~
11 ~~be promulgated~~ in accordance with the provisions of article three,
12 chapter twenty-nine-a of this code.

13 **ARTICLE 6C. WEST VIRGINIA BOARD OF TREASURY INVESTMENTS.**

14 **§12-6C-7.Management and control of fund; officers; staff; fiduciary**
15 **or surety bonds for directors; liability of directors.**

16 (a) The management and control of the Consolidated Fund is
17 vested solely in the Board in accordance with the provisions of
18 this article.

19 (b) The State Treasurer is the chairperson of the Board. The
20 Board shall elect a vice chairperson. Annually, the directors shall
21 elect a secretary to keep a record of the proceedings of the Board
22 and provide any other duties required by the board. The board may
23 elect a person who is not a member of the board as secretary.

24 (c) The board may use the staff of the State Treasurer,

1 employ personnel and contract with any person or entity needed to
2 perform the tasks related to operating the Consolidated Fund.

3 (d) The Board shall retain an internal auditor to report
4 directly to the Board and shall fix his or her compensation. As a
5 minimum qualification, the internal auditor shall be a certified
6 public accountant with at least three years' experience as an
7 auditor. The internal auditor shall develop an internal audit plan,
8 with board approval, for the testing of procedures, internal
9 controls and the security of transactions.

10 (e) The Board may retain one employee with a chartered
11 financial analyst designation or an employee who is a certified
12 treasury manager.

13 (f) Each director shall give a separate fiduciary or surety
14 bond from a surety company qualified to do business within this
15 State in a penalty amount of one million dollars for the faithful
16 performance of his or her duties as a director. The Board shall
17 purchase a blanket bond for the faithful performance of its duties
18 in the amount of ~~fifty million dollars or in an amount equivalent~~
19 ~~to one percent of the assets under management, whichever is greater~~
20 set by the board of at least \$10 million. The amount of the blanket
21 bond is in addition to the ~~one million dollar~~ \$1 million individual
22 bond required of each director by the provisions of this section.
23 The Board may require a fiduciary or surety bond from a surety
24 company qualified to do business in this state for any person who

1 has charge of, or access to, any securities, funds or other moneys
2 held by the board and the amount of the fiduciary or surety bond
3 are fixed by the board. The premiums payable on all fiduciary or
4 surety bonds are expenses of the board.

5 (g) The directors, employees of the Board and employees of
6 the State Treasurer performing work for or on behalf of the Board
7 are not liable personally, either jointly or severally, for any
8 debt or obligation created by the Board: Provided, That the
9 directors and employees of the Board are liable for acts of
10 misfeasance or gross negligence.

11 (h) The board is exempt from the provisions of article three,
12 chapter five-a, and sections seven and eleven, article three,
13 chapter twelve of this code. However, the board is subject to the
14 purchasing policies and procedures of the State Treasurer's Office.

15 **§12-6C-9. Asset allocation; investment policies, authorized**
16 **investments; restrictions.**

17 (a) The Board shall develop, adopt, review or modify an asset
18 allocation plan for the Consolidated Fund at each annual board
19 meeting.

20 (b) The Board shall adopt, review, modify or cancel the
21 investment policy of each fund or pool created at each annual board
22 meeting. For each participant directed account authorized by the
23 State Treasurer, staff of the Board shall develop an investment
24 policy for the account and create the requested account. The Board

1 shall review all existing participant directed accounts and
2 investment policies at its annual meeting for modification.

3 (c) The board shall consider the following when adopting,
4 reviewing, modifying or canceling investment policies:

- 5 (1) Preservation of capital;
- 6 (2) Risk tolerance;
- 7 (3) Credit standards;
- 8 (4) Diversification;
- 9 (5) Rate of return;
- 10 (6) Stability and turnover;
- 11 (7) Liquidity;
- 12 (8) Reasonable costs and fees;
- 13 (9) Permissible investments;
- 14 (10) Maturity ranges;
- 15 (11) Internal controls;
- 16 (12) Safekeeping and custody;
- 17 (13) Valuation methodologies;
- 18 (14) Calculation of earnings and yields;
- 19 (15) Performance benchmarks and evaluation; and
- 20 (16) Reporting.

21 (d) No security may be purchased by the board unless the type
22 of security is on a list approved at a board meeting. The board
23 shall review the list at its annual meeting.

24 (e) Notwithstanding the restrictions which are otherwise

1 provided by law with respect to the investment of funds, the board
2 and all participants, now and in the future, may invest funds in
3 these securities:

4 (1) Obligations of, or obligations that are insured as to
5 principal and interest by, the United States of America or any
6 agency or corporation thereof and obligations and securities of the
7 United States sponsored enterprises, including, without limitation:

8 (I) United States Treasury;

9 (ii) Export-Import Bank of the United States;

10 (iii) Farmers Home Administration;

11 (iv) Federal Farm Credit Banks;

12 (v) Federal Home Loan Banks;

13 (vi) Federal Home Loan Mortgage Corporation;

14 (vii) Federal Land Banks;

15 (viii) Government National Mortgage Association;

16 (ix) Merchant Marine bonds; and

17 (x) Tennessee Valley Authority Obligations;

18 (2) Obligations of the Federal National Mortgage Association;

19 (3) Commercial paper with one of the two highest commercial
20 paper credit ratings by a nationally recognized ~~investment rating~~
21 ~~firm~~ statistical rating organization;

22 (4) Corporate debt rated in one of the six highest rating
23 categories by a nationally recognized ~~rating agency~~ statistical
24 rating organization;

1 (5) Corporate debt rated investment grade by a nationally
2 recognized statistical rating organization for pools with a
3 weighted average maturity or duration of at least 366 days;

4 ~~(5)~~ (6) State and local government, or any instrumentality or
5 agency thereof, securities with one of the three highest ratings by
6 a nationally recognized ~~rating agency~~ statistical rating
7 organization;

8 ~~(6)~~ (7) Repurchase agreements involving the purchase of United
9 States Treasury securities and repurchase agreements fully
10 collateralized by obligations of the United States government or
11 its agencies or instrumentalities;

12 ~~(7)~~ (8) Reverse repurchase agreements involving the purchase
13 of United States Treasury securities and reverse repurchase
14 agreements fully collateralized by obligations of the United States
15 government or its agencies or instrumentalities;

16 ~~(8)~~ (9) Asset-backed securities rated in the highest category
17 by a nationally recognized ~~rating agency~~ statistical rating
18 organization;

19 ~~(9)~~ (10) Certificates of deposit; ~~and~~

20 ~~(10)~~ (11) Money market and other fixed income funds; and

21 ~~(11)~~ (12) Investments in accordance with the Linked Deposit
22 Program, ~~a program~~ loans authorized under this article, programs
23 using financial institutions in West Virginia to obtain
24 certificates of deposit, loans approved by the Legislature invest

1 moneys, equipment and software financing program for West Virginia
2 state government entities that authorize the Board to capture
3 revenues in the event of default and any other programs authorized
4 by the Legislature.

5 (f) In addition to the restrictions and conditions contained
6 in this section:

7 (1) At no time shall more than seventy-five percent of the
8 Consolidated Fund be invested in any bond, note, debenture,
9 commercial paper or other evidence of indebtedness of any private
10 corporation or association;

11 (2) At no time shall more than five percent of the
12 Consolidated Fund be invested in securities issued by a single
13 private corporation or association; and

14 (3) At no time shall less than fifteen percent of the
15 Consolidated Fund be invested in any direct obligation of or
16 obligation guaranteed as to the payment of both principal and
17 interest by the United States of America.

18 (g) Securities purchased in compliance with this article that
19 become non-compliant may be retained upon recommendation of the
20 investment manager of the security and the board investment
21 consultant.

22 CHAPTER 33. INSURANCE

23 ARTICLE 3. LICENSING, FEES, AND TAXATION OF INSURANCE.

24 §33-3-14d. Additional fire and casualty insurance premium tax;

1 **allocation of proceeds; effective date.**

2 (a) (1) For the purpose of providing additional revenue for
3 municipal policemen's and firemen's pension and relief funds and
4 the Teachers Retirement System Reserve Fund and for volunteer and
5 part-volunteer fire companies and departments, there is hereby
6 levied and imposed an additional premium tax equal to one percent
7 of taxable premiums for fire insurance and casualty insurance
8 policies. For purposes of this section, casualty insurance does
9 not include insurance on the life of a debtor pursuant to or in
10 connection with a specific loan or other credit transaction or
11 insurance on a debtor to provide indemnity for payments becoming
12 due on a specific loan or other credit transaction while the
13 debtor is disabled as defined in the policy.

14 (2) All moneys collected from this additional tax shall be
15 received by the commissioner and paid by him or her into a special
16 account in the State Treasury, designated the Municipal Pensions
17 and Protection Fund: Provided, That on or after January 1, 2010,
18 the commissioner shall pay ten percent of the amount collected to
19 the Teachers Retirement System Reserve Fund created in section
20 eighteen, article seven-a, chapter eighteen of this code,
21 twenty-five percent of the amount collected to the Fire Protection
22 Fund created in section thirty-three of this article for
23 allocation by the Treasurer to volunteer and part-volunteer fire
24 companies and departments and sixty-five percent of the amount

1 collected to the Municipal Pensions and Protection Fund: Provided,
2 however, That upon notification by the Municipal Pensions
3 Oversight Board pursuant to the provisions of section eighteen-b,
4 article twenty-two, chapter eight of this code, on or after
5 January 1, 2010, or as soon thereafter as the Municipal Pensions
6 Oversight Board is prepared to receive the funds, sixty-five
7 percent of the amount collected by the commissioner shall be
8 deposited in the Municipal Pensions Security Fund created in
9 section eighteen-b, article twenty-two, chapter eight of this
10 code. The net proceeds of this tax after appropriation thereof by
11 the Legislature is distributed in accordance with the provisions
12 of this section, except for distribution from proceeds pursuant to
13 subsection (d), section eighteen-a, article twenty-two, chapter
14 eight of this code.

15 (b) (1) Before the ~~first day of~~ August 1 of each year, the
16 treasurer of each municipality in which a municipal policemen's or
17 firemen's pension and relief fund is established shall report to
18 the State Treasurer the average monthly number of members who
19 worked at least one hundred hours per month and the average
20 monthly number of retired members of municipal policemen's or
21 firemen's pension and relief fund or the Municipal Police Officers
22 and Firefighters Retirement System during the preceding fiscal
23 year: Provided, That beginning in the year 2010 and continuing
24 thereafter, the report shall be made to the oversight board

1 created in section eighteen-a, article twenty-two, chapter eight
2 of this code. These reports received by the oversight board shall
3 be provided annually to the State Treasurer by September 1.

4 (2) Before ~~the first day of~~ September 1 of each calendar
5 year, the State Treasurer, or the Municipal Pensions Oversight
6 Board, once in operation, shall allocate and authorize for
7 distribution the revenues in the Municipal Pensions and Protection
8 Fund which were collected during the preceding calendar year for
9 the purposes set forth in this section. Before ~~the first day of~~
10 September 1 of each calendar year and after the Municipal Pensions
11 Oversight Board has notified the Treasurer and commissioner
12 pursuant to section eighteen-b, article twenty-two, chapter eight
13 of this code, the Municipal Pensions Oversight Board shall
14 allocate and authorize for distribution the revenues in the
15 Municipal Pensions Security Fund which were collected during the
16 preceding calendar year for the purposes set forth in this
17 section. In any year the actuarial report required by section
18 twenty, article twenty-two, chapter eight of this code indicates
19 no actuarial deficiency in the municipal policemen's or firemen's
20 pension and relief fund, no revenues may be allocated from the
21 Municipal Pensions and Protection Fund or the Municipal Pensions
22 Security Fund to that fund. The revenues from the Municipal
23 Pensions and Protection Fund shall then be allocated to all other
24 pension and relief funds which have an actuarial deficiency.

1 (3) The moneys, and the interest earned thereon, in the
2 Municipal Pensions and Protection Fund allocated to volunteer and
3 part-volunteer fire companies and departments shall be allocated
4 and distributed quarterly to the volunteer fire companies and
5 departments. Before each distribution date, the State Fire Marshal
6 shall report to the State Treasurer the names and addresses of all
7 volunteer and part-volunteer fire companies and departments within
8 the state which meet the eligibility requirements established in
9 section eight-a, article fifteen, chapter eight of this code.

10 (c)(1) Each municipal pension and relief fund shall have
11 allocated and authorized for distribution a pro rata share of the
12 revenues allocated to municipal policemen's and firemen's pension
13 and relief funds based on the corresponding municipality's average
14 monthly number of police officers and firefighters who worked at
15 least one hundred hours per month during the preceding fiscal
16 year. On and after July 1, 1997, from the growth in any moneys
17 collected pursuant to the tax imposed by this section and interest
18 thereon there shall be allocated and authorized for distribution
19 to each municipal pension and relief fund, a pro rata share of the
20 revenues allocated to municipal policemen's and firemen's pension
21 and relief funds based on the corresponding municipality's average
22 number of police officers and firefighters who worked at least one
23 hundred hours per month and average monthly number of retired
24 police officers and firefighters. For the purposes of this

1 subsection, the growth in moneys collected from the tax collected
2 pursuant to this section is determined by subtracting the amount
3 of the tax collected during the fiscal year ending June 30, 1996,
4 from the tax collected during the fiscal year for which the
5 allocation is being made and interest thereon. All moneys received
6 by municipal pension and relief funds under this section may be
7 expended only for those purposes described in sections sixteen
8 through twenty-eight, inclusive, article twenty-two, chapter eight
9 of this code.

10 (2) Each volunteer fire company or department shall receive
11 an equal share of the revenues allocated for volunteer and
12 part-volunteer fire companies and departments.

13 (3) In addition to the share allocated and distributed in
14 accordance with subdivision (1) of this subsection, each municipal
15 fire department composed of full-time paid members and volunteers
16 and part-volunteer fire companies and departments shall receive a
17 share equal to the share distributed to volunteer fire companies
18 under subdivision (2) of this subsection reduced by an amount
19 equal to the share multiplied by the ratio of the number of
20 full-time paid fire department members who are also members of a
21 municipal firemen's pension and relief fund or the Municipal
22 Police Officers and Firefighters Retirement System to the total
23 number of members of the fire department.

24 (d) The allocation and distribution of revenues provided for

1 in this section are subject to the provisions of section twenty,
2 article twenty-two, and sections eight-a and eight-b, article
3 fifteen, chapter eight of this code.

4 (e)Based upon the findings of an audit by the Treasurer, the
5 Legislature hereby finds and declares that during the period of
6 1982 through April 27, 2012 allocations from the Municipal
7 Pensions and Protection Fund were miscalculated and errors were
8 made in amounts transferred, resulting in overpayments and
9 underpayments to the relief and pension funds and to the Teachers
10 Retirement System, and that the relief and pension funds and the
11 Teachers Retirement System were not at fault for any of the
12 overpayments and underpayments. The Legislature hereby further
13 finds and declares that any attempt by the Municipal Pension
14 Oversight Board or other entity to recover any of the overpayments
15 would be unjust and create economic hardship for the entities that
16 received overpayments. No entity, including, without limitation,
17 the Municipal Pension Oversight Board, may seek to recover from a
18 relief or pension fund, the Teachers Retirement System or the
19 state any overpayments received from the Municipal Pensions and
20 Protection Fund and the overpayments are not subject to recovery,
21 offset or litigation. Pursuant to the audit by the Treasurer, the
22 amount of \$3,631,846.55 is determined owed to specific relief and
23 pension funds through the period of April 27, 2012. The Treasurer
24 is hereby authorized to transfer the amount of \$3,631,846.55 from

1 the Unclaimed Property Trust Fund to the Municipal Pensions and
2 Protection Fund, which is hereby reopened for the sole purpose of
3 the transfer and remittances pursuant to this subsection (e), and
4 to use the amount transferred to remit the amounts due to the
5 pension and relief funds. The payment of the \$3,631,846.55 to the
6 pension and relief funds is complete satisfaction of any amounts
7 due, and no entity, including, without limitation, the Municipal
8 Pension Oversight Board and any pension or relief fund, may seek
9 to recover any further amounts.

10 **CHAPTER 36. ESTATES AND PROPERTY.**

11 **ARTICLE 8. UNIFORM UNCLAIMED PROPERTY ACT.**

12 **§36-8-13. Deposit of funds.**

13 (a) The administrator shall record the name and last known
14 address of each person appearing from the holders reports to be
15 entitled to the property and the name and last known address of
16 each insured person or annuitant and beneficiary and with respect
17 to each policy or annuity listed in the report of an insurance
18 company, its number, the name of the company and the amount due.

19 (b) The Unclaimed Property Fund is continued. The
20 administrator shall deposit all funds received pursuant to this
21 article in the Unclaimed Property Fund, including the proceeds
22 from the sale of abandoned property under section twelve of this
23 article. In addition to paying claims of unclaimed property duly
24 allowed, the administrator may deduct the following expenses from

1 the Unclaimed Property Fund:

2 (1) Expenses of the sale of abandoned property;

3 (2) Expenses incurred in returning the property to owners,
4 including without limitation the costs of mailing and publication
5 to locate owners;

6 (3) Reasonable service charge; ~~and~~

7 (4) Expenses incurred in examining records of holders of
8 property and in collecting the property from those holders; and

9 (5) Expenses related to the operations and programs of the
10 Treasurer's office.

11 (c) The Unclaimed Property Trust Fund is continued within
12 the State Treasury. The administrator may invest the Unclaimed
13 Property Trust Fund with the West Virginia Board of Treasury
14 Investments and all earnings shall accrue to the fund and are
15 available for expenditure in accordance with this article. After
16 deducting the expenses specified in subsection (b) of this section
17 and maintaining a sum of money from which to pay claims duly
18 allowed, the administrator shall transfer the remaining moneys in
19 the Unclaimed Property Fund to the Unclaimed Property Trust Fund.

20 (d) (1) On July 1, 2009, the unclaimed property administrator
21 shall transfer the amount of \$8 million from the Unclaimed
22 Property Trust Fund to the Prepaid Tuition Trust Escrow Fund.

23 (2) On or before December 15 of each year, notwithstanding
24 any provision of this code to the contrary, the administrator

1 shall transfer the sum of \$1 million from the Unclaimed Property
2 Trust Fund to the Prepaid Tuition Trust Escrow Fund, until the
3 actuary certifies there are sufficient funds to pay out all
4 contracts.

5 (e) On or before June 1, 2007, the unclaimed property
6 administrator shall transfer the amount of \$2 million from the
7 Unclaimed Property Trust Fund to the Deferred Compensation
8 Matching Fund for operation of the deferred compensation matching
9 program for state employees. On or before June 1, 2008, the
10 unclaimed property administrator shall transfer the amount of \$1
11 million from the Unclaimed Property Trust Fund to the Deferred
12 Compensation Matching Fund for operation of the matching program.

13 (f) On or before June 1, 2013, the unclaimed property
14 administrator shall transfer the amount of \$3,631,846.55 from the
15 Unclaimed Property Trust Fund to the Municipal Pensions and
16 Protection Fund for the purpose of satisfying any amounts due as
17 of April 27, 2012 to policemen's and firemen's pension and relief
18 funds in accordance with section fourteen-d, article three,
19 chapter thirty-three of this Code.

20 ~~(f)~~(g) After transferring any money required by subsections
21 (d) ~~and (e)~~ through (f) of this section, the administrator shall
22 transfer moneys remaining in the Unclaimed Property Trust Fund to
23 the General Revenue Fund.