

COMMITTEE SUBSTITUTE

FOR

H. B. 2837

(BY DELEGATE(S) BOGGS, WHITE, REYNOLDS,
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(Originating in the House Committee on Finance.)

[March 28, 2013]

A BILL to repeal §12-1-12c of the Code of West Virginia, 1931, as amended; to repeal §12-6B-1, §12-6B-2, §12-6B-3 and §12-6B-4 of said code; to amend and reenact §5-10B-13 of said code; to amend said code by adding thereto a new section, designated §5-10B-14; to amend and reenact §12-1-3, §12-1-8 and §12-1-11 of said code; to amend and reenact §12-2-2 and §12-2-3 of said code; to amend and reenact §12-3A-3 of said code; to amend said code by adding thereto a new section, designated §12-4-17; to amend and reenact §12-5-4 of said code; to amend and reenact §12-6A-1,

§12-6A-2, §12-6A-3, §12-6A-4, §12-6A-5, §12-6A-6 and §12-6A-7 of said code; to amend and reenact §12-6C-7 and §12-6C-9 of said code; to amend and reenact §33-3-14d of said code; and to amend and reenact §36-8-13 of said code, all relating to the state treasurer's office; authorizing the deferred compensation plan to accept qualified domestic relations orders; authorizing Roth accounts within the deferred compensation plan in accordance with the Internal Revenue Code; authorizing financial institutions to offer products in addition to certificates of deposit; updating references to investing authorities to include the Board of Treasury Investments; raising the amount of eligible deposits from \$100,000 to the amount insured by a federal agency; providing requirements to be eligible depositories; providing for conflicts of interest for applicants and employees of the Treasurer's office in connection with financial institutions; authorizing depositories to submit reports in an electronic format; changing the requirement that deposits are required within 24 hours to one business day; establishing standards for receipting of moneys, including reviewing of internal controls by auditors and the Treasurer and ensuring copies of audits are submitted to the Legislative Auditor; ensuring confidential information in internal control procedures is

redacted before release; defining federal, special and general revenue funds; changing the report to the Legislative Auditor for accounts outside the treasury from quarterly to an annual report; authorizing the Treasurer to determine the competitive bidding of banking, investment and related goods and services required for treasury operations; authorizing the Treasurer to develop procedures for storing, retaining and disposing of records for his or her office; ensuring the director of the division of archives and history receives records with historical value; clarifying that the Treasurer is responsible for earnings received on securities, not just interest; consolidating the debt capacity division into the debt management division; providing legislative findings to acknowledge the importance of monitoring the debt of the state and its spending units; continuing division of debt management as the central information source for debt issued by the state and its spending units; defining debt to include debentures, lease purchases, mortgages, securitizations and other types of obligations with specific amounts owed and payable on demand or on determinable dates; defining debt impact report, moral obligation bond, net tax supported debt and tax supported debt; defining spending unit; eliminating requirement for developing a

long-term debt plan; authorizing the division to continuously evaluating debt and debt service requirements and reviewing all proposed debt offerings of the state and its spending units; authorizing the division to issue a debt impact report if requested by the Governor, Senate President or House of Delegates Speaker and that the report shall not restrict the Governor, Legislature or spending unit; requiring the division to monitor continuing disclosure requirements and post-issuance compliance issues; eliminating requirement that the debt management division provide staff for the debt capacity division; providing for reporting by the division and the spending units; requiring the division to prepare and issue the debt capacity report; authorizing the Treasurer to promulgate the rules in certain circumstances; altering the bond required for the Board of Treasury Investments from \$50 million to at least \$10 million, as set by the board; updating language pertaining to rating agencies to nationally recognized statistical rating organizations; permitting pools with weighted average maturity or duration of 366 days or more to invest in investment grade corporate debt securities; authorizing investments in money market and other fixed income funds; authorizing the board to make loans specified by the Legislature and to offer an equipment

and software financing program for state government entities; providing that securities falling out of compliance with the Code do not have to be sold if the investment manager and investment consultant recommend retention; satisfying amounts due to and from policemen's and firemen's pension and relief funds and the Teachers Retirement System; authorizing expenses related to operations and programs of the office of the Treasurer from the Unclaimed Property Fund; authorizing transfer of moneys from the Unclaimed Property Trust Fund for payment to policemen's and firemen's pension and relief funds.

Be it enacted by the Legislature of West Virginia:

That §12-1-12c of the Code of West Virginia, 1931, as amended, be repealed; that §12-6B-1, §12-6B-2, §12-6B-3 and §12-6B-4 of said code be repealed; that §48-2-604 of said code be repealed; that §5-10B-13 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §5-10B-14; that §12-1-3, §12-1-8 and §12-1-11 of said code be amended and reenacted; that §12-2-2 and §12-2-3 of said code be amended and reenacted; that §12-3A-3 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §12-4-17; that

§12-5-4 of said code be amended and reenacted; that §12-6A-1, §12-6A-2, §12-6A-3, §12-6A-4, §12-6A-5, §12-6A-6 and §12-6A-7 of said code be amended and reenacted; that §12-6C-7 and §12-6C-9 of said code be amended and reenacted; that §33-3-14d of said code be amended and reenacted; and that §36-8-13 of said code be amended and reenacted, all to read as follows:

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

**ARTICLE 10B. GOVERNMENT EMPLOYEES DEFERRED COMPEN-
SATION PLANS.**

§5-10B-13. Moneys not subject to legal process; qualified domestic relations orders.

1 No account, benefit or right, created pursuant to this article,
2 accrued or accruing, is subject to execution, garnishment,
3 attachment, sale to satisfy a judgment or order, the operation of
4 bankruptcy or insolvency laws, or other process of law and shall
5 be unassignable, except that accounts, benefits and contributions
6 under the plan are subject to “qualified domestic relations

7 orders” as that term is defined in Internal Revenue Code
8 §414(p).

§5-10B-14.Roth Accounts.

1 The Treasurer or any public employer may authorize Roth
2 accounts within the plan in accordance with the Internal Revenue
3 Code, including, without limitation, conversions, deferrals,
4 rollovers and transfers.

CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

ARTICLE 1. STATE DEPOSITORIES.

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

1 Any state or national bank or any state or federal savings and
2 loan association in this state shall, upon request made to the
3 State Treasurer, be designated as an eligible depository for
4 interest earning deposits of state funds if such bank or state or
5 federal savings and loan association meets the requirements set
6 forth in this chapter. For purposes of this article, the term
7 “interest earning deposits” includes certificates of deposit or
8 other financial institution products. The State Treasurer shall
9 make and apportion such interest earning deposits and shall
10 prescribe the interest rates, terms and conditions of ~~such~~

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

31 ~~the depository but owned by an out-of-state investor. The~~
32 ~~computation of the criteria for eligibility specified above shall be~~
33 ~~based on the average daily balances of deposits, the average~~
34 ~~daily balances of total loans and qualifying residential loans for~~
35 ~~the period being reported.~~

§12-1-8. Conflict of interest.

1 ~~No depository in this State may serve or be eligible for~~
2 ~~designation as a State Depository if any employee of the~~
3 ~~Treasurer's office, or a spouse or minor child of that employee,~~
4 ~~is an officer, director or employee of the depository or owns~~
5 ~~greater than two percent of the depository either in his or her~~
6 ~~own name or beneficially or an interest in the depository. An~~
7 ~~employee of the Treasurer's office shall disclose the~~
8 ~~circumstance, if any, in the sworn statement required under the~~
9 ~~provisions of section one, article one, chapter six-b of this code.~~
10 An employee or a person applying for a position with the office
11 of the Treasurer shall disclose to the Treasurer if he or she, or his
12 or her spouse, is an officer, director or employee of a depository
13 or owns greater than two percent of a depository. Any employee
14 of the office of the Treasurer who, or whose spouse, is an officer,

15 director or employee of a depository or owns greater than two
16 percent of a depository may not participate in any selection of or
17 in any contract negotiations with any depository.

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

1 (a)Each depository of state funds shall at the end of each
2 quarter cause its president or ~~cashier~~ designated officer to report
3 to the Treasurer the amount of state funds on deposit and the
4 report shall be verified by the affidavit of the officer making it.
5 The form and contents of the report shall be prescribed by the
6 Treasurer and may be in an electronic format.

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

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

17 any depository ~~so~~ discontinued until such time as the depository
18 may be reinstated to eligibility.

**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.**

1 (a) All officials and employees of the state authorized by
2 statute to accept moneys ~~due the~~ on behalf of the State of West
3 Virginia shall keep a daily itemized record of moneys received
4 for deposit in the State Treasury and shall deposit within ~~twenty-~~
5 ~~four hours~~ one business day with the State Treasurer all moneys
6 received or collected by them for or on behalf of the state for any
7 purpose whatsoever. ~~The State Treasurer may review the~~
8 ~~procedures and methods used by officials and employees~~
9 ~~authorized to accept moneys due the state and change the~~
10 ~~procedures and methods if he or she determines it is in the best~~
11 ~~interest of the state: *Provided*, That the state Treasurer may not~~
12 ~~review or amend the procedures by which the Department of~~
13 ~~Revenue accepts moneys due the state. The State Treasurer shall~~
14 ~~propose rules for legislative approval, in accordance with the~~
15 ~~provisions of article three, chapter twenty-nine-a of this code~~

16 ~~governing the procedure for deposits. The official or employee~~
17 ~~making deposits with the state Treasurer shall prepare deposit~~
18 ~~lists in the manner and upon report forms prescribed by the state~~
19 ~~Treasurer in the state accounting system. The State Treasurer~~
20 ~~shall review the deposits in the state accounting system and~~
21 ~~forward the information to the State Auditor and to the Secretary~~
22 ~~of Revenue.~~

23 (b) ~~All moneys received by the state from appropriations~~
24 ~~made by the Congress of the United States shall be recorded in~~
25 ~~special fund accounts, in the state Treasury apart from the~~
26 ~~general revenues of the state, and shall be expended in~~
27 ~~accordance with the provisions of article eleven, chapter four of~~
28 ~~this code. All moneys, other than federal funds, defined in~~
29 ~~section two, article eleven, chapter four of this code, shall be~~
30 ~~credited to the state fund and treated by the State Auditor and~~
31 ~~State Treasurer as part of the general revenue of the state except~~
32 ~~the following funds which shall be recorded in separate~~
33 ~~accounts: The State Treasurer may grant an exception to the one~~
34 ~~business day rule when circumstances make compliance difficult~~
35 ~~or expensive.~~

36 (b)The State Treasurer shall establish standards for internal
37 controls for spending units receipting moneys, assist spending
38 units in developing and improving their internal control
39 procedures for receipting moneys and provide training. State
40 spending units accepting moneys shall establish and at least
41 annually review internal control procedures for receipting
42 moneys that safeguard assets, minimize fraud, waste and abuse,
43 and comply with applicable laws, rules and regulations. Upon
44 request of the State Treasurer, spending units, except the
45 Department of Revenue, shall submit the internal control
46 procedures and any revisions to the internal control procedures
47 to the State Treasurer for review. The State Treasurer may make
48 revisions to or suggestions for the internal control procedures if
49 he or she believes the procedures do not provide reasonable
50 protection for moneys collected.

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

55 (d)The Treasurer may also audit the receipting of moneys by
56 a spending unit, except spending units within the Department of

57 Revenue. A copy of any audit performed by the Treasurer shall
58 be submitted to the Legislative Auditor. When a spending unit
59 has an internal audit or audit by an external firm performed that
60 evaluates and reports on the adequacy of internal control
61 procedures for receipting moneys, the spending unit shall send
62 a copy of the report to the Treasurer and Legislative Auditor
63 within thirty days of receipt of the report.

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

68 (f)The official or employee making deposits with the State
69 Treasurer shall prepare deposit lists in the manner and upon
70 report forms prescribed by the State Treasurer in the state
71 accounting system. The State Treasurer shall review the deposits
72 in the state accounting system and forward the information to the
73 State Auditor and to the Secretary of Revenue.

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

77 (1)All federal funds, defined in section two, article eleven,
78 chapter four of this code, received shall be recorded in federal
79 fund accounts in the state treasury apart from the general and
80 special revenues of the state, and shall be expended in
81 accordance with the provisions of article eleven, chapter four of
82 this code.

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

87 (3)All moneys from specific revenue sources which by
88 legislative enactments are not required to be accounted for as
89 general revenue funds or federal funds, are special revenue
90 funds, and include, but are not limited to the following funds
91 which shall be recorded in separate accounts:

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

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

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

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

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

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

104 (7) (G) All insurance collected on account of losses by fire
105 and refunds;

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

109 (9) (I) All moneys collected and belonging to the capitol
110 building fund, state road fund, ~~state road sinking fund,~~ general
111 school fund, school fund, ~~state fund (moneys belonging to~~
112 ~~counties, districts and municipalities), state interest and sinking~~
113 ~~funds, political subdivisions,~~ state compensation funds, the fund
114 maintained by the Public Service Commission for the
115 investigation and supervision of applications and all fees,
116 money, interest or funds arising from the sales of all permits and
117 licenses to hunt, trap, fish or otherwise hold or capture fish and

118 wildlife resources and money reimbursed and granted by the
119 federal government for fish and wildlife conservation; and

120 ~~(+)~~ (J) All moneys collected or received under any act of
121 the Legislature providing that funds collected or received under
122 the act shall be used for specific purposes.

123 ~~(+)~~ (K) All moneys, except as provided in paragraphs (A)
124 ~~subdivisions (1) through (9)~~ (I), inclusive, ~~subsection (b)~~
125 subdivision (3), subsection (g) of this section, shall be paid into
126 the State Treasury in the same manner as collections not
127 excepted and recorded in separate accounts for receipt and
128 expenditure for the purposes for which the moneys are
129 authorized to be collected by law: *Provided*, That amounts
130 collected pursuant to ~~subdivision (10), subsection (b)~~ subdivision
131 (3), subsection (g) of this section, which are found, from time to
132 time, to exceed funds needed for the purposes set forth in general
133 law may be transferred to other accounts or funds and
134 redesignated for other purposes by appropriation of the
135 Legislature.

136 (L) The gross amount collected in all cases shall be paid into
137 the State Treasury. Commissions, costs and expenses, including,

138 without limitation, amounts charged for use of bank, charge,
139 credit or debit cards, incurred in the collection process shall be
140 paid from the gross amount collected in the same manner as
141 other payments are made from the State Treasury.

142 (†) (M) The State Treasurer may establish an imprest fund
143 or funds in the office of any state spending unit upon receipt of
144 a proper application. To implement this authority, the State
145 Treasurer shall propose rules for legislative approval in
146 accordance with the provisions of article three, chapter
147 twenty-nine-a of this code. The State Treasurer or his or her
148 designee shall annually audit all imprest funds and prepare a list
149 of the funds showing the location and amount as of fiscal year
150 end, retaining the list as a permanent record of the State
151 Treasurer until the Legislative Auditor has completed an audit of
152 the imprest funds of all agencies and institutions involved.

153 (‡) (N) The State Treasurer may develop and implement a
154 centralized receipts processing center. The State Treasurer may
155 request the transfer of equipment and personnel from appropriate
156 state agencies to the centralized receipts processing center in
157 order to implement the provisions of this section: *Provided, That*

158 the Governor or appropriate constitutional officer has authority
159 to authorize the transfer of equipment or personnel to the
160 centralized receipts processing center from the respective
161 agency.

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

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

8 (b)Notwithstanding any provision of this code to the
9 contrary, including provisions stating funds collected are not
10 state funds and provisions authorizing a spending unit to have
11 one or more accounts outside the Treasury, a spending unit shall
12 comply with the State Treasurer's procedures for the receipt and
13 disbursement of moneys not due the state and obtain written
14 authorization from the State Treasurer before depositing any
15 moneys in an account outside the Treasury. Upon the State

16 Treasurer`s written revocation of the authorization, the spending
17 unit shall deposit funds deposited in an account outside the
18 Treasury into the Treasury in the manner and in the depository
19 specified by the State Treasurer. The State Treasurer is the final
20 determining authority as to whether these funds are funds due or
21 not due the state pursuant to section two of this article.

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

ARTICLE 3A. FINANCIAL ELECTRONIC COMMERCE.

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

1 (a) The State Auditor and the State Treasurer shall
2 implement electronic commerce capabilities for each of their
3 offices to facilitate the performance of their duties under this
4 code. The State Treasurer shall competitively bid the selection
5 of vendors needed to provide the necessary banking, investment
6 and related goods and services, and the provisions of article
7 one-b, chapter five, and articles three and seven, chapter five-a
8 of this code shall not apply, unless requested by the ~~State~~
9 ~~Auditor or~~ State Treasurer.

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

14 (c) The Auditor or Treasurer may, in his or her discretion,
15 require documents filed with or submitted to his or her
16 respective office be filed or submitted in a prescribed electronic
17 format.

18 (d) The Auditor or Treasurer, in his or her discretion, may
19 waive:

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

22 (2) Any requirements for the certification, notarization or
23 verification of a document filed or submitted in an electronic
24 format.

25 (e) The head of each spending unit is responsible for
26 adopting and implementing security procedures to ensure
27 adequate integrity, security, confidentiality, and auditability of
28 the business transactions of his or her spending unit when
29 utilizing electronic commerce.

ARTICLE 4. ACCOUNTS, REPORTS AND GENERAL PROVISIONS.

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

1 The Treasurer shall develop procedures for the storage,
2 retention and disposal of records filed with, submitted to or
3 created by the Treasurer's office. The procedures shall comply
4 with the requirements for state records, as defined in section
5 three, article eight, chapter five-a of this code, and for the
6 reproduction and preservation of essential state records, as
7 defined in section four, article eight, chapter five-a of this code.
8 Preservation duplicates, as defined in section three, article eight,
9 chapter five-a of this code, shall be maintained in an unalterable
10 readable electronic media in accordance with industry standards,
11 reviewed for accuracy and indexed, and shall have the same
12 force and effect as the original records whether the original
13 records are in existence or not. The procedures shall provide for
14 the maintenance of the confidentiality of the records and ensure
15 the director of the division of archives and history receives the
16 records the director identifies as having historic value. The
17 Treasurer shall purchase the equipment and supplies needed for
18 record retention as part of his or her electronic commerce
19 activities.

ARTICLE 5. PUBLIC SECURITIES.

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

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

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

§12-6A-1.Short title.

1 This article shall be known and may be cited as “The Debt
 2 Management Act ~~of 1991~~”.

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

1 ~~(a)~~The Legislature hereby finds and declares that ~~efficient~~
 2 ~~and effective state government requires the procuring,~~
 3 ~~maintaining and reporting of pertinent information relating to the~~
 4 ~~debt of the state and its agencies, boards, commissions and~~
 5 ~~authorities. The State Treasurer shall perform the functions and~~
 6 ~~duties necessary to serve as a central information source~~
 7 ~~concerning the incurrence, recording and reporting of debt issued~~
 8 ~~by the state, its agencies, boards, commissions and authorities.~~

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

10 ~~(1) The credit rating and acceptance of bonds, notes,~~
 11 ~~certificates of participation and other securities and indebtedness~~

12 ~~of the State and its spending units have been unstable as a result~~
13 ~~of the instability in traditional national and international markets~~
14 ~~of goods and services produced by the citizens of the State.~~

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

20 (3) ~~In order to attain these goals, authorization of State debt~~
21 ~~must be based on the ability of the State to meet its total debt~~
22 ~~service requirements, in light of other uses of its fiscal resources.~~
23 in order to maintain the strong financial management of the
24 state, to meet the fiscal needs of state government and to
25 facilitate financing essential capital projects at the lowest
26 possible cost to the citizens of the state, the state must regularly
27 monitor the amount of debt issued by the state and its spending
28 units, ensure the state and its spending units meet all debt service
29 requirements, monitor the credit rating of the state and analyze
30 the acceptance of debt issued by the state and its spending units.
31 The Legislature further finds that in order to meet these

32 important goals, the Division of Debt Management needs to be
33 continued.

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

1 ~~There is hereby created within the office of the State~~
2 ~~Treasurer, the~~ (a)The Division of Debt Management is continued
3 in the office of the State Treasurer.

4 (b)The Division shall serve as a central information source
5 concerning the incurrence, recording and reporting of debt issued
6 by the state and its spending units, and shall prepare reports
7 pertaining to the capacity of the state and its spending units to
8 issue debt.

9 ~~(c)The division shall be under the control of a Director to be~~
10 ~~appointed by the Treasurer and who shall be~~ shall appoint a
11 director, qualified by reason of exceptional training and
12 experience in the field of activities of his or her respective
13 Division, and who shall serve at the will and pleasure of the
14 Treasurer.

§12-6A-4. Definitions.

1 For the purpose of this article:

2 “Debt” means bonds, notes, certificates of participation,

3 certificate transactions, capital leases, debentures, lease
4 purchases, mortgages, securitizations and all other forms of
5 securities and indebtedness obligations evidencing specific
6 amounts owed and payable on demand or on determinable dates.

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

10 “Division” means the Division of Debt Management.

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

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

17 “State” means the State of West Virginia.

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

23 of the state with the power to issue and secure debt. Spending
24 unit does not include local political subdivisions.

25 “Tax supported debt” means: (1) general obligation bonds of
26 the state; (2) moral obligation bonds of the state or a spending
27 unit; (3) capital leases, installment purchases, lease purchases,
28 mortgages, certificates of participation and any other similar
29 debt financing transaction extending beyond one year issued by
30 the state or its spending units; and (4) any other debt issued by
31 the state or a spending unit which is not self-supporting. Debt
32 issued by the West Virginia housing development fund,
33 economic development authority, hospital finance authority,
34 parkway authority, public energy authority, solid waste
35 management board and water development authority, with the
36 exception of debt secured by lottery revenues or secured by a
37 lease with the Secretary of Administration, is not tax supported
38 debt.

§12-6A-5. Powers and duties.

1 The Division of Debt Management shall perform the
2 following functions and duties:

3 (1) ~~Develop a long-term debt plan including criteria for the~~
4 ~~issuance of debt by the State and its spending units and the~~
5 ~~continuous evaluation of~~Continuously evaluate the current and
6 projected debt and debt service requirements of the State and its
7 spending units.

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

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

12 (4)Issue a debt impact report if requested by the Governor,
13 the President of the Senate or the Speaker of the House of
14 Delegates. The Division may request any additional information
15 needed to issue a debt impact report. A debt impact report shall
16 in no way restrict the Governor, the Legislature or the spending
17 unit.

18 (3~~5~~) Act as liaison with the Legislature on all debt matters,
19 including, but not limited to, new debt issues and the status of
20 debt issued by the State and its spending units.

21 (4~~6~~) Assist the State and its spending units regarding the
22 issuance of debt if requested.

23 (57) Establish reporting requirements for the issuance of
24 debt by the State and its spending units pursuant to the
25 provisions of this article.

26 ~~(8)~~ Monitor continuing disclosure requirements and post-
27 issuance compliance issues with federal and state tax and
28 securities law, including, without limitation, arbitrage, rebate
29 and remedial measures.

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

33 (710) Contract, cooperate or join with any one or more other
34 governments or public agencies, ~~or~~ with any political subdivision
35 of the State, or with the United States, to perform any
36 administrative service, activity or undertaking which ~~any such~~
37 the contracting party is authorized by law to perform, ~~and to~~
38 charge for providing ~~such~~ services and expend any fees
39 collected.

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

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

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

1 (a) Within fifteen days following the end of each calendar
2 quarter, each state spending unit shall provide the division and
3 the Legislative Auditor, in the manner provided by this article
4 and in such form and detail as the State Treasurer may ~~by~~
5 ~~regulation~~ require, a ~~statement of the total debt of each such state~~
6 ~~spending unit incurred during the calendar quarter and owing at~~
7 ~~the end of such calendar quarter, which statement shall include~~
8 report including, but not ~~be~~ limited to, the name of the state
9 spending unit, the amounts and types of debt incurred during the
10 calendar quarter and outstanding at the end of the calendar
11 quarter, the cost and expenses of incurring the debt, the maturity
12 date of each debt, the terms and conditions of the debt, the
13 current debt service on the debt, the ~~current~~ interest rate on the
14 debt, the source of the proceeds utilized for repayment of the
15 debt, the amounts of repayment during the calendar quarter, the
16 repayment schedule and the security for the debt. A state
17 spending unit having no outstanding debt shall not be required
18 to provide the quarterly report but shall file an annual report, on
19 forms established by the Division of Debt Management:
20 *Provided*, That the state spending unit shall immediately notify

21 the Division of Debt Management of any change in the spending
22 unit's outstanding debt or financial condition.

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

28 (c) Within thirty days after closing on an offering, the terms
29 ~~shall be reported to the~~ responsible spending unit shall report to
30 the division the information pertaining to the offering required
31 by the division in the form as the division may ~~by regulation~~
32 require.

33 (cd) On or before ~~the thirty-first day of~~ January 31 and ~~the~~
34 ~~thirty-first day of~~ July 31 of each year, the Treasurer division
35 shall prepare and issue a report of all debt of the State and its
36 spending units and of all proposed debt issuances of which the
37 Treasurer division has received notice and shall furnish a copy
38 of ~~such~~ the report to the Governor, the President of the Senate,
39 the Speaker of the House of Delegates, the members of the Joint
40 Committee on Government and Finance, the Legislative Auditor
41 and upon request to any other legislative committee and any

42 member of the Legislature. The report shall be kept available for
43 inspection by any citizen of the state. The ~~Treasurer~~ division
44 shall also prepare updated reports of all debt of the state and its
45 spending units as of March 31 and September 30 each year,
46 which shall be available for inspection at the office of the state
47 ~~Treasurer on or before the thirty-first day of March and the~~
48 ~~thirtieth day of September of each year~~ within thirty days of the
49 end of the respective calendar quarter.

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

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

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

61 (3)Any information available from the budget office of the
62 department of revenue in connection with projected revenues and

63 anticipated capital expenditures projected for at least the next
64 five fiscal years;

65 (4)The amount of debt the state and its spending units may
66 prudently issue;

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

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

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

§12-6A-7. Promulgation of rules.

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

ARTICLE 6C. WEST VIRGINIA BOARD OF TREASURY INVESTMENTS.

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

1 (a) The management and control of the Consolidated Fund
2 is vested solely in the Board in accordance with the provisions
3 of this article.

4 (b) The State Treasurer is the chairperson of the Board. The
5 Board shall elect a vice chairperson. Annually, the directors shall
6 elect a secretary to keep a record of the proceedings of the Board
7 and provide any other duties required by the board. The board
8 may elect a person who is not a member of the board as
9 secretary.

10 (c) The board may use the staff of the State Treasurer,
11 employ personnel and contract with any person or entity needed
12 to perform the tasks related to operating the Consolidated Fund.

13 (d) The Board shall retain an internal auditor to report
14 directly to the Board and shall fix his or her compensation. As a
15 minimum qualification, the internal auditor shall be a certified
16 public accountant with at least three years' experience as an
17 auditor. The internal auditor shall develop an internal audit plan,
18 with board approval, for the testing of procedures, internal
19 controls and the security of transactions.

20 (e) The Board may retain one employee with a chartered
21 financial analyst designation or an employee who is a certified
22 treasury manager.

23 (f) Each director shall give a separate fiduciary or surety
24 bond from a surety company qualified to do business within this

25 State in a penalty amount of one million dollars for the faithful
26 performance of his or her duties as a director. The Board shall
27 purchase a blanket bond for the faithful performance of its duties
28 in the amount of ~~fifty million dollars or in an amount equivalent~~
29 ~~to one percent of the assets under management, whichever is~~
30 ~~greater~~ set by the board of at least \$10 million. The amount of
31 the blanket bond is in addition to the ~~one million dollar~~ \$1
32 million individual bond required of each director by the
33 provisions of this section. The Board may require a fiduciary or
34 surety bond from a surety company qualified to do business in
35 this state for any person who has charge of, or access to, any
36 securities, funds or other moneys held by the board and the
37 amount of the fiduciary or surety bond are fixed by the board.
38 The premiums payable on all fiduciary or surety bonds are
39 expenses of the board.

40 (g) The directors, employees of the Board and employees of
41 the State Treasurer performing work for or on behalf of the
42 Board are not liable personally, either jointly or severally, for
43 any debt or obligation created by the Board: Provided, That the
44 directors and employees of the Board are liable for acts of
45 misfeasance or gross negligence.

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

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

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

4 (b) The Board shall adopt, review, modify or cancel the
5 investment policy of each fund or pool created at each annual
6 board meeting. For each participant directed account authorized
7 by the State Treasurer, staff of the Board shall develop an
8 investment policy for the account and create the requested
9 account. The Board shall review all existing participant directed
10 accounts and investment policies at its annual meeting for
11 modification.

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

14 (1) Preservation of capital;

- 15 (2) Risk tolerance;
 - 16 (3) Credit standards;
 - 17 (4) Diversification;
 - 18 (5) Rate of return;
 - 19 (6) Stability and turnover;
 - 20 (7) Liquidity;
 - 21 (8) Reasonable costs and fees;
 - 22 (9) Permissible investments;
 - 23 (10) Maturity ranges;
 - 24 (11) Internal controls;
 - 25 (12) Safekeeping and custody;
 - 26 (13) Valuation methodologies;
 - 27 (14) Calculation of earnings and yields;
 - 28 (15) Performance benchmarks and evaluation; and
 - 29 (16) Reporting.
- 30 (d) No security may be purchased by the board unless the
31 type of security is on a list approved at a board meeting. The
32 board shall review the list at its annual meeting.
- 33 (e) Notwithstanding the restrictions which are otherwise
34 provided by law with respect to the investment of funds, the

35 board and all participants, now and in the future, may invest
36 funds in these securities:

37 (1) Obligations of, or obligations that are insured as to
38 principal and interest by, the United States of America or any
39 agency or corporation thereof and obligations and securities of
40 the United States sponsored enterprises, including, without
41 limitation:

42 (I) United States Treasury;

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

44 (iii) Farmers Home Administration;

45 (iv) Federal Farm Credit Banks;

46 (v) Federal Home Loan Banks;

47 (vi) Federal Home Loan Mortgage Corporation;

48 (vii) Federal Land Banks;

49 (viii) Government National Mortgage Association;

50 (ix) Merchant Marine bonds; and

51 (x) Tennessee Valley Authority Obligations;

52 (2) Obligations of the Federal National Mortgage
53 Association;

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

57 (4) Corporate debt rated in one of the six highest rating
58 categories by a nationally recognized ~~rating agency~~ statistical
59 rating organization;

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

63 ~~(5)~~(6) State and local government, or any instrumentality or
64 agency thereof, securities with one of the three highest ratings by
65 a nationally recognized ~~rating agency~~ statistical rating
66 organization;

67 ~~(6)~~(7) Repurchase agreements involving the purchase of
68 United States Treasury securities and repurchase agreements
69 fully collateralized by obligations of the United States
70 government or its agencies or instrumentalities;

71 ~~(7)~~(8) Reverse repurchase agreements involving the
72 purchase of United States Treasury securities and reverse
73 repurchase agreements fully collateralized by obligations of the
74 United States government or its agencies or instrumentalities;

75 ~~(8)~~(9) Asset-backed securities rated in the highest category
76 by a nationally recognized ~~rating agency~~ statistical rating
77 organization;

78 ~~(9)~~(10) Certificates of deposit; and
79 ~~(10)~~(11) Money market and other fixed income funds; and
80 ~~(11)~~(12) Investments in accordance with the Linked Deposit
81 Program, ~~a program~~ loans authorized under this article, programs
82 using financial institutions in West Virginia to ~~obtain certificates~~
83 ~~of deposit, loans approved by the Legislature~~ invest moneys,
84 equipment and software financing program for West Virginia
85 state government entities that authorize the Board to capture
86 revenues in the event of default and any other programs
87 authorized by the Legislature.

88 (f) In addition to the restrictions and conditions contained in
89 this section:

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

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

97 (3) At no time shall less than fifteen percent of the
98 Consolidated Fund be invested in any direct obligation of or

99 obligation guaranteed as to the payment of both principal and
 100 interest by the United States of America.

101 (g)Securities purchased in compliance with this article that
 102 become non-compliant may be retained upon recommendation
 103 of the investment manager of the security and the board
 104 investment consultant.

CHAPTER 33. INSURANCE

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

§33-3-14d. Additional fire and casualty insurance premium tax; allocation of proceeds; effective date.

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

13 (2) All moneys collected from this additional tax shall be
14 received by the commissioner and paid by him or her into a
15 special account in the State Treasury, designated the Municipal
16 Pensions and Protection Fund: *Provided*, That on or after
17 January 1, 2010, the commissioner shall pay ten percent of the
18 amount collected to the Teachers Retirement System Reserve
19 Fund created in section eighteen, article seven-a, chapter
20 eighteen of this code, twenty-five percent of the amount
21 collected to the Fire Protection Fund created in section
22 thirty-three of this article for allocation by the Treasurer to
23 volunteer and part-volunteer fire companies and departments
24 and sixty-five percent of the amount collected to the Municipal
25 Pensions and Protection Fund: *Provided, however*, That upon
26 notification by the Municipal Pensions Oversight Board
27 pursuant to the provisions of section eighteen-b, article
28 twenty-two, chapter eight of this code, on or after January 1,
29 2010, or as soon thereafter as the Municipal Pensions Oversight
30 Board is prepared to receive the funds, sixty-five percent of the
31 amount collected by the commissioner shall be deposited in the
32 Municipal Pensions Security Fund created in section

33 eighteen-b, article twenty-two, chapter eight of this code. The
34 net proceeds of this tax after appropriation thereof by the
35 Legislature is distributed in accordance with the provisions of
36 this section, except for distribution from proceeds pursuant to
37 subsection (d), section eighteen-a, article twenty-two, chapter
38 eight of this code.

39 (b)(1) Before the ~~first day of~~ August 1 of each year, the
40 treasurer of each municipality in which a municipal
41 policemen's or firemen's pension and relief fund is established
42 shall report to the State Treasurer the average monthly number
43 of members who worked at least one hundred hours per month
44 and the average monthly number of retired members of
45 municipal policemen's or firemen's pension and relief fund or
46 the Municipal Police Officers and Firefighters Retirement
47 System during the preceding fiscal year: *Provided, That*
48 beginning in the year 2010 and continuing thereafter, the report
49 shall be made to the oversight board created in section
50 eighteen-a, article twenty-two, chapter eight of this code. These
51 reports received by the oversight board shall be provided
52 annually to the State Treasurer by September 1.

53 (2) Before ~~the first day of~~ September 1 of each calendar
54 year, the State Treasurer, or the Municipal Pensions Oversight
55 Board, once in operation, shall allocate and authorize for
56 distribution the revenues in the Municipal Pensions and
57 Protection Fund which were collected during the preceding
58 calendar year for the purposes set forth in this section. Before
59 ~~the first day of~~ September 1 of each calendar year and after the
60 Municipal Pensions Oversight Board has notified the Treasurer
61 and commissioner pursuant to section eighteen-b, article
62 twenty-two, chapter eight of this code, the Municipal Pensions
63 Oversight Board shall allocate and authorize for distribution the
64 revenues in the Municipal Pensions Security Fund which were
65 collected during the preceding calendar year for the purposes
66 set forth in this section. In any year the actuarial report required
67 by section twenty, article twenty-two, chapter eight of this code
68 indicates no actuarial deficiency in the municipal policemen's
69 or firemen's pension and relief fund, no revenues may be
70 allocated from the Municipal Pensions and Protection Fund or
71 the Municipal Pensions Security Fund to that fund. The
72 revenues from the Municipal Pensions and Protection Fund

73 shall then be allocated to all other pension and relief funds
74 which have an actuarial deficiency.

75 (3) The moneys, and the interest earned thereon, in the
76 Municipal Pensions and Protection Fund allocated to volunteer
77 and part-volunteer fire companies and departments shall be
78 allocated and distributed quarterly to the volunteer fire
79 companies and departments. Before each distribution date, the
80 State Fire Marshal shall report to the State Treasurer the names
81 and addresses of all volunteer and part-volunteer fire companies
82 and departments within the state which meet the eligibility
83 requirements established in section eight-a, article fifteen,
84 chapter eight of this code.

85 (c)(1) Each municipal pension and relief fund shall have
86 allocated and authorized for distribution a pro rata share of the
87 revenues allocated to municipal policemen's and firemen's
88 pension and relief funds based on the corresponding
89 municipality's average monthly number of police officers and
90 firefighters who worked at least one hundred hours per month
91 during the preceding fiscal year. On and after July 1, 1997,
92 from the growth in any moneys collected pursuant to the tax

93 imposed by this section and interest thereon there shall be
94 allocated and authorized for distribution to each municipal
95 pension and relief fund, a pro rata share of the revenues
96 allocated to municipal policemen's and firemen's pension and
97 relief funds based on the corresponding municipality's average
98 number of police officers and firefighters who worked at least
99 one hundred hours per month and average monthly number of
100 retired police officers and firefighters. For the purposes of this
101 subsection, the growth in moneys collected from the tax
102 collected pursuant to this section is determined by subtracting
103 the amount of the tax collected during the fiscal year ending
104 June 30, 1996, from the tax collected during the fiscal year for
105 which the allocation is being made and interest thereon. All
106 moneys received by municipal pension and relief funds under
107 this section may be expended only for those purposes described
108 in sections sixteen through twenty-eight, inclusive, article
109 twenty-two, chapter eight of this code.

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

113 (3) In addition to the share allocated and distributed in
114 accordance with subdivision (1) of this subsection, each
115 municipal fire department composed of full-time paid members
116 and volunteers and part-volunteer fire companies and
117 departments shall receive a share equal to the share distributed
118 to volunteer fire companies under subdivision (2) of this
119 subsection reduced by an amount equal to the share multiplied
120 by the ratio of the number of full-time paid fire department
121 members who are also members of a municipal firemen's
122 pension and relief fund or the Municipal Police Officers and
123 Firefighters Retirement System to the total number of members
124 of the fire department.

125 (d) The allocation and distribution of revenues provided for
126 in this section are subject to the provisions of section twenty,
127 article twenty-two, and sections eight-a and eight-b, article
128 fifteen, chapter eight of this code.

129 (e)Based upon the findings of an audit by the Treasurer, the
130 Legislature hereby finds and declares that during the period of
131 1982 through April 27, 2012 allocations from the Municipal
132 Pensions and Protection Fund were miscalculated and errors

133 were made in amounts transferred, resulting in overpayments
134 and underpayments to the relief and pension funds and to the
135 Teachers Retirement System, and that the relief and pension
136 funds and the Teachers Retirement System were not at fault for
137 any of the overpayments and underpayments. The Legislature
138 hereby further finds and declares that any attempt by the
139 Municipal Pension Oversight Board or other entity to recover
140 any of the overpayments would be unjust and create economic
141 hardship for the entities that received overpayments. No entity,
142 including, without limitation, the Municipal Pension Oversight
143 Board, may seek to recover from a relief or pension fund, the
144 Teachers Retirement System or the state any overpayments
145 received from the Municipal Pensions and Protection Fund and
146 the overpayments are not subject to recovery, offset or
147 litigation. Pursuant to the audit by the Treasurer, the amount of
148 \$3,631,846.55 is determined owed to specific relief and pension
149 funds through the period of April 27, 2012. The Treasurer is
150 hereby authorized to transfer the amount of \$3,631,846.55 from
151 the Unclaimed Property Trust Fund to the Municipal Pensions
152 and Protection Fund, which is hereby reopened for the sole

153 purpose of the transfer and remittances pursuant to this
154 subsection (e), and to use the amount transferred to remit the
155 amounts due to the pension and relief funds. The payment of
156 the \$3,631,846.55 to the pension and relief funds is complete
157 satisfaction of any amounts due, and no entity, including,
158 without limitation, the Municipal Pension Oversight Board and
159 any pension or relief fund, may seek to recover any further
160 amounts.

CHAPTER 36. ESTATES AND PROPERTY.

ARTICLE 8. UNIFORM UNCLAIMED PROPERTY ACT.

§36-8-13. Deposit of funds.

1 (a) The administrator shall record the name and last known
2 address of each person appearing from the holders reports to be
3 entitled to the property and the name and last known address of
4 each insured person or annuitant and beneficiary and with
5 respect to each policy or annuity listed in the report of an
6 insurance company, its number, the name of the company and
7 the amount due.

8 (b) The Unclaimed Property Fund is continued. The
9 administrator shall deposit all funds received pursuant to this

10 article in the Unclaimed Property Fund, including the proceeds
11 from the sale of abandoned property under section twelve of
12 this article. In addition to paying claims of unclaimed property
13 duly allowed, the administrator may deduct the following
14 expenses from the Unclaimed Property Fund:

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

16 (2) Expenses incurred in returning the property to owners,
17 including without limitation the costs of mailing and
18 publication to locate owners;

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

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

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

24 (c) The Unclaimed Property Trust Fund is continued within
25 the State Treasury. The administrator may invest the Unclaimed
26 Property Trust Fund with the West Virginia Board of Treasury
27 Investments and all earnings shall accrue to the fund and are
28 available for expenditure in accordance with this article. After
29 deducting the expenses specified in subsection (b) of this

30 section and maintaining a sum of money from which to pay
31 claims duly allowed, the administrator shall transfer the
32 remaining moneys in the Unclaimed Property Fund to the
33 Unclaimed Property Trust Fund.

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

38 (2) On or before December 15 of each year,
39 notwithstanding any provision of this code to the contrary, the
40 administrator shall transfer the sum of \$1 million from the
41 Unclaimed Property Trust Fund to the Prepaid Tuition Trust
42 Escrow Fund, until the actuary certifies there are sufficient
43 funds to pay out all contracts.

44 (e) On or before June 1, 2007, the unclaimed property
45 administrator shall transfer the amount of \$2 million from the
46 Unclaimed Property Trust Fund to the Deferred Compensation
47 Matching Fund for operation of the deferred compensation
48 matching program for state employees. On or before June 1,
49 2008, the unclaimed property administrator shall transfer the

50 amount of \$1 million from the Unclaimed Property Trust Fund
51 to the Deferred Compensation Matching Fund for operation of
52 the matching program.

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

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