Investment Policy

As adopted by the Board
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I. STATEMENT OF PURPOSE AND DEFINITION OF TERMS

This is the official Investment Policy of the West Virginia Board of Treasury Investments. Deviation from this Policy is not permitted without prior, explicit, written permission from the West Virginia Board of Treasury Investments. No deviation may violate federal or State law, rules and regulations.

A. STATEMENT OF PURPOSE

This Investment Policy (“Investment Policy” or “Policy”) is adopted pursuant to Article 6C of Chapter 12 of the West Virginia Code and specifically outlines the investment philosophy and practices of the West Virginia Board of Treasury Investments (the “Board”). It has been developed to provide a fiscal administration, investment, and management plan for the Assets entrusted to the Board. The Board believes it is crucial to adopt a plan by which these Assets will be maintained and enhanced by using prudent investment policies. The Board has adopted this Investment Policy to serve as that plan, and to provide:

- A clear direction to Investment Managers and Consultants, Staff, Participants, and any other Outside Service Provider as to the objectives, goals, and restrictions with regard to investment of Assets;
- A methodology which allows Assets to be structured and invested in a prudent manner; and
- A meaningful basis for the evaluation of Asset classes, Investment Managers and the strategies used to achieve the various investment objectives.

B. DEFINITION OF TERMS

For the purposes of this Investment Policy, the terms listed below shall have the following meanings:

**ACT:** The West Virginia Code of 1931, as amended §12-6C-1 et seq. The Act is provided as APPENDIX J.

**ASSETS:** Moneys entrusted to the BTI for investment.

**ASSET ALLOCATION PLAN:** Plan used to diversify Portfolios into asset classes according to their risk/return.

**BOARD:** The governing body for the West Virginia Board of Treasury Investments and any reference elsewhere in this Policy to Board of Treasury Investments or BTI means the Board as defined herein.

**BTI:** The West Virginia Board of Treasury Investments.

**CODE:** The West Virginia Code of 1931, as amended.

**CUSTODIAN:** Financial institution that maintains custody of the Assets.

**DIRECTOR:** Any member serving on the Board.

**FUNDS:** The collective investments managed by the Board, of those monies currently needed to fund State government operations, Local Government Funds, or those moneys that are required by the Code to be invested in the Consolidated Fund (as defined by the Act).
INVESTMENT CONSULTANT OR CONSULTANT: An individual or entity retained by the Board to provide investment consulting services.

INVESTMENT GUIDELINES: A specific set of restrictions/guidelines governing the investment of Assets in a specific Pool/Portfolio.

INVESTMENT MANAGER: A firm retained by the Board to invest Assets and manage a Portfolio.

LOCAL GOVERNMENT FUNDS: The moneys of a Political Subdivision, including without limitations policemen’s and firemen’s pension and relief funds, and volunteer fire department funds, transferred to the Board for investment.

OUTSIDE SERVICE PROVIDER: Outside firms retained by the Board to provide investment services, advice, and banking services required by the Board to implement the Policy.

PARTICIPANT: Any State government spending unit or Political Subdivision which transfers moneys to the Board for investment.

PARTICIPANT DIRECTED ACCOUNTS: Certain Pools maintained for individual State agencies with specific investment needs. Each agency has 100 percent ownership of the underlying investments in its Pool and is solely responsible for the investment decisions in accordance with the legal restrictions applicable to those Assets. The Board serves in a custodial capacity and has no discretion over the investment policy and decisions for these Pools.

POLITICAL SUBDIVISIONS: A county, municipality or any agency, authority, board, county board of education, commission or instrumentality of a county or municipality and regional councils created pursuant to the provisions of §5-25-8 of the Code.

POLICY OR INVESTMENT POLICY: This investment policy statement.

POOL: An individual accumulation of Assets with its own investment characteristics, requirements, and objectives.

PORTFOLIO: The individual Assets managed by an Investment Manager who is responsible for implementing the Board’s investment philosophy and objectives, and performing the day-to-day trading of those Assets.

SECURITIES: All bonds, notes, debentures or other evidences of indebtedness and other lawful investment instruments, as defined under the Act. The list of Permitted Securities is provided as APPENDIX D.

STAFF: Any BTI employee, or employee of the Treasurer’s office doing work on behalf of the BTI.

II. INVESTMENT PHILOSOPHY

The Board was established by the legislature to provide prudent fiscal administration, investment, and management for the Assets. It is the investment philosophy of the Board to invest Assets in a manner that strives for maximum safety, provides adequate liquidity to meet all operating requirements, and achieves the highest possible investment return consistent with the primary objectives of safety and liquidity. Due to the short-term nature of the Funds, the Board believes that it is imperative to review and adjust the Policy in reaction to interest rate market conditions.
fluctuations/trends on a regular basis. In order to accomplish this, the Board has adopted the following formal review schedule:

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<tr>
<th>AGENDA ITEM</th>
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<tr>
<td>Investment Performance</td>
<td>Quarterly</td>
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<tr>
<td>Asset Allocation</td>
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<tr>
<td>Investment Policy</td>
<td>Annually</td>
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<tr>
<td>Fee Schedule and Budget</td>
<td>Annually</td>
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When required, the Board may react to trends in the market more quickly by itself or through actions of its Investment Committee.

The Board will employ Investment Managers to implement this Policy. The Board shall monitor the performance of and supervise all Investment Managers. Depending on the Portfolio they manage, the Investment Managers performance will be evaluated on some or all of the following:

- Performance relative to an appropriate benchmark(s) or proxy group;
- Consistency of philosophy, style, firm, and key personnel assigned to the BTI Account;
- Ability to add incremental value after costs;
- Firm attributes;
- Growth in Assets;
- Personnel issues and client service; and
- Research, trading and Portfolio characteristics.

In determining its philosophy towards risk, the Board considers its fiduciary obligations, statutory requirements, and current market conditions. Additionally, the Board will consider the Participants’ purposes and characteristics, financial conditions, liquidity needs, sources and level of contributions, income and general business conditions. Based upon these many factors, the Board identifies when either a more conservative or more aggressive investment approach is warranted.

### III. INVESTMENT OBJECTIVES

The Board’s objective is to provide focused investment services for the Funds, reduce costs for, and increase returns to its Participants. Realizing the majority of the Funds are for operating expenses, the Policy is designed to address the short-term liquidity needs of the Participants and limit risk, but still permitting for a better rate of return than Participants may be able to obtain on their own.

All available Funds shall be invested with the following objectives and priorities:

- Safety of principal. Investments shall be undertaken in a manner that seeks preservation of capital with reasonable investment risk, in the overall portfolio.
- Liquidity requirements of anticipated and unanticipated expenditures.
- Maximization of the yield allocated to Participant investments consistent with all investment objectives.
- Recognition of differing objectives and needs of various Participants.
- Conformance with State law and other pertinent legal restrictions.
- Diversification of Assets by investment in various Securities classifications and the use of various Investment managers in order to smooth the volatility of returns.
- Realized gains and losses are recognized by the Funds as they occur.
IV. INVESTMENT/ADMINISTRATIVE RESPONSIBILITIES

The Board is responsible for the prudent investment and administration of the Funds and, in order to perform those responsibilities, has established complex operational requirements. In order to properly carry out the Policy, the Board will rely on Staff and Outside Service Providers. Due to the number of parties involved in implementing this Policy, their roles as fiduciaries must be clearly identified to ensure operational efficiency, clear lines of communication, and accountability in all aspects of operations. The following describes the various parties and the roles they assume as fiduciaries of the Assets:

A. BOARD OF DIRECTORS

The Board has the responsibility of establishing and maintaining the Policy and determining the objectives for all aspects of BTI operations.

The Board shall adopt By-laws and delegate the implementation of the Policy to the Investment Committee and Staff. The Board shall focus on important policy level issues maintaining the proper fiduciary perspective and time horizon for analysis of the progress of the Policy and the investment returns on the Funds, and develop, adopt, review or modify the Asset Allocation Plan, Investment Policy, Fee Schedule, and Budget for the Funds at least annually.

The Board shall establish committees of its members as required to effectively implement the Policy. Currently, the Board has established the Investment, Audit, and Personnel Committees as described below. Committees shall be briefed as required on any topic or issue pertinent to the Board’s operations and shall make reports regarding those topics to the Board at its meetings.

B. INVESTMENT COMMITTEE

The primary objective of the Investment Committee is to implement this Policy and to do so effectively, prudently, and in a cost efficient manner, in full compliance with all applicable laws, rules, and regulations.

The Investment Committee shall have the following specific responsibilities to be performed with the advice and assistance of Staff and the Consultant and shall make recommendations to the Board for action as necessary regarding:

- Policies for preservation of capital, risk tolerance, credit standards diversification, rate of return, stability and turnover, liquidity, reasonable costs and fees, permissible investments, maturity ranges, internal controls, safekeeping and custody, valuation methodologies, and calculation of earnings and yields;
  - Evaluation, selection, and termination of the Investment Managers and Investment Consultant;
  - Regular review of and revisions to the Policy;
  - Investigate any reported investment problems or non-compliance;
  - Evaluation of investment results to ensure compliance with the Policy and to determine success of investment activities; and
  - Other investment related issues as necessary for the prudent and cost effective investment of the Funds.

The Investment Committee shall meet as needed, but at a minimum, prior to any regular meeting of the Board to address overall investment activities. The Investment Committee shall make a report of its activities at each Board meeting.
C. AUDIT COMMITTEE

The Audit Committee is designated by and acts on behalf of the Board. The Audit Committee’s primary objectives shall include:

- Adopting and implementing an Audit Charter for the BTI. The BTI Audit Charter is provided at APPENDIX I;
- Providing oversight of the integrity of the financial statements;
- Reviewing the annual operations budget;
- Ensuring compliance with legal and regulatory requirements;
- Overseeing the performance of the internal audit function; and
- Assessing the performance of the external auditors, providing recommendations to the Board to engage or dismiss them, and monitoring their qualifications and independence.

The Audit Committee shall meet as needed, but at a minimum, prior to any regular meeting of the Board to address overall financial and audit activities. The Audit Committee shall make a report of its activities, with any recommendations for Board actions, at each Board meeting.

D. PERSONNEL COMMITTEE

The Personnel Committee’s responsibility is to ensure the BTI has the Staff it needs to fulfill its mission and implement the Policy. The Personnel Committee recommends Staffing levels for the BTI and assures the professional qualifications of the Board and Staff are maintained by providing educational programs. Any incident of conflict of interest or West Virginia Ethics Law violation will be reported to the Personnel Committee for disposition. The Personnel Committee shall meet as needed and make a report of its activities, with any recommendations for Board action, at each Board meeting.

E. INVESTMENT CONSULTANT

The Investment Consultant will be selected by and serve at the will and pleasure of the Board based upon recommendations from the Investment Committee. The Consultant must have and assign an employee to work directly with the BTI who has a Chartered Financial Analyst or a Certified Treasury Manager designation. The Consultant works with the Board and Staff to implement this Policy. This requires regular meetings with Staff, the Investment Committee, and/or the Board to provide an independent perspective on various issues and make recommendations as appropriate.

The Consultant will prepare investment performance reports and an analysis of Investment Managers’ performance. These reports must be completed within 45 days after the end of each quarter of the BTI fiscal year (November 15, February 15, May 15, August 15) or more frequently, as the Board may determine. The Investment Consultant shall prepare and deliver to the Board a report on the investment performance of the various Pools. Such report, at a minimum, shall provide the amount, maturity, interest rate, and type of Securities owned by the BTI. A summary of amounts invested in each Securities type, the average maturity of each Pool and the performance of the Pool versus the benchmark(s) will also be provided.

When necessary, the Consultant will assist with Investment Manager selection and will promptly inform the Investment Committee, Board, and/or Staff of any material issues concerning the Investment Managers.
Qualifications and evaluation criteria for Investment Managers are specified in APPENDIX B.

F. INVESTMENT MANAGERS

Investment Managers (the “Managers”) will be selected by and serve at the will and pleasure of the Board based upon recommendations from the Investment Committee. The Managers will have a demonstrated expertise with the type of Portfolio in their charge. The Managers will be provided explicit written instructions detailing their particular assignment and will construct and manage the Portfolio consistent with this Policy. These instructions will be specific and provide direction on the following:

- Permissible Securities
- Diversification
- Maturity Restrictions
- Portfolio Quality Requirements
- Brokerage Issues
- Performance Objectives

Investment Managers have complete discretion over the timing, selection, and execution of orders for Securities made in compliance with this Policy.

Managers are expected to communicate, in writing, to the Investment Committee within five (5) business days of the occurrence of developments which may impact their Portfolio or performance. Examples of these developments include, but are not limited to:

- A material change in investment philosophy;
- A loss of one or more key management personnel;
- A new Portfolio manager being assigned to BTI;
- A change in the ownership structure of the Manager;
- Any disagreement with the Staff; or
- Any other occurrence which might potentially impact the management, performance, professionalism, integrity, or financial position of the Manager.

Managers will provide performance reporting to the Investment Committee, and Board, upon request, utilizing agreed upon reporting formats. Managers will provide an Annual Report to the Investment Committee outlining, as a minimum, the following:

- Portfolio market value, realized and unrealized gains/losses;
- Portfolio characteristics, including, sector allocation, average maturity, and average quality;
- Any suggested changes to the Investment Guidelines of their Portfolio;
- Investment performance relative to appropriate benchmarks; and
- Update on firm, products, and personnel assigned to BTI.

Qualifications and evaluation criteria for Investment Managers are specified in APPENDIX B.

G. CUSTODIAN

The Custodian holds directly, through its agents, its sub-custodians, or designated clearing systems, Securities held as investments by the Board. The Custodian is accountable for registration of those Securities in good delivery form, collection of income generated, and any corporate action notification. The Custodian is responsible for delivery, receipt, tracking, and
H. INTERNAL AUDITOR

The Board shall retain an Internal Auditor and shall fix his/her compensation. As minimum qualifications, the Internal Auditor shall be a certified public accountant with at least three year’s experience as an auditor. The Internal Auditor shall develop an internal audit plan, and work directly through the Audit Committee.

The Internal Auditor’s primary responsibilities shall include:

- Developing and implementing an internal audit plan;
- Evaluating the adequacy of the internal controls established by management;
- Reporting any violation of any applicable law, rule, regulation or policy;
- Providing quarterly reports to the Audit Committee summarizing the internal audit plan and audit activities; and
- Identifying significant departures from the approved internal audit plan and reasons therefore.

I. EXTERNAL AUDITOR

The BTI shall be audited annually by an independent certified public accounting firm selected by the Board. The certified public accounting firm must have a minimum staff of ten certified public accountants, be a member of the American Institute of Certified Public Accountants and, if doing business in West Virginia, a member of the West Virginia Society of Certified Public Accountants. The Board shall have financial and compliance audits of the Board’s books, accounts and records with respect to its receipts, disbursements, investments, contracts and all other matters relating to its financial operations.

V. STANDARD OF CARE

Any investment made pursuant to this Policy shall be made in accordance with the “Uniform Prudent Investor Act,” and shall be further subject to the following:

- The Directors shall diversify the investment of the Funds so as to minimize the risk of large losses unless, under the circumstances, it is clearly prudent not to do so;
- The Directors shall defray reasonable expenses of investing and managing the Funds by charging fees; and
- The Directors shall discharge their duties in accordance with documents and instruments consistent with the Code.

The duties of the Directors apply only with respect to the Assets held by the Board.

VI. INVESTMENT GUIDELINES

The Board recognized that risk (i.e., the uncertainty of future events), volatility (i.e., the potential for variability of asset values), and the possibility of loss in purchasing power (due to inflation) are present to some degree in all types of investments. Due to the short-term nature of the Funds, high levels of risk should be avoided, but the assumption of risk may be warranted if it is needed in order to allow the Investment Managers the opportunity to achieve satisfactory results consistent with the Policy and the Investment Guidelines for the Pool/Portfolio they manage.
All Securities must have a readily attainable market value, and must be readily marketable. Listed within the Investment Guidelines Appendix for each Pool are the Securities specifically permitted by the Policy, as shown below:

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<tr>
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<th>Description</th>
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<tr>
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<td>APPENDIX E – 3</td>
<td>Investment Guidelines – West Virginia Short Term Bond Pool</td>
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<td>Investment Guidelines – School Fund</td>
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<td>Investment Guidelines – EDA – AW</td>
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<td>APPENDIX E – 9</td>
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<td>APPENDIX E – 10</td>
<td>Investment Guidelines – Reserve Pool</td>
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VII. CONFLICT OF INTEREST AND ETHICS

The Directors, Staff, and any Outside Service Provider shall refrain from those circumstances that could be considered a conflict of interest with BTI operations and transactions. A conflict of interest is a circumstance that creates an actual conflict with any fiduciary duty owed and a personal or business activity that could conflict with, could give the appearance of a conflict with, or could impair the ability to make impartial decisions in matters affecting BTI operations and transactions.

Additionally, the Directors and Staff shall maintain knowledge of, and shall comply with, all applicable laws, rules and regulations of any governmental or regulatory entity governing the management of the Funds and shall not knowingly participate in, assist or fail to report to the BTI any acts in violation of those laws, rules and regulations. This requirement includes, but is not limited to, compliance with the “West Virginia Governmental Ethics Act” in the Code. A copy of the West Virginia Governmental Ethics Act is provided as APPENDIX K. Any actual or perceived violation of the Ethics Act shall be reported in writing to the Personnel Committee of the Board for action.

VIII. REPURCHASE AGREEMENTS

The Policy establishes guidelines that govern Repurchase Agreements purchased by, or on behalf of, the BTI. Repurchase Agreements may be subject to, or structured as a tri-party Repurchase Agreement or a Repurchase Agreement with collateral delivered to the Custodian. The BTI requires Repurchase Agreements to have collateral pledged of at least 102% of the principal amount of the Repurchase Agreement. Collateral pledged must comply with Securities permitted by the Repurchase Agreement Guidelines. The guidelines for Repurchase Agreements are specified in APPENDIX F.

IX. SECURITIES LENDING PROGRAM

The Policy establishes the guidelines that govern the Securities Lending Program administered by the BTI. The objective of the Securities Lending Program is to use a conservative management approach to earn incremental income above that already generated from Securities as permitted under the Act. The income earned from the
Securities lending Program is not assigned in assessing the performance of the individual Investment Managers. The guidelines for the Securities Lending Program are specified in APPENDIX G.

X. AUDITOR ACCESS TO RECORDS

Any Investment Manager or Custodian which holds Securities for the account of, in trust for, or pledged to the BTI, shall be required to allow the BTI or its agents to conduct an audit with respect to such Securities or Securities transactions for a period of two (2) years after date of any trade executed on behalf of the BTI.

XI. MISCELLANEOUS PROVISIONS

A. AMENDMENTS

Any modification or amendment of this Policy may be made by an action adopted at any duly constituted Board meeting; provided, however, that no such modification or amendment shall abrogate the rights and duties of then existing BTI contracts with Outside Service Providers, unless required by operation of law or agreed to by the Outside Service Providers.

B. NO RECOURSE

No provision in this Policy shall be the basis for any claim against any Director or Staff, in his individual or official capacity, or against the BTI itself.

C. EFFECT UPON EXISTING CONTRACT

This Policy shall not abrogate the rights and duties of BTI under contracts with Outside Service Providers executed prior to the effective date of this Policy, unless required by operation of law or agreed to by the Outside Service Providers.

D. EFFECT OF FAILURE TO COMPLY AS TO INVESTMENTS

Failure to comply with this Policy shall not invalidate any investment or affect the validity of the authorization of the Board, or their designee, to make such investments, unless required by the Board.
APPENDIX A:

INVESTMENT CONSULTANT QUALIFICATIONS & PRINCIPAL DUTIES
APPENDIX A: INVESTMENT CONSULTANT QUALIFICATIONS & PRINCIPAL DUTIES

QUALIFICATIONS AND EXPERIENCE

- Firm authorized to do business in and with the State.
- Chartered Financial Analyst or Certified Treasury Manager required.
- Be a registered adviser under the Investment Advisers Act of 1940 (or shall be appropriately exempt from registration, such as a bank or trust company).
- Minimum of 5-8 years of related investment advisory experience.
- Experience reviewing the performance of investment managers or direct management experience of a fixed income portfolio.
- Demonstrated analytical skills and the ability to work independently.
- Excellent communication skills, both oral presentation and writing.
- In-depth knowledge of the fixed income market (5 years).
- Ability to meet BTI deadlines and work on multiple projects at one time.

PRINCIPAL DUTIES

- Develop, review, and suggest modifications to the Policy.
- Identify and recommend appropriate measurement benchmark(s) for Pools and Investment Managers.
- Monitor Investment Managers’ performance using industry and internally developed methodologies.
- Identify investment products and strategies that meet the needs, performance objectives, and risk tolerances of the various investment Pools.
- Perform Investment Manager evaluations.
- Conduct due diligence on Investment Managers, to include in-person meetings, and organizational and investment strategy evaluations.
- Prepare written opinions on the Investment Managers’ performance.
- Provide Investment Manager selection assistance. Ascertain both BTI objectives and search parameters, propose list of suitable candidates, and help develop the RFP process.
- Track and analyze fixed income and other market trends, and disseminate this information to the BTI.
- Maintain a current knowledge of the asset classes and the performance of the markets.
- Participate in quarterly Board meetings, conference calls, and BTI conferences.
- Maintain firm independence and stability of personnel and ownership.
- Prepare monthly and quarterly investment performance reports.
- Design and deliver educational sessions to Board and Staff.
- Provide any other services reasonably requested by the BTI.
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APPENDIX B:

INVESTMENT MANAGER QUALIFICATIONS & PRINCIPAL DUTIES
APPENDIX B: INVESTMENT MANAGER QUALIFICATIONS & PRINCIPAL DUTIES

QUALIFICATIONS AND EXPERIENCE

- Authorized to do business in and with the State.
- Be a registered adviser under the Investment Advisers Act of 1940 (or shall be appropriately exempt from registration, such as a bank or trust company).
- Minimum of five years related investment management experience with fixed income portfolios.
- Minimum of $1 Billion assets currently under management.
- Assignment of primary contact to BTI account with demonstrated experience and expertise.
- Excellent communication skills, both oral presentation and writing.
- Recognized expertise in analytical skills with the ability to work independently.
- Ability to meet BTI deadlines and work on multiple projects at one time.

PRINCIPAL DUTIES

- Review investments as to compliance with Investment Policy.
- Notify BTI immediately of any non-compliance issues.
- Operate at all times in accordance with the Investment Policy.
- Use its best effort to increase the value of the Portfolio.
- Provide the Custodian with documents and information that the BTI or its Custodian may request.
- Place orders for the execution of investment transactions in accordance with the Policy.
- Furnish the BTI a daily report for all transactions executed.
- Keep accurate and detailed records of all receipts, investments, sales, disbursements and other transactions carried out.
- Maintain thorough and appropriate written risk control policies and procedures to ensure compliance with the Investment Policy and any applicable law, rule or regulation.
- Keep informed of industry product trends and issues.
- Identify and suggest changes to Investment Policy to improve performance of Assets.
- Act as a resource to the Investment Consultant and the BTI.
- Perform compliance procedures in accordance with the Investment Policy.
- Utilize the benchmark set-forth in the Investment Policy to analyze investment returns.
- Maintain firm ownership and management consistency.
- Maintain sufficient support staff, and act responsively to BTI needs and requests.
- Comply with all applicable laws, rules, and regulations.
- Seek the best execution at the lowest net execution cost in trading assets.
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APPENDIX C:

CUSTODIAN
QUALIFICATIONS & PRINCIPAL DUTIES
APPENDIX C: CUSTODIAN QUALIFICATIONS & PRINCIPAL DUTIES

QUALIFICATIONS AND EXPERIENCE
- Authorized to do business in and with the State.
- A minimum short-term rating of A1/P1, and a minimum long-term rating of A.
- A member of the Federal Reserve System.
- At least $25 billion in corporate and public assets under custody.
- Minimum of 10 years demonstrated experience in providing trust/custody services.
- Ability to provide a broad range of ancillary services.

PRINCIPAL DUTIES
- Establish custody account(s) to provide for the safekeeping and recordkeeping of the Assets.
- Guarantee the security of Assets in accordance with laws, regulations and underlying agreements.
- Provide the account structure required by the BTI (primary accounts, clearing accounts, etc.).
- Track and mark-to-market all Securities in the BTI’s Portfolios and Securities pledged as collateral on a daily basis.
- Use a mutually agreeable third party pricing source.
- Provide accurate and timely pricing.
- Guarantee all Securities delivered as collateral to the BTI account be of sufficient type and value, prior to the release of any security owned by the BTI.
- Provide daily and monthly reports detailing all activity for the period, or any other report reasonably requested by the BTI (should also be available “on-line”).
- Resolve any problems that Investment Managers may have relating to custodial accounts.
- Provide interest and dividend collection.
- Process all Investment Manager transactions.
- Collect proceeds from maturing Securities.
- Disburse all income or principal cash balances as directed.
- Maintain proper internal controls, back-up processes, and information technology systems.
- Provide timely receipt and disbursement of funds.
- Provide sufficient support staff and act responsively to the needs and requests of the BTI.
APPENDIX D:

PERMISSIBLE SECURITIES
APPENDIX D: PERMISSIBLE SECURITIES

The Board authorizes Funds to be invested in the following Securities, but the Investment Guidelines for specific Pools/Portfolios may add additional restrictions as to credit quality, maturities, and/or maximum or minimum percentage permitted of the Securities that make up the Pool/Portfolio.

U. S. TREASURY OBLIGATIONS: Bills, bonds, and notes issued by the U.S. Treasury.

U. S. GOVERNMENT AGENCY OBLIGATIONS: Any obligation of, or obligation that is insured as to principal and interest by, the United States of America or any agency or corporation thereof, and any obligation and security of the United States sponsored enterprises, including, without limitation:

- Export-Import Bank of the United States;
- Farmers Home Administration;
- Federal Farm Credit Banks;
- Federal Home Loan Banks;
- Federal Home Loan Mortgage Corporation;
- Federal Land Banks;
- Government National Mortgage Association;
- Merchant Marine Bonds;
- Tennessee Valley Authority Obligations; and
- Federal National Mortgage Association

COMMERCIAL PAPER: Any commercial paper with one of the two highest commercial paper credit ratings by a nationally recognized investment rating firm (A-1/F-1/P-1 or better).

CORPORATE DEBT: Any corporate debt rated in one of the six highest rating categories by a nationally recognized rating agency (A/A2 or better).

STATE AND LOCAL GOVERNMENT OBLIGATIONS: Any debt of a state or local government, or any instrumentality or agency thereof, rated one of the three highest ratings by a nationally recognized rating agency (AA/Aa2 or better).

REPURCHASE AGREEMENTS: Any repurchase agreement involving the purchase of U.S. Treasury Obligations and repurchase agreements fully collateralized by U.S. Treasury Obligations or U.S. Government Agency Obligations.

REVERSE REPURCHASE AGREEMENTS: Any reverse repurchase agreement involving the purchase of U.S. Treasury Obligations and reverse repurchase agreements fully collateralized by U.S. Treasury Obligations or U.S. Government Agency Obligations.

ASSET-BACKED SECURITIES: Any asset-backed security (including mortgage-backed securities) rated one of the highest ratings by a nationally recognized rating agency.

CERTIFICATES OF DEPOSIT: Any certificate of deposit fully insured by the FDIC, or issued by a bank with one of two highest short term program ratings by a nationally recognized rating agency (A-1/P-1 or higher) or made pursuant to the program to purchase certificates of deposits from West Virginia financial institutions.

GOVERNMENT MONEY MARKET FUNDS: Any money market fund, with one of the highest ratings by a nationally recognized rating agency (AAAm/Aaa) which invests in U.S. Treasury Obligations and/or U.S. Government Agency Obligations, or other investment vehicles backed by U.S. Treasury and/or U.S. Government Agency Obligations.
MONEY MARKET FUNDS: Any money market fund, with one of the highest ratings by a nationally recognized rating agency (AAAm/Aaa) which invests in U.S. Treasury Obligations, U.S. Government Agency Obligations, and/or Corporate Debt or other investment vehicles backed by the same.

DEPOSITOR ACCOUNTS: Funds held in a bank or other depository account, either fully insured by the FDIC or collateralized in accordance with the Policy.

OTHER INVESTMENTS: Investments in accordance with the Linked Deposit Program, a program using financial institutions in West Virginia to obtain certificates of deposit, loans approved by the Legislature and any other program investments authorized by the Legislature.
APPENDIX E-1:

WEST VIRGINIA MONEY MARKET POOL - INVESTMENT GUIDELINES
APPENDIX E-1: WEST VIRGINIA MONEY MARKET POOL – INVESTMENT GUIDELINES

OBJECTIVES
The West Virginia Money Market Pool was created to invest Participant operating funds. The objective of the Pool is to maintain sufficient liquidity to meet the daily disbursements of Participants while striving to earn a return above inflation. The Pool is structured as a money market fund with the goal of preservation of principal. The Pool risk factor is low, and managed through numerous maturity restrictions, diversification guidelines, and credit limits.

Net investment income and realized gains and losses are declared as dividends and distributed daily to the Participants. If the pool incurs an extraordinary loss and distributing the loss would decrease the share value below one dollar ($1), then the Investment Committee would be immediately notified for development of an action plan.

BENCHMARKS
The performance of the West Virginia Money Market Pool (net of external Investment Manager fees) will be measured against:

- Merrill Lynch US 3-Month Treasury Bill Index + 15 basis points.

<table>
<thead>
<tr>
<th>ASSET ALLOCATION</th>
<th>DIVERSIFICATION - MAXIMUM % OF POOL</th>
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<tbody>
<tr>
<td>U.S. Treasury Obligations</td>
<td>100</td>
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<tr>
<td>U.S. Government Agency Obligations</td>
<td>85</td>
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<tr>
<td>Commercial Paper and Corporate Debt (Combined)</td>
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<tr>
<td>Repurchase Agreements</td>
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<tr>
<td>Asset-Backed and Mortgage-Backed Securities</td>
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<tr>
<td>Certificates of Deposit</td>
<td>75</td>
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<td>Money Market Funds</td>
<td>30</td>
</tr>
<tr>
<td>Depository Accounts</td>
<td>5</td>
</tr>
</tbody>
</table>

MATURITY RESTRICTIONS, DIVERSIFICATION GUIDELINES AND CREDIT LIMITS
All restrictions are based upon total dollar percentages of Pool holdings using an amortized cost basis. Securities that fall out of compliance may be held to maturity unless it violates the Code or other regulatory requirement. The Board may require the Investment Manager to sell non-compliant Securities when they change the Investment Guidelines of the Pool. Where noted, the date of purchase shall mean the settlement date.

- Weighted average maturity of the West Virginia Money Market Pool shall not exceed 60 days.
- Maximum maturity of individual Securities cannot exceed 397 days from the date of purchase.
- Minimum 15% of the Pool must be in U.S. Treasury Obligations.
- Maximum 5% of the Pool may be invested in any one corporate name.
- Maximum 3% of the Pool may be invested in any one issuer of USD denominated non-US issuer Securities.
- Maximum 75% of the Pool may be invested in notes with floating rates.
- All domestic corporate Securities and USD denominated issues of non-US issuers must be rated AA- or Higher (or its equivalent) if long term and A-1 or Higher (or its equivalent) if short term.
- Floating rate notes shall be based on a money market index and shall not have a final maturity longer than 731 days if US Government-backed, or 397 days if not US Government-backed.
- Maximum of 50% of the Pool may be invested in Asset-Backed Corporate Debt and Asset-Backed Commercial Paper combined, with a maximum of 20% of the Pool invested in Asset-Backed Commercial Debt Securities.
- The Pool may not hold private placements, or inverse floaters, or be leveraged in any manner.

As Adopted by the Board
The Pool may not hold unregistered Securities or private placements with the exception of Securities issued pursuant to the SEC Rule 144A and Commercial Paper issued pursuant to rule 4(2) of the Securities Act of 1933. Maximum of 50% of the Pool will be invested in these type of Securities combined.
APPENDIX E-2:

WEST VIRGINIA GOVERNMENT MONEY MARKET POOL INVESTMENT GUIDELINES
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APPENDIX E-2: WEST VIRGINIA GOVERNMENT MONEY MARKET POOL – INVESTMENT GUIDELINES

OBJECTIVES
The West Virginia Government Money Market Pool was created to invest restricted monies of Participants in U.S. Treasury and U.S. Government Agency Obligations. The investment objective of the Pool is to preserve capital, maintain sufficient liquidity to meet the daily disbursements of Participants, while earning a return above inflation. The Pool is structured as a money market fund with an emphasis of maintaining a stable dollar value. The risk factor on this Pool is low and managed through maturity restrictions. The default risk is minimal due to the types of Securities invested in.

Net investment income and realized gains and losses are declared as dividends and distributed daily to the Participants. If the pool incurs an extraordinary loss and distributing the loss would decrease the share value below one dollar ($1), then the Investment Committee would be immediately notified for development of an action plan.

BENCHMARKS
The performance of the West Virginia Government Money Market Pool (net of external Investment Manager fees) will be measured against:

- Merrill Lynch US 3-Month Treasury Bill Index

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MATURITY RESTRICTIONS, DIVERSIFICATION GUIDELINES AND CREDIT LIMITS
All restrictions are based upon total dollar percentages of the Pool holdings using an amortized cost basis. Securities that fall out of compliance may be held to maturity unless it violates the Act or other regulatory requirement. The Board may require the Investment Manager to sell non-compliant Securities when the Investment Guidelines of the Pool are changed. Where noted, the date of purchase shall mean the settlement date.

- Weighted average maturity of the Pool shall not exceed 60 days.
- Maximum maturity of individual Securities held cannot exceed 397 days from the date of purchase.
- Minimum 15 % of the Pool must be in U.S. Treasury Obligations.
- The Pool may not hold private placements, or inverse floaters, or be leveraged in any manner.
- Floating rate notes shall be based on a money market index and shall not have a final maturity longer than 731 days.
APPENDIX E-3:

WEST VIRGINIA SHORT TERM BOND POOL - INVESTMENT GUIDELINES
APPENDIX E-3: WEST VIRGINIA SHORT TERM BOND POOL – INVESTMENT GUIDELINES

OBJECTIVES

The West Virginia Short Term Bond Pool was created to invest restricted moneys of the State which have a longer term investment horizon. The goal of the Pool is to earn an incremental return over the West Virginia Money Market Pool with an objective of Asset growth rather than current income. The Pool is structured as a mutual fund and is limited to monthly withdrawals and deposits by Participants. The risk factor on this Pool is higher than the West Virginia Money Market Pool.

Net investment income and realized gains and losses are declared as dividends on the last day of the month and distributed to the Participants in the Pool on the first day of the following month. Gains and losses (realized and unrealized) are reflected in the net asset value calculated each month.

BENCHMARKS

The performance of the West Virginia Short Term Bond Pool (net of external Investment Manager fees) will be measured against:

- Merrill Lynch U.S. Corporate & Government, 1-3 Years, A Rated and Above Index +10 basis points.

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<tr>
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MATURITY RESTRICTIONS, DIVERSIFICATION GUIDELINES AND CREDIT LIMITS

All restrictions are based upon percentage of the Pool holdings on a market value basis at the time of the Securities purchase. Securities that fall out of compliance may be held to maturity unless it violates the Act or other regulatory requirement. The Board may require an Investment Manager to sell Securities when they become non-compliant or when the Investment Guidelines of the Pool are changed. Where noted, the date of purchase shall mean the settlement date.

- Effective duration of the West Virginia Short Term Bond Pool shall not exceed 731 days.
- Effective duration of Securities cannot exceed five years (1,827 days).
- Maximum 5% of the Pool may be invested in any one corporate name or one corporate issue.
- Maximum 3% of the Pool may be invested in any one issuer of USD denominated, non-US issuer, Securities.
- All domestic corporate and USD denominated issues of non-US issuer Securities must be rated A or higher (or its equivalent).
- Maximum 75% of the Pool may be invested in floating rate notes.
- Floating rate notes shall be based on money market index and shall not have an effective duration longer than five years.
- Effective duration of Commercial paper will not exceed 397 days.
• Maximum of 50% of the Pool may be invested in Asset-Backed Corporate Debt, and Asset-Backed Commercial Paper combined, with a maximum of 20% of the Pool invested in Asset-Backed Commercial Debt Securities.

• The Pool may not hold unregistered Securities or private placements with the exception of Securities issued pursuant to the SEC Rule 144A and Commercial Paper issued pursuant to rule 4(2) of the Securities Act of 1933. Maximum of 50% of the Pool will be invested in these type of Securities combined.

• The Pool may not invest in inverse floaters or be leveraged in any manner.
APPENDIX E-4:

STATE LOAN POOL - INVESTMENT GUIDELINES
APPENDIX E-4: STATE LOAN POOL – INVESTMENT GUIDELINES

OBJECTIVES
The State Loan Pool is composed of loans made to/by the West Virginia Economic Development Authority (EDA), West Virginia Property Valuation Training and Procedures Commission (PVTPC), and certain FHA/VA housing loans for single-family homes. The State is the sole participant in this Pool. The Directors of the BTI shall bear no fiduciary responsibility with regard to any of the loans contemplated under §12-6C-11.

Under the Code, the BTI is required to make available to EDA, subject to a liquidity determination, the following:

- A Revolving Loan up to $175,000,000 to fund economic development initiatives; and
- A Non-Revolving Loan up to $25,000,000 through June 29, 2012, to fund loans for certain venture capital initiatives.

The PVTPC Program and the FHA/VA Mortgage Loan Program are not open to make additional loans.

Net investment income is declared as dividends and distributed on the last day of the month. If the pool incurs a loss resulting in negative income, the loss will be distributed to participants on the last day of the month.

BENCHMARKS
None

<table>
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<tr>
<th>ASSET ALLOCATION</th>
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<td>Other Investments</td>
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<td>Depository Accounts</td>
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MATURITY RESTRICTIONS, DIVERSIFICATION GUIDELINES AND CREDIT LIMITS
None

BTI ROLE
- Receive and post loan payments.
- Open an account on behalf of the State Loan Pool.
- Develop Investment Guidelines.
- Prohibit commingling of funds with any other account in the Consolidated Fund.
- Provide cash flow information regarding Securities held by the Pool.
- Record contributions and withdrawals.
- Provide monthly statements regarding Loan Pool activity.
- Calculate monthly net income and net asset value.

BTI ROLE FOR EDA REVOLVING LOAN
- To provide EDA with the annual rate to be charged on the loan.
- Facilitate the transfer of funds to EDA via the State Treasurer’s Office.
BTI ROLE FOR EDA NON-REVOLVING LOAN

- To produce pool financial statements based on information provided by EDA.
- To facilitate the transfer of funds to EDA via the State Treasurer’s Office.

BTI ROLE FOR FHA/VA LOANS

- To reconcile servicer reports for FHA/VA to BTI records.
- To request release of FHA/VA mortgage documents from master servicer for loan payoffs.
APPENDIX E-5:

LOSS AMORTIZATION POOL
INVESTMENT GUIDELINES
APPENDIX E-5: LOSS AMORTIZATION POOL – INVESTMENT GUIDELINES

OBJECTIVES
The Loss Amortization Pool was created to account for Participant claims on the general operating funds of the State. These Participant claims occurred as a result of the distribution of earnings to Participants in various investment pools, principally the Unrestricted Pool (predecessor to the West Virginia Money Market Pool), in excess of the true investment income experience of the pools, principally in 1987 and 1988.

BENCHMARKS
None

<table>
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<tr>
<th>ASSET ALLOCATION</th>
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<td>Money Market Funds</td>
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<tr>
<td>Depository Account</td>
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</table>

MATURITY RESTRICTIONS, DIVERSIFICATION GUIDELINES AND CREDIT LIMITS
None

BTI ROLE
- Open an account for the Loss Amortization Pool.
- Develop Investment Guidelines.
- Prohibit commingling of funds with any other account in the Consolidated Fund.
- Calculate monthly net income and net asset value.
APPENDIX E-6:

MUNICIPAL BOND COMMISSION INVESTMENT GUIDELINES
APPENDIX E-6: MUNICIPAL BOND COMMISSION – INVESTMENT GUIDELINES

OBJECTIVES
The Municipal Bond Commission (the “Commission”) is governed by State Code §13-3-7 as it relates to Permissible Securities, limitations on purchase, sale or exchange of Securities, interest, and custody of Securities.

BENCHMARKS
None

PERMISSIBLE SECURITIES
- Securities of the United States or any agency thereof which are guaranteed by or for which full faith and credit of the United States is pledged for the payment of the principal and interest.
- General obligations of this State or any of its agencies, boards or commission; or any county, municipality or school district in this State.
- Repurchase agreements or similar banking arrangements with a member bank of banks of the federal reserve system or a bank, the deposits of which are insured by the federal deposit insurance corporation, or its successor: Provided, That such investments shall only be made to the extent insured by the federal deposit insurance corporation or to the extent that the principal amount thereof shall be fully collateralized by direct obligations of or obligations guaranteed by the United States of America.

MATURITY RESTRICTIONS, DIVERSIFICATION GUIDELINES AND CREDIT LIMITS
- No Security shall be purchased, sold or exchanged without the concurrence or ratification of a majority of all members of the Commission.
- No Security shall be purchased at a price above, nor sold or exchanged at a price below, its prevailing fair market value.
- No Security shall be purchased, sold or exchanged for the purpose of aiding any individual, firm or corporation by the payment of brokerage commissions or fees thereto.
- No Security purchased, sold or exchanged shall benefit any member or employee of the Commission.

BTI ROLE
- Open an account on behalf of the Commission.
- Develop Investment Guidelines.
- Prohibit commingling of funds with any other account in the Consolidated Fund.
- Provide cash flow information regarding Securities held by the Pool.
- Provide Security information to the custodian.
- Review signature authorization from the Commission on trade activity.
- Record contributions and withdrawals based upon Commission authorization.
- Provide detailed fee invoice.
- Charge fees for management of Pool.
- Calculate monthly net income and net asset value.
APPENDIX E-7:

SCHOOL FUND - INVESTMENT GUIDELINES
APPENDIX E-7: SCHOOL FUND – INVESTMENT GUIDELINES

OBJECTIVES
To maintain irreducible $1 Million principal as defined in Code §18-9A-16.

BENCHMARKS
None

PERMISSIBLE SECURITIES
Interest bearing Securities of the United States or of West Virginia.

MATURITY RESTRICTIONS, DIVERSIFICATION GUIDELINES AND CREDIT LIMITS
Minimum 15% of the investments of the School Fund must be invested in U.S. Treasury Obligations.

BTI ROLE
- Open an account on behalf of the School Fund Board.
- Develop Investment Guidelines.
- Prohibit commingling of funds with any other account in the Consolidated Fund.
- Provide monthly statements regarding School Fund activity.
- Calculate monthly net income and net asset value.
APPENDIX E-8:

ECONOMIC DEVELOPMENT AUTHORITY
AMERICAN WOODMARK
INVESTMENT GUIDELINES
APPENDIX E-8: ECONOMIC DEVELOPMENT AUTHORITY – AMERICAN WOODMARK INVESTMENT GUIDELINES

OBJECTIVES
In accordance with Code §31-15-23, the EDA AW Pool invests excess funds received by appropriation or other funds which the Economic Development Authority ("EDA") directs to be invested. The EDA AW Pool is established as a single participant pool.

BENCHMARKS
None

PERMISSIBLE SECURITIES
- This Pool holds a U.S. Treasury Obligation that matures on August 15, 2023. The EDA Board approved this investment by resolution dated March 18, 2004.
- Money Market Funds

MATURITY RESTRICTIONS, DIVERSIFICATION GUIDELINES AND CREDIT LIMITS
None

BTI ROLE
- Open an account on behalf of the EDA
- Develop Investment Guidelines.
- Prohibit commingling of funds with any other account in the Consolidated Fund.
- Provide cash flow information regarding Securities held by the Pool.
- Invest earned interest not withdrawn by EDA
- Review signature authorization from EDA on trade activity.
- Record contributions and withdrawals based upon EDA authorization.
- Provide monthly statements regarding EDA activity.
- Charge fees for management of Pool.
- Calculate monthly net income and net asset value.
APPENDIX E-9:

WEST VIRGINIA BANK POOL
APPENDIX E-9: WEST VIRGINIA BANK POOL - INVESTMENT GUIDELINES

OBJECTIVES

BidWVauction is an innovative and efficient way to invest in State of West Virginia time deposits. The program is designed to provide approved State Depositories the opportunity to interactively compete for State of West Virginia investment dollars.

BENCHMARKS

The performance of the West Virginia Bank Pool will be measured against:

- Merrill Lynch US 3-Month Treasury Bill Index + 15 basis points.

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<tr>
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<tbody>
<tr>
<td>Certificates of Deposit</td>
<td>100</td>
</tr>
<tr>
<td>Money Market Funds</td>
<td>30</td>
</tr>
</tbody>
</table>

RESTRICTIONS AND GUIDELINES

Approved State Depository

- To participate in the BidWVauction program, a financial institution must be an approved State Depository
- And must have a branch bank in West Virginia

Bids will be accepted online at www.BidWVauction.com. Auctions for CDs will be held based on a schedule approved by the Chairman. The settlement date for the funding will occur on the first business day following the auction. The auction will begin at 10:00 a.m. and end at 10:30 a.m. prevailing Eastern Time. The West Virginia Board of Treasury Investments ("the BTI") will make funds available as noted on the BidWVauction website.

Registration

- Bidders must register with BidWVauction by 3 p.m. prevailing Eastern Time at least two business days prior to the auction. To register, bidders should go to the BidWVauction website. Upon registering, bidders will receive a BidWVauction password and will be responsible for protecting the confidentiality of the password. Registration is only required initially and not for each auction.

Entry to Auction

- Registered bidders must request and receive admission to an auction to submit bids. The BTI reserves the right to deny access to any bidder, at any time and for any reason whatsoever, in its sole discretion.

Bid Requirements

- The minimum bid is $100,000.00. Bids may increase in increments of $100,000.00 to a maximum of $5,000,000.00 per parent institution per auction.
- The minimum rate will be equivalent to a U.S. Treasury security with a comparable term or higher rate as approved by the Chairman and will be displayed on the auction page prior to the auction. Bids below the minimum rate will not be accepted.

Revised 7/26/2007
Revised 4/30/2009

As Adopted by the Board

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Multiple bids from the same bidder are permissible. Each bidder may make up to five acceptable bids, the total of which (subject to approval limits) may not exceed $5,000,000.00 per parent institution per auction. There is no limit to the number of times any bid may be improved/updated.

If qualified bids submitted in the same auction by the same or different bidders result in a tie, the first bid submitted prevails. Any change to a bid constitutes a new bid.

Winning bidders must confirm their awards before they can receive any funds per their instructions on the Confirmation Page immediately after the auction ends.

Winning bidders will be assessed a fee equal to .025% of the principal amount awarded. Payment will be made to Grant Street Group by ACH debit two business days following the auction. Completion of the ACH Debit Authorization on the Confirmation Page represents winning bidder's authorization for Grant Street Group to debit their account. Failure to make funds available for timely payment of the Grant Street Group fee will result in exclusion from subsequent auctions for six months.

Settlement date is the first business day after the auction occurs and will be displayed on the auction page.

The maturity date for a given auction will be displayed on the auction page.

Collateral Requirements

Certificates of deposit in excess of insurance coverage by the Federal Deposit Insurance Corporation (FDIC) must be collateralized pursuant to West Virginia code §12-1-4 and Board of Treasury Investments Bank Account Collateral Policy in APPENDIX H.

Time Deposit Requirements

Interest on the certificate of deposit will be calculated on a 365 per diem basis using the actual number of days (principal amount times the rate) divided by 365 multiplied by the actual number of days.

Interest is payable at maturity.

Time deposits will be book-entry in the name of the BTI.

Transactions will be completed by wire transfer, which will include principal and interest collections. The wiring instructions will be included on a maturity notice issued by the BTI.

Additional Conditions

The BTI reserves the right to reject any BidWVauction bid for any reason at its discretion. The BTI also reserves the right to award a portion of a depository's bid subject to the minimum and multiple amounts described above.

Each bidder must acknowledge that he or she has read amendments to the Guidelines in each auction and indicate their agreement with the amendment electronically in order to enter the auction.

Submitted bids must also be verified. The bidder understands that in verifying the bid, the bidder has made a formal offer.

Bids that generate error messages are not accepted until the error is corrected and the bid is resubmitted. Error messages will indicate the reason for the error such when the bidder has entered a bid that is lower than the minimum bid requirement.

The bidder understands that the submitted bid may initially be a leading bid, but may be replaced by other more competitive bids throughout the auction. Bidders will know immediately if their bid continues to be a winning bid by updating their bids. A bid's status when "in the money" may change at any given time due to new bids by other bidders. It is the responsibility of the bidder to update his or her bid status. There is no limit to the number of times a bid may be updated.

A bidder submitting a winning bid is irrevocably obligated to provide the time deposit at the specified rate, amount and maturity, if acceptable to the BTI, as herein set forth. The bidder understands that an award has not been made until posted on the Results Page on the BidWVauction site. Discrepancies should be reported to the West Virginia BTI at (304)-340-1564 within 15 minutes of posting of the Results Page.

In the event of a web site failure, the auction will be attempted at the top of every hour on the day of the scheduled auction between the hours of 10:00 a.m. prevailing Eastern Time and 2:00 p.m. prevailing Eastern Time.
Eastern Time. If the auction is not completed on the scheduled day, the next attempt will be 10:00 a.m. prevailing Eastern Time the next business day. The BTI and/or Grant Street Group will inform registered bidders of a change in the bidding format via phone, fax, or e-mail.
APPENDIX E-10:

RESERVE POOL
APPENDIX E-10: RESERVE POOL – INVESTMENT GUIDELINES

OBJECTIVES
The Reserve Pool was created to provide an added layer of security for the WV Money Market and WV Government Money Market Pools. The objective of the pool is to provide support for the WV Money Market and WV Government Money Market Pools to ensure the net asset level does not fall below .9975. Allocations to the Reserve Pool will be determined by the Chairman.

Net investment income is declared as dividends and distributed on the last day of the month. If the pool incurs a loss resulting in negative income, the loss will be distributed on the last day of the month.

BENCHMARKS
None

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</table>

MATURITY RESTRICTIONS, DIVERSIFICATION GUIDELINES AND CREDIT LIMITS
All restrictions are based upon total dollar percentages of Pool holdings using an amortized cost basis. Securities that fall out of compliance may be held to maturity unless it violates the Code or other regulatory requirement. The Board may require the sale of non-compliant Securities.

- Weighted average maturity of the Reserve Pool shall not exceed 60 days.
- Maximum maturity of individual Securities cannot exceed 397 days from the date of purchase.
- Depository Accounts are required to be held by rated entities of A-1 or better.
- Depository Accounts are required to be collateralized as defined in the Bank Account Collateral Policy in APPENDIX H.

BTI ROLE
- Develop Investment Guidelines.
- Provide cash flow information regarding Securities held by the Pool.
- Record contributions and withdrawals.
- Calculate monthly net income and net asset value.

Revised 4/30/2009
NAV MONITORING

- The BTI will monitor the net asset value of the WV Money Market and WV Government Money Market Pools on a daily basis in accordance with the BTI’s Net Asset Value Monitoring Policy. This policy requires the Chief Financial Officer and Executive Director to develop a formal and written action plan to address the NAV decline when it falls below .9985. Board members are notified to approve the written action plan.
- If the net asset value falls below .9975, the BTI would request Board approval to utilize the Reserve Pool to ensure the NAV is stabilized at .9975.
APPENDIX F:

REPURCHASE AGREEMENT
INVESTMENT GUIDELINES
APPENDIX F: REPURCHASE AGREEMENT GUIDELINES

The following criteria must be met when purchasing Repurchase Agreements on behalf of the BTI:

A. **ELIGIBLE REPURCHASE AGREEMENT PROVIDER (PROVIDERS):** Primary Dealers as designated by the New York Federal Reserve Bank and Top Tier Banks nationally rated A1/P1 or equivalent.

B. **PERMITTED COLLATERAL TYPE:** U.S. Treasury Obligations or U.S. Government Agency Obligations.

C. **COLLATERAL LEVEL:** 102%

D. **COLLATERAL MARKED-TO-MARKET:** Daily

E. **WRITTEN AGREEMENTS:** All Repurchase Agreements, done on behalf of the BTI, will be governed by a written contract. The contract may be for a specific investment or it may be a master contract with terms covering all investment of Funds made thereunder.

If a master contract is used, it will include the following, as typically included in the industry standard Master Repurchase Agreement:

- The parties involved in the contract (Buyer, Seller, and Custodian).
- Securities eligible to be used as collateral.
- Determination and maintenance of margin requirements.
- Subject to any rights of collateral substitution, a declaration that the BTI is the owner of the subject Securities or provisions for the BTI to become the owner of the subject Securities in event of default under the Repurchase Agreement.
- Terms regarding the valuation of the underlying Securities and remedies to correct margin deficiencies.
- A prohibition against the substitution of Securities by the Provider except as permitted in the Master Repurchase Agreement and as necessary to replace Securities which have been redeemed or are in default (unless substitution is approved by Custodian and costs are borne by the Provider).
- Description of events of default which would permit the BTI or the Custodian to liquidate the subject Securities.
- Description of the rights of any Custodian which may hold the subject Securities during the term of the Repurchase Agreement.

If the Securities are held by a central depository or national securities custodian in order to facilitate book-entry transfers by Banks and Primary Dealers it shall be satisfactory if the ownership of such Securities by the BTI is duly recorded in the books of such Bank or Primary Dealer as held for the account of the BTI.

- Appropriate representations and warranties will be made to provide that the underlying Securities will be free from liens, claims and defenses applicable to the BTI and specify the underlying Securities to the degree necessary to protect the enforceability of the Repurchase Agreement.

F. **ENSURING COLLATERAL LEVELS:** The Investment Manager is responsible to ensure collateral levels are appropriate.
If a written contract is used for a specific investment in a Repurchase Agreement, in addition to the provisions stated in this policy, the written contract will include the following:

- The size of the transaction.
- Additional documents and certifications as may be required for the particular transaction.
APPENDIX G:

SECURITIES LENDING PROGRAM
APPENDIX G: SECURITIES LENDING PROGRAM

The BTI reserves the right to modify or cancel the Lending Program at its discretion.

I. SCOPE
The ability to lend Securities from the Funds is authorized by the Board. This policy establishes the guidelines that govern the securities lending program (“Lending Program”) administered by the West Virginia Board of Treasury Investments (“BTI”).

II. PRUDENCE
The standard of care to be used by Staff will be in accordance with the uniform prudent investor Act and will be applied to the management of the Lending Program. The securities lending agent (“Agent”) shall: “Exercise the judgment and care, under circumstances then prevailing, which a person of prudence, discretion and intelligence exercised in the management of his own affairs, not in regard to speculation, but in regard to the investment of his money, considering the probable income as well as the probable safety of his capital”.

III. OBJECTIVE
The objective of the Lending Program is to use a conservative investment duration matched management approach to earn incremental income above that already generated from Securities within the Money Market and the Short Term Bond Pools, while taking into consideration:

- Safety
- Liquidity
- Return on investment

The Securities Lending Program is to be managed in a fashion to reduce loan exposures over time to zero; manage the loan exposure reduction in line with collateral liquidity to prevent unnecessary realized losses; to use revenue or collateral gains to offset realized losses to limit cash injections required; and to continue to meet Standard & Poor’s (S&P) ratings and broader regulatory and statutory guidelines throughout the unwind process.

Loan volume limits will be as directed by letter of the BTI Chairman.

IV. DELEGATION OF AUTHORITY
The BTI is responsible for the investment of Funds and the management of the Lending Program. This responsibility is delegated to the Staff and Outside Service Providers, who will implement the Lending Program, establish the guidelines within this Policy, and structure internal controls to monitor the investment procedures of the Agent.

V. PROGRAM MANAGEMENT
One or more financial institutions may be selected to act as Agents, allowing the BTI to employ the services of specialized and professional personnel. The Agent will arrange the terms and conditions of Security loans, monitor the market value of the Securities lent and the collateral received, and invest the cash received as collateral. The Agent will arrange for loans of Securities currently in the possession of the Custodian, and may direct said Custodian to act upon its investment instructions.

VI. AGENT SELECTION AND CONTRACTUAL AGREEMENT
The BTI may periodically issue an RFP to qualified members of the financial community, as defined by the Board, which provide securities lending services. The selected Agent must have demonstrated experience
with comparable engagements, experience of staff, the ability to generate securities lending revenue, and the competitiveness of proposed fees and revenue sharing.

The Agent and the BTI will enter into a Securities Lending Contractual Agreement which will authorize the lending of Securities, and outline the responsibilities and liabilities of the Agent in connection with the implementation of the Lending Program. These responsibilities include, but are not limited to:

- Monitoring the fair market value of Securities loaned on a daily basis.
- Monitoring the value of collateral provided by borrowers on a daily basis, which must represent at least 102 percent of the value of the Securities loaned.
- Exercising the right and duty to demand additional collateral or the obligation to release collateral.
- Lending of Securities only to borrowers authorized by the BTI, and only to borrowers for which there is a signed Bond Market Association’s Master Securities Loan Agreement.
- Maintaining complete records of Securities lending transactions and earnings to be submitted on a monthly basis to the BTI.
- Detailing the agreed upon fee arrangement.

VII. COLLATERAL

The BTI will accept only the following collateral:

- Cash
- U.S. Treasury Obligations or U.S. Government Agency Obligations
- Irrevocable letters of credit issued by banks rated A1 or P1, independent of borrowers
- Other forms of collateral approved by the BTI

<table>
<thead>
<tr>
<th>TYPE OF LOANED SECURITIES</th>
<th>INITIAL COLLATERAL REQUIREMENTS</th>
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<tbody>
<tr>
<td>U.S. Securities</td>
<td>102%</td>
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Returning Collateral to Acceptable Levels, when U.S. securities are on loan:

- In accordance with standard industry practice, if the collateral held falls below 100% of the market value of the securities, additional collateral from the borrower must be pledged to restore the collateral level to 102%.

VIII. BTI SEGREGATED COLLATERAL POOL – INVESTMENT GUIDELINES

OBJECTIVES

The BTI Collateral Pool is established as a segregated account, for cash collateral and related investments held by a BTI custodian and to be managed in a fashion to reduce loan exposures over time to zero; manage the loan exposure reduction in line with collateral liquidity to prevent unnecessary realized losses; to use revenue or collateral gains to offset realized losses to limit cash injections required; and to continue to meet Standard & Poor’s (S&P) ratings and broader regulatory and statutory guidelines throughout the unwind process.

BENCHMARKS

None

PERMISSIBLE SECURITIES

- U.S. Treasury Obligations including all securities guaranteed as to the payment of principal and interest by the full faith and credit of the U.S. Government
- U.S. Government Agency Obligations which shall be defined as including U.S. Government...

- Institutional class of US Government 2a7 Money Market Mutual funds (MMFs)
- Money Market Instruments including Corporate Commercial Paper Domestic/Yankee Certificates of Deposit and Bankers’ Acceptances, where such instruments or their issuer, as appropriate, shall be rated at least A-1 by S&P or P-1 by Moody’s or F-1 by Fitch. Such minimum ratings shall exist by at least two of the three NRSO’s. Split rated instruments must meet the minimum requirements.
- Fixed or floating rate instruments of corporate and bank issuers rated at least P-1 by Moody’s Investors Service, Inc. (“Moody’s”), or A-1 by Standard & Poor’s Corporation (“S&P”) or F-1 by Fitch. Such minimum ratings shall exist by at least two of the three NRSO’s. Split rated instruments must meet the minimum requirements. If the issuer does not have short term ratings, long term ratings must be at least Aa3 by Moody’s, AA- by S&P, or AA- by Fitch.
- Term and Overnight Repurchase transactions with Counterparties approved by Wachovia Global Securities Lending that are collateralized by one or more of the following asset categories:
  - US Treasury securities
    - Including: Bills, Notes, Bonds, Strips, TIPS.
    - 102% collateralization
    - Including: FNMA, FHLB, FHLMC, GNMA, FAMC, FCFAC, FFCB, FMHA, FICO, FLBB, REFCO, TVA, USPS.
    - 102% collateralization
  - U.S. Government Guaranteed Issues (TLGP/FDIC-backed)
    - 102% collateralization
  - U.S. Government Agency and U.S. Government Sponsored Enterprise MBS
    - Including: FNMA, FHLMC, and GNMA Fixed and Adjustable Rate Pass-Throughs and CMO’sExcluding: IOs, POs, Z tranches or Residual tranches, IOettes, and Inverse Floaters
    - 103% collateralization
  - Eligible Repurchase Agreement Providers (Providers) are: Primary Dealers as designated by the New York Federal Reserve Bank and Top Tier Banks nationally rated A1/P1 or equivalent.

MATURITY RESTRICTIONS, DIVERSIFICATION GUIDELINES AND CREDIT LIMITS
All restrictions are based upon total dollar percentages of Pool holdings using an amortized cost basis.

Maturity
- The maximum weighted average maturity of all collateral investments shall be no more than 60 days.
- No investment shall have a final maturity date in excess of 60 days from time of purchase.
- Maturity limitations shall also utilize the put or demand date in investments which contain unconditional irrevocable demand or put features exercisable solely at the option of the investor. For the purpose of calculating the weighted average maturity mismatch between loans and investments, and the calculation of weighted average maturity for other investment restrictions, the maturity date on floating rate securities shall be deemed to be the next interest rate reset date. In the case of Fixed Rate Asset Backed Securities, expected maturity shall be used in calculating weighted average maturity. MMFs shall be viewed as the next business day.

- Weighted average maturity mismatch between loans and collateral investments shall not exceed seven (7) days.

- The minimum overnight (next business day) liquidity level will be 25% of collateral investment assets.

**Diversification**

- Obligations of any US issuer may not exceed 5% of the collateral investment portfolio, or if not a US issuer may not exceed 3% of the collateral investment portfolio; with the exception of repurchase agreements and MMFs, which may not exceed 10% of the collateral investment portfolio in any one issuer, and obligations of the U.S. Government, a U.S. Government agency, or a U.S. Government Sponsored Enterprise, which shall have no percentage limitation.

- The aggregate value of securities on loan shall not exceed $400 million.

**NON-COMPLYING SECURITIES**

Securities credited to the BTI Collateral Pool from the Mellon GSL DBT II Collateral Fund and the Mellon GSL Reinvestment Trust II on November 26, 2008 that do not comply with these Investment Guidelines are not required to comply with these Investment Guidelines and are excluded from determining compliance with these Investment Guidelines.

Securities that fall out of compliance or fail to comply when credited to the Fund on November 26, 2008 may be held to maturity unless it violates the Code or other regulatory requirement. The Board may require the sale of non-compliant Securities.

**SECURITIES LENDING AGENT ROLE**

- Manage the portfolio in accordance with the BTI Collateral Pool Guidelines.
- Provide a segregated account with full access to reports by BTI.
- Provide the daily holdings on an amortized cost basis.
- Hold weekly informational meetings with the BTI to discuss the pool including information related to credit status of securities held, utilization rates and lending spreads for treasuries and agencies and any other relevant information.
- Provide other information as requested.

**IX. BORROWERS**

A. Consist of Agent’s approved list of approved borrowers.
B. Agent conducts a credit analysis and on-going review of all borrowers.
C. BTI has the ability to restrict or limit exposure at their discretion.
D. All borrowers have executed an agreement with Agent.
X. REPORTING

A. Agent shall provide its standard comprehensive reports concerning BTI’s participation in the program, including investment activity with respect to cash collateral held on BTI’s behalf.

B. Reporting would include but not be limited to:

1. Summary and detailed on-loan information for the month
2. Cash and non-cash collateral information
3. Loan activity by borrower
4. Summary, YTD, and detailed earnings information

Revised 4/30/2009
APPENDIX H:

BANK ACCOUNT COLLATERAL POLICY
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APPENDIX H: BANK ACCOUNT COLLATERAL POLICY

The purpose of the Collateral Requirements is to minimize the Board of Treasury Investments’ financial risks and to ensure compliance with state code sections §12-1-4 and §12-1-5 which governs bonds pledged by depositories and limitations on amounts of deposits. Collateral is required to be pledged for all interest and non-interest bearing demand deposit accounts and certificates of deposit awarded through the Board of Treasury Investments’ BidWV CD Auction program. Policies and Procedures for pledging collateral are established and maintained by the State Treasurer’s Office (STO).

A. COLLATERAL REQUIREMENTS: Deposits of state funds in excess of amounts insured by an agency of the federal government must be collateralized in accordance with §12-1-5. The amount of funds in excess of the insured amount may not exceed 90% of the market value of the pledged collateral. The value of the collateral is obtained from the safekeeping agent designated by the STO. The STO is the final determining authority of the market value.

B. PERMITTED COLLATERAL TYPE: The following items are acceptable forms of collateral to pledge for deposits held for the BTI:
   - Bonds of the United States,
   - Bonds of the Federal Land Banks,
   - Bonds of Federal Home Loan Banks,
   - Bonds of the State of West Virginia,
   - Bonds of any county, district or municipality of the State of West Virginia rated not less than AA or its equivalent by a nationally recognized investment rating firm
   - Federal Home Loan letters of credit, or
   - Other Bonds or Securities approved by the State Treasurer.

C. COLLATERAL MARKED-TO-MARKET: The STO policy is to price mortgage-backed securities monthly and all other securities quarterly.

E. DELIVERY OF COLLATERAL: Delivery of collateral must be made by one of the methods approved by the STO and the BTI:
   - Federal Home Loan Bank Irrevocable Standby Letter of Credit may be faxed or emailed to the STO
   - DTC eligible securities and US government securities may be delivered to the STO’s safekeeping custody bank
   - With prior approval from the STO and the BTI, pledged collateral may be deposited in a segregated custody account in the name of the BTI at an independent custody bank

G. ENSURING COLLATERAL LEVELS: Depositories are required to provide balances for all BTI depository accounts and certificates of deposit issued through the BTI CD Auction Program on a quarterly basis.
APPENDIX I:

AUDIT COMMITTEE CHARTER
APPENDIX I: AUDIT COMMITTEE CHARTER

I. PURPOSE

The primary function of the West Virginia Board of Treasury Investments’ Audit Committee (Committee) is to assist the Board of Directors (Board) in fulfilling its oversight responsibilities by reviewing: the West Virginia Board of Treasury Investments’s financial reports and other financial information provided to any governmental body or the public; the systems of internal controls that management and the Board have established; and the auditing, accounting, and financial reporting processes, in general. The Committee should encourage continuous improvement of, and should foster adherence to, the Board of Treasury Investment’s policies, procedures, and practices at all levels. The Committee’s primary duties and responsibilities are to:

- Adopt and implement the Audit Committee Charter (Charter).
- Serve as an independent and objective party to monitor the financial reporting process and internal control system.
- Provide oversight of the external auditor’s qualifications and independence.
- Review and appraise the audit efforts of the external auditors and the Internal Auditor.
- Provide an open avenue of communications among the external auditors, management, the Internal Auditor, and the Board.

The Committee will primarily fulfill these responsibilities by carrying out the activities outlined in Section V of this Charter.

II. AUTHORITY

The Committee has the authority to conduct or authorize investigations into any matters within its scope or responsibility. It is empowered to:

- Make recommendations to the full Board on the appointment, and compensation, of the independent public accounting firm contracted to conduct the annual audit.
- Resolve any disagreements between management and the external auditor regarding financial reporting.
- Pre-approve all auditing and permitted non-audit services performed by the external audit firm.
- Engage counsel, accountants, or others to assist and advise the Committee, as necessary.
- Seek any information it requires from the Staff—all of whom are directed to cooperate with the Committee’s requests—or external parties.
- Meet with the external auditors, management, the Internal Auditor, or counsel, as necessary.

III. COMPOSITION

The Committee will be composed of three Directors as appointed by the Chair of the Board. The Directors must be free from any relationship that, in the opinion of the Board, would interfere with the exercise of independent judgment as a member of the Committee. All members of the Committee will have a working familiarity with basic finance and accounting practices, and at least one member of the Committee will have financial expertise. The Committee will elect a Chair by majority vote of the full Committee membership.

IV. MEETINGS

The Committee will meet at least four times annually, or more frequently as circumstances dictate, and may be combined with regularly scheduled meetings of the Board. All Committee members should attend each meeting, in person or via teleconference. The Committee will invite members of management, external or the Internal Auditor, or others to attend and provide pertinent information, as necessary. It will meet separately, periodically, with the external auditors, management, and the Internal Auditor and will meet periodically in executive session, if
appropriate. Meeting notices will be published in The State Register in conformance with the Open Governmental Proceedings Act. Meeting agendas will be prepared and provided to members in advance, along with appropriate briefing materials. Minutes will be prepared for each meeting.

V. RESPONSIBILITIES AND DUTIES

The Committee will carry out the following responsibilities:

FINANCIAL STATEMENTS & REPORTING

- Review and recommend approval of the Board of Treasury Investment’s audited financial statements, management letter, required auditor communications, and all other financial information to the Board.
- Review the internal reports to management prepared by the Internal Auditor and subsequent management responses, if applicable.
- Report and make recommendations for Board actions on all Committee activities and issues that arise with respect to the quality or integrity of the Board of Treasury Investment’s financial statements, compliance with legal or regulatory requirements, or the performance and independence of the Internal Auditor.

INTERNAL AND EXTERNAL AUDIT

- Review with Internal Auditor and management the Charter, internal audit plan and activities, and changes in the scope of the internal audit.
- Ensure there are no unjustified restrictions or limitations placed on the Internal Auditor, including access to required information.
- Review and evaluate the performance of the Internal Auditor.
- Review and concur in the appointment, replacement, reassignment, or dismissal of the Internal Auditor.
- Review and concur with the annual compensation of the Internal Auditor.
- Review and make recommendations to the Board for approval, and selection of the external auditors, considering qualifications, independence, and performance and approve the fees and other compensation to be paid.
- Review the external auditor’s proposed audit scope and approach, including coordination of audit effort with the Internal Auditor.
- Review and evaluate the performance of the external auditors and recommend any proposed discharge when circumstances warrant.
- Consult with the external auditors, out of the presence of management, about internal controls and the completeness and accuracy of the Board of Treasury Investment’s financial statements and such other matters that pertain to the integrity of the financial statements.

FINANCIAL REPORTING PROCESS

- Review with the external auditors all critical accounting policies and procedures used and alternative treatments of financial information within Generally Accepted Accounting Principals that have been discussed with management, the ramifications of each alternative, and the treatment preferred by management.
- Consider the external auditor’s judgments about the quality and appropriateness of the Board of Treasury Investment’s accounting principals as applied in the financial reporting.
- Consider and make recommendations to the Board for approval, of major changes to the auditing procedures, accounting principals and practices, or financial statement presentation as suggested by the external auditors, management, or the Internal Auditor.
- Review the responsiveness and timeliness of management’s follow-up activities pertaining to any reported findings and recommendations.
West Virginia Board of Treasury Investments

Investment Policy Statement

As Adopted by the Board

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- Review with external auditors, management, and the Internal Auditor all matters required to be discussed with the Committee by the Statement on Auditing Standards (SAS) No. 61, *Communication with Audit Committees*, as amended from time to time, relating to the conduct of the audit.
- Following the completion of the annual audit, review separately with the external auditors, management, and the Internal Auditor any significant difficulties or disagreements encountered during the course of the audit, including any restrictions on the scope of work, access to required information, or any other issues that came up during the audit of the financial statements.

ETHICAL AND LEGAL COMPLIANCE

- Review management’s monitoring of compliance with the Board of Treasury Investment’s policies and the State’s Ethics Act.
- Review, with counsel, any legal matter that could have a significant impact on the Board of Treasury Investment’s financial statements, compliance policies and programs, and reports received from regulators.

INTERNAL CONTROL

- Review with the external auditor and the Internal Auditor the adequacy and the effectiveness of the Board of Treasury Investment’s internal control system, including information technology security and control.
- Understand the scope of the Internal and external auditor’s review of internal control over financial reporting, and review the Internal Auditor’s reports on significant findings and recommendations, together with management responses.

OTHER RESPONSIBILITIES

- Report to the full Board all Committee actions, issues, and related recommendations.
- Provide and open avenue of communication among the external auditors, management, Internal Auditors, and the Board.
- Meet with the external auditors, management, and the Internal Auditor in separate executive sessions to discuss any matters that the Committee or these groups believe should be discussed privately.
- Discuss with the external auditors, management, and the Internal Auditor major policies with respect to risk assessment and risk management.
- Ensure that a policy is in place for whistleblowers to provide information on potentially fraudulent financial reporting or breaches of internal control to the Committee.
- Review and assess the adequacy of the Charter annually, requesting Board approval for proposed changes, and ensure appropriate disclosure as may be required by law or regulation, are made.
- Confirm annually that all responsibilities outlined in this Charter have been carried out.
- Perform any other activities consistent with this Charter and the Board of Treasury Investment’s By-laws and governing law, as the Committee or the Board deems necessary or appropriate.
APPENDIX J:

THE ACT – WEST VIRGINIA CODE §12-6c-1 et seq
§ 12-6C-1. Purposes and objects; how article cited

This article, cited as the West Virginia Treasury Investments Act, is enacted to provide for the investment and management of the Consolidated Fund for the purposes of making state moneys more accessible to state government and allowing the Investment Management Board to focus on long-term investment of the trust estates it manages pursuant to article six of this chapter.

§ 12-6C-2. Legislative findings

(a) The Legislature finds and declares that the Consolidated Fund should benefit from financial professionals dedicated to and focused on the sound administration, investment and management of the Fund.

(b) The Legislature finds and declares that the State Treasurer currently enters into agreements on behalf of the West Virginia Investment Management Board with political subdivisions and provides reporting services for participants in the Consolidated Fund.

(c) The Legislature finds and declares that the transfer of the Consolidated Fund to the West Virginia Board of Treasury Investments will allow for management of the fund within state government and will encourage better cash management of state moneys.

(d) The Legislature finds and declares that a public body corporate within state government with appropriate governance is the best means of assuring reasonable access to and prudent management and investment of the Consolidated Fund.

(e) The Legislature finds and declares that in accomplishing these purposes, the West Virginia Board of Treasury Investments is acting in all respects for the benefit of the citizens of the state in managing and investing the Consolidated Fund.

(f) The Legislature further finds and declares that it is in the best interests of the state, its citizens and the political subdivisions to create the West Virginia Board of Treasury Investments to manage and invest the Consolidated Fund to: (1) Provide focused investment services for the operating funds of the state and of its political subdivisions; (2) provide better management of all state funds within state government; and (3) allow the West Virginia Investment Management Board to focus on the long-term investment of the trust estates it manages pursuant to article six of this chapter.

§ 12-6C-3. Definitions

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

(1) “Board” means the governing body for the West Virginia Board of Treasury Investments. References in this code to the entity investing the moneys of the Consolidated Fund, to the West Virginia Board of Investments, to the West Virginia Trust Fund or to the West Virginia Investment Management Board in connection with investing moneys in the Consolidated Fund means the Board as defined in this subdivision;

(2) “Consolidated fund” means the investment fund continued in section six of this article and transferred to the Board by the West Virginia Investment Management Board for Management and Investment;

(3) “Director” means any member serving on the Board;

(4) “Local government funds” means the moneys of a political subdivision, including policemen’s and firemen’s pension and relief funds, and volunteer fire department funds, transferred to the Board for deposit;
(5) “Participant” means any state government spending unit or political subdivision which transfers moneys to the Board for investment;

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

(7) “Securities” means all bonds, notes, debentures or other evidences of indebtedness and other lawful investment instruments; and

(8) “State funds” means all moneys of the state which may be lawfully invested except for the “school fund” established by section four, article XII of the State Constitution.

§ 12-6C-4. West Virginia Board of Treasury Investments created; body corporate; board; directors; nomination and appointment of directors, qualifications and terms of appointment, advice and consent; annual and other meetings; committees; board approval of investment policies required; open meetings, qualifications

(a) The West Virginia Board of Treasury Investments is created as a public body corporate and established to provide prudent fiscal administration, investment and management for the Consolidated Fund.

(b) Any appointment to the Board is effective immediately upon appointment by the Governor with respect to voting, constituting a quorum, receiving expenses and all other rights and privileges of the Director position. A trustee of the West Virginia Investment Management Board other than the Governor, State Treasurer or State Auditor is not eligible to serve as a Director of the Board.

(c) The Board shall consist of five members, as follows:

(1) The Governor, the State Treasurer and the State Auditor or their designees. They shall serve by virtue of their offices and are not entitled to compensation under the provisions of this article. The Governor, State Treasurer and State Auditor or their designees are subject to all duties, responsibilities and requirements of the provisions of this article; and

(2) Two persons appointed by the Governor subject to the advice and consent of the Senate.

(d) Of the two persons appointed by the Governor, one shall be a certified public accountant with experience in finance, investing and management, and one shall be an attorney with experience in finance, investing and management.

(e)(1) Initial appointment of the appointed directors shall be for the following terms:

(A) One member shall be appointed for a term ending the thirtieth day of June, two thousand seven; and

(B) One member shall be appointed for a term ending the thirtieth day of June, two thousand nine.

(2) Except for appointments to fill vacancies, each subsequent appointment shall be for the term ending the thirtieth day of June of the fourth year following the year the preceding term expired. A Director may be reappointed. In the event a vacancy occurs it shall be filled by appointment for the unexpired term. A Director whose term has expired shall continue in office until a successor has been duly appointed and qualified. No appointed member of the Board may be removed from office by the Governor except for official misconduct, incompetency, neglect of duty, gross negligence, misfeasance or gross immorality.

(f) All directors shall receive reasonable and necessary expenses actually incurred in discharging director’s duties pursuant to this article.
(g) The Board shall hold quarterly meetings. Board bylaws may provide for calling and holding additional meetings. Representatives of participants and members of the public may attend any meeting held by the Board, except during those meetings or part of meetings closed by the Board as permitted by law. Attendees shall observe standards of decorum established by board policy.

(h) The Board shall annually adopt a fee schedule and a budget reflecting fee structures for the year.

(i) The Board chairman may appoint committees as needed, including, but not limited to, an investment policies committee to discuss drafting, reviewing or modifying written investment policies. Each committee shall seek input from participants before reporting its recommendations to the Board. The Board may meet with any or all committees during any of its meetings.

(j) Any meeting of the Board may be closed upon adoption of a motion by any Director when necessary to preserve the attorney-client privilege, to protect the privacy interests of individuals, to review personnel matters or to maintain confidentiality when confidentiality is in the best interest of the participants.

§ 12-6C-5. Powers of the Board

The Board may exercise all powers necessary or appropriate to carry out and effectuate its corporate purposes. The Board may:

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

(2) Sue and be sued;

(3) Enter into contracts and execute and deliver instruments using the policies and procedures of the State Treasurer’s Office;

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

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

(6) Notwithstanding any other provision of law to the contrary, specifically article three, chapter five-a of this code, retain and contract with legal, accounting, financial and investment managers, advisors and consultants;

(7) Acquire (by purchase, gift or otherwise), hold, exchange, pledge, lend and sell or otherwise dispose of securities and invest funds in investments authorized by this article;

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

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

(10) Engage in financial transactions whereby securities held by the Board are sold under an agreement providing for the repurchase of the securities by the Board at a stated price;

(11) Consolidate and manage moneys, securities and other assets of the consolidated fund and accounts of the state and the moneys of political subdivisions which may be made available to it under the provisions of this article;

(12) Abide by agreements entered into by the State Treasurer with political subdivisions of the state for investment of moneys of the political subdivisions by the Board;
(13) Charge and collect administrative fees from participants, including political subdivisions, for its services;

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

(15) Use any contract or agreement of the Investment Management Board or the State Treasurer’s Office and enter into its own contracts or agreements, including, without limitation entering into a contract or agreement with one or more banking institutions in or outside the state for the custody, safekeeping and management of securities held by the Board and with any investment manager and investment advisor needed;

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

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

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

(19) Offer assistance and seminars to spending units and to political subdivisions;

(20) Upon request of the State Treasurer, transmit funds for deposit to the State Treasury to meet the daily obligations of state government; and

(21) Establish one or more investment funds, pools or participant accounts within the consolidated fund for the purpose of investing the moneys and assets for which it is director, trustee, custodian or otherwise authorized to invest pursuant to this article. Interests in each fund, pool or participant account are designated as units and the Board shall adopt industry standard accounting procedures to determine the unit value of each fund, pool or participant account. The securities in each investment fund, pool or participant account are the property of the Board and each fund, pool or participant account is considered an investment pool, investment fund or investment participant account.

§ 12-6C-6. Consolidated fund continued; management

(a) The consolidated fund is continued and notwithstanding any provision of this code to the contrary is vested in the West Virginia Board of Treasury Investments on the first day of July, two thousand five.

(b) Each spending unit authorized to invest moneys shall unless prohibited by law, request the State Treasurer to invest its moneys. Based upon spending unit representations, the State Treasurer shall send the moneys to the West Virginia Board of Treasury Investments or to the Investment Management Board for investment.

(c) Each political subdivision of this state through its State Treasurer or equivalent financial officer may enter into agreements with the State Treasurer for the investment of moneys of the political subdivision. Any political subdivision may enter into an agreement with the state spending unit from which it receives moneys to allow the board to invest the moneys.

(d) Moneys held in the various funds and accounts administered by the Board are invested as permitted by this article and subject to the restrictions contained in this article.

(e) The State Treasurer shall maintain records of the deposits and withdrawals of each participant and the performance of the various funds, pools and accounts. The Board shall report the earnings on the funds, pools, and accounts under management to the State Treasurer at the times determined by the State Treasurer.
(f) The Board shall establish policies for the administration of the various funds, pools and accounts authorized by this article as it determines necessary. The policies may specify the minimum amounts and timing of deposits and withdrawals and any other matters authorized by the Board.

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

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

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

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

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

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

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

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

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

§ 12-6C-8. Administration of Consolidated Fund

(a) In the administration of the Consolidated Fund continued by this article, the Board may:

(1) Purchase, retain, hold, transfer and exchange and sell, at public or private sale, the whole or any part of the Fund or pools upon any terms and conditions it considers advisable;

(2) Invest and reinvest the fund and pools or any part thereof in fixed income securities as provided in this article;

(3) Carry the securities and other property held in trust either in the name of the Board or in the name of its nominee;
(4) Vote, in person or by proxy, all securities held; join in or dissent from and oppose the reorganization, recapitalization, consolidation, merger, liquidation or sale of corporations or property; exchange securities for other securities issued in connection with or resulting from any transaction; pay any assessment or expense which the Board considers advisable for the protection of its interest as holder of the securities; exercise any option appurtenant to any securities for the conversion of any securities into other securities; and exercise or sell any rights issued upon or with respect to the securities of any corporation, all upon terms the Board considers advisable;

(5) Prosecute, defend, compromise, arbitrate or otherwise adjust or settle claims in favor of or against the board or a director;

(6) Employ and pay from the Fund any investment advisors, brokers, counsel, managers and any other assistants and agents the Board considers advisable;

(7) Develop, implement and modify an asset allocation plan and investment policy for each fund or pool; and

(8) Create a local government investment pool, a program to purchase certificates of deposit from West Virginia financial institutions that are state depositories and any funds, pools or participant accounts needed.

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

(c) The Board shall render an annual accounting not more than one hundred twenty days following the close of the fiscal year.

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

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

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

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

(1) Preservation of capital;

(2) Risk tolerance;

(3) Credit standards;

(4) Diversification;

(5) Rate of return;

(6) Stability and turnover;

(7) Liquidity;

(8) Reasonable costs and fees;
(9) Permissible investments;

(10) Maturity ranges;

(11) Internal controls;

(12) Safekeeping and custody;

(13) Valuation methodologies;

(14) Calculation of earnings and yields;

(15) Performance benchmarks and evaluation; and

(16) Reporting.

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

(e) Notwithstanding the restrictions which are otherwise provided by law with respect to the investment of funds, the board and all participants, now and in the future, may invest funds in these securities:

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

(i) United States Treasury;

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

(iii) Farmers Home Administration;

(iv) Federal Farm Credit Banks;

(v) Federal Home Loan Banks;

(vi) Federal Home Loan Mortgage Corporation;

(vii) Federal Land Banks;

(viii) Government National Mortgage Association;

(ix) Merchant Marine bonds; and

(x) Tennessee Valley Authority Obligations.

(2) Obligations of the Federal National Mortgage Association;

(3) Commercial paper with one of the two highest commercial paper credit ratings by a nationally recognized investment rating firm;

(4) Corporate debt rated in one of the six highest rating categories by a nationally recognized rating agency;
(5) State and local government, or any instrumentality or agency thereof, securities with one of the three highest ratings by a nationally recognized rating agency;

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

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

(8) Asset-backed securities rated in the highest category by a nationally recognized rating agency;

(9) Certificates of deposit; and

(10) Investments in accordance with the Linked Deposit Program, a program using financial institutions in West Virginia to obtain certificates of deposit, loans approved by the Legislature and any other programs authorized by the Legislature.

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

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

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

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

§ 12-6C-10. Investment authority for Consolidated Fund transferred to Board; exceptions

Effective the first day of July, two thousand and five, all duties vested by law in state spending units and the West Virginia Investment Management Board relating to the Consolidated Fund are transferred to the Board, including without limitation the investment of moneys, and the acquisition, sale, exchange or disposal of securities or any other investment: Provided, That neither this section nor any other section of this article applies to the “board of the school fund” and the “school fund” established by section 4, article XII of the State Constitution: Provided, however, That the municipal bond commission may make funds under its control available to the board for investment.

§ 12-6C-11. Legislative findings; loans for industrial development; availability of funds and interest rates

(a) The Legislature finds and declares that the citizens of the state benefit from the creation of jobs and businesses within the state; that business and industrial development loan programs provide for economic growth and stimulation within the state; that loans from pools established in the Consolidated Fund will assist in providing the needed capital to assist business and industrial development; and that time constraints relating to business and industrial development projects prohibit duplicative review by both the Board and West Virginia Economic Development Authority Board. The Legislature further finds and declares that an investment in the West Virginia Enterprise Capital Fund, LLC, of moneys in the Consolidated Fund as hereinafter provided will assist in creating jobs and businesses within the state and provide the needed risk capital to assist business and industrial development. This section is enacted in view of these findings.

(b) The West Virginia Board of Treasury Investments shall make available, subject to a liquidity determination, in the form of a revolving loan, up to one hundred seventy-five million dollars from the Consolidated Fund to loan the West Virginia Economic Development Authority for business or industrial development projects authorized by
section seven, article fifteen, chapter thirty-one of this code and to consolidate existing loans authorized to be made to the West Virginia Economic Development Authority pursuant to this section and pursuant to section twenty, article fifteen, chapter thirty-one of this code which authorizes a one hundred seventy-five million dollar revolving loan and article eighteen-b, chapter thirty-one of this code which authorizes a fifty million dollar investment pool: Provided, That the West Virginia Economic Development Authority may not loan more than fifteen million dollars for any one business or industrial development project. The revolving loan authorized by this subsection shall be secured by one note at a variable interest rate equal to the twelve-month average of the board’s yield on its cash liquidity pool. The rate shall be set on the first day of July and adjusted annually on the same date. The maximum annual adjustment may not exceed one percent. Monthly payments made by the West Virginia Economic Development Authority to the Board shall be calculated on a one hundred twenty-month amortization. The revolving loan is secured by a security interest that pledges and assigns the cash proceeds of collateral from all loans under this revolving loan pool. The West Virginia Economic Development Authority may also pledge as collateral certain revenue streams from other revolving loan pools which source of funds does not originate from federal sources or from the Board.

(c) The outstanding principal balance of the revolving loan from the Board to the West Virginia Economic Development Authority may at no time exceed one hundred three percent of the aggregate outstanding principal balance of the business and industrial loans from the West Virginia Economic Development Authority to economic development projects funded from this revolving loan pool. The independent audit of the West Virginia Economic Development Authority financial records shall annually certify that one hundred three-percent requirement.

(d) The interest rates and maturity dates on the loans made by the West Virginia Economic Development Authority for business and industrial development projects authorized by section seven, article fifteen, chapter thirty-one of this code shall be at competitive rates and maturities as determined by the West Virginia Economic Development Authority Board.

(e) Any and all outstanding loans made by the West Virginia Board of Treasury Investments, or any predecessor entity, to the West Virginia Economic Development Authority are refundable by proceeds of the revolving loan contained in this section and the Board shall make no loans to the West Virginia Economic Development Authority pursuant to section twenty, article fifteen, chapter thirty-one of this code or article eighteen-b of said chapter.

(f) The Directors of the Board shall bear no fiduciary responsibility with regard to any of the loans contemplated in this section.

(g) Subject to cash availability, the Board shall make available to the West Virginia Economic Development Authority, from the Consolidated Fund, a nonresource loan in an amount up to twenty-five million dollars, for the purpose of the West Virginia Economic Development Authority making a loan or loans from time to time to the West Virginia Enterprise Advancement Corporation, an affiliated nonprofit corporation of the West Virginia Economic Development Authority. The respective loans authorized by this subsection by the Board to the West Virginia Economic Development Authority to the West Virginia Enterprise Advancement Corporation shall each be evidenced by one note and shall each bear interest at the rate of three percent per annum. The proceeds of any and all loans made by the West Virginia Economic Development Authority to the West Virginia Enterprise Advancement Corporation pursuant to this subsection shall be invested by the West Virginia Enterprise Corporation in the West Virginia Enterprise Capital Fund, LLC, the manager of which is the West Virginia Enterprise Advancement Corporation. The loan to West Virginia Economic Development Authority authorized by this subsection shall be nonrevolving, and advances under the loan shall be made at times and in amounts requested or directed by the West Virginia Economic Development Authority, upon reasonable notice to the Board. The loan authorized by this subsection is not subject to or included in the limitations set forth in subsection (b) of this section with respect to the fifteen million-dollar limitation for any one business or industrial development project and limitation of one hundred three percent of outstanding loans, and may not be included in the revolving fund loan principal balance for purposes of calculating the loan amortization in subsection (b) of this section. The loan authorized by this subsection to the West Virginia Economic Development Authority shall be classified by the Board as a long-term fixed income investment, shall bear interest on the outstanding principal balance of the loan at the rate of three percent per annum payable annually on or before the thirtieth day of June of each year, and the
principal of which shall be repaid no later than the thirtieth day of June, two thousand twenty-two, in annual installments due on or before the thirtieth day of June of each year. The annual installments, which need not be equal shall commence no later than the thirtieth day of June, two thousand five, in annual principal amounts agreed upon between the Board and the West Virginia Economic Development Authority. The loan authorized by this subsection shall be nonrecourse and shall be payable by the West Virginia Economic Development Authority solely from amounts or returns received by the West Virginia Economic Development Authority in respect of the loan authorized by this subsection to the West Virginia Enterprise Advancement Corporation, whether in the form of interest, dividends, realized capital gains, return of capital or otherwise, in all of which the Board shall have a security interest to secure repayment of the loan to the West Virginia Economic Development Authority authorized by this subsection. Any and all loans from the West Virginia Enterprise Advancement Corporation made pursuant to this subsection shall also bear interest on the outstanding principal balance of the loan at the rate of three percent per annum payable annually on or before the thirtieth day of June of each year, shall be nonrecourse and shall be payable by the West Virginia Enterprise Advancement Corporation solely from amounts of returns received by the West Virginia Enterprise Advancement Corporation in respect to its investment in the West Virginia Enterprise Capital Fund, LLC, whether in the form of interest, dividends, realized capital gains, return of capital or otherwise, in all of which that Board shall have a security interest to secure repayment the loan to the West Virginia Economic Development Authority authorized by this subsection. In the event the amounts or returns received by the West Virginia Enterprise Corporation in respect to its investment in the West Virginia Enterprise Capital Fund, LLC, are not adequate to pay when due the principal or interest installments, or both, with respect to the loan authorized by this subsection to the West Virginia Economic Development Authority pursuant to this subsection shall be deferred and any and all past-due principal and interest payments shall promptly be paid to the fullest extent possible upon receipt by the West Virginia Enterprise Advancement Corporation of moneys in respect to its investments in the West Virginia Enterprise Capital Fund, LLC. The Directors or the Board shall bear no fiduciary responsibility as provided in section thirteen of this article with regard to the loan authorized by this subsection.

§ 12-6C-12. Securities handling

In financial transactions whereby securities are purchased by the Board under an agreement providing for the resale of the securities to the original seller at a stated price, the Board shall take physical possession of the securities, directly, by its custodian bank or through a neutral third party: Provided, That an agreement with a neutral third party may not waive liability for the handling of the securities: Provided, however, That when the board is unable to take possession, directly, by its custodian bank or through a mutual third party, the Board may leave securities in a segregated account with the original seller, provided the amount of the securities with any one seller may not exceed one hundred fifty million dollars.

§ 12-6C-13. Standard of care

(a) The Uniform Prudent Investor Act, codified in article six-c, chapter forty-four of this code, is the standard for any investments made under this article. Investments are further subject to the following:

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

(2) The directors shall defray reasonable expenses of investing and managing the Consolidated Fund by charging fees as provided in this article; and

(3) The directors shall discharge their duties in accordance with the documents and instruments consistent with the provisions of this article.

(b) The duties of the directors apply only with respect to those assets deposited with or otherwise held by the Board.
§ 12-6C-14. Existing investments

The Investments Management Board shall transfer the cash, securities and other investments of the Consolidated Fund it holds, maintains or administers to the West Virginia Board of Treasury investments on the first day of July, two thousand five, which will lawfully vest the West Virginia Board of Treasury Investments with ownership of all securities or other investments of the Consolidated Fund.

§ 12-6C-15. Annual audits; financial statements; information

(a) The Board shall have an annual financial and compliance audit of the assets, funds, pools and participant accounts managed by the Board made by a certified public accounting firm which has a minimum staff of ten certified public accountants and which is a member of the American Institute of Certified Public Accountants and, if doing business in West Virginia, a member of the West Virginia Society of Certified Public Accountants. The Board shall have financial and compliance audits of the Board’s books, accounts and records with respect to its receipts, disbursements, investments, contracts and all other matters relating to its financial operations completed annually.

(b) The Board shall produce monthly financial statements for the assets managed by the Board and send them to each member of the Board and provide copies as reasonably requested.

(c) Each quarter the Board shall deliver a report for the prior quarter to the Council of Finance and Administration.

(d) The Board shall contract with an investment consulting or a certified public accounting firm meeting the criteria set out in subsection (a) of this section for an annual audit of the reported returns of the assets managed by the Board.

(e) The Board shall prepare an annual report detailing all fees charged by the Board under this article. The Board shall furnish copies of the report to the Legislative Joint Committee on Government and Finance.

(f) Unless specifically otherwise stated, copies of the reports required in this section shall be furnished to the Board, Governor, President of the Senate, Speaker of the House of Delegates, Council of Finance and Administration, Legislative Librarian and upon request to any legislator, legislative committee, financial institution, member of the media and the public.

(g) The Board shall provide any other information requested in writing by the Council of Finance and Administration or any member of the Legislature.

§ 12-6C-16. Reports to participants

(a) On a monthly basis, the Board shall timely provide the State Treasurer with information to enable the State Treasurer to provide an itemized statement of a spending unit’s or other participant’s account in the Consolidated Fund to each state spending unit and any other entity investing moneys in the Consolidated Fund. The statement shall include the beginning balance, contributions, withdrawals, income distributed, change in value and ending balance.

(b) The Board shall prepare annually, or more frequently if determined necessary by the Board, a report of its operations and the performance of the various funds, pools and participant accounts administered by it. The Board shall furnish copies of the report to each participant, the President of the Senate, Speaker of the House of Delegates, Legislative Auditor, and upon request to any legislative committee, any legislator, any banking institution or state or federal savings and loan association in this state and any member of the news media. The Board shall also keep the reports available for inspection by any citizen of this state.
§ 12-6C-17. Legal status of spending units continued

Except as otherwise provided in this article, every state spending unit shall retain all of the powers and shall exercise all of the functions and duties vested in or imposed upon it by law, as to any fund or account.

§ 12-6C-18. Authorization for loans by the Board

(a) Any loan made from the Consolidated Fund by a predecessor entity shall remain in existence and in accordance with the terms and conditions of the loan.

(b) The Board shall continue the work of the Investment Management Board in taking the steps necessary to increase the liquidity of the Consolidated Fund to allow for any loans authorized by the Legislature without increasing the risk of loss.

§ 12-6C-19. Creation of fee account and investment account; budget

(a) The Board may charge fees, which are subtracted from the total return on investments, for the reasonable and necessary expenses incurred by the Board in rendering services. All fees collected shall be deposited in a special account in the State Treasury created and designated the Board of Treasury Investments Fee Fund. Expenditures from the Fund shall be for the purposes set forth in this article and are not authorized from collections, but are to be made only in accordance with appropriation by the Legislature, in accordance with the provisions of article three, chapter twelve of this code and upon the fulfillment of the provisions set forth in article two, chapter eleven-b of this code: Provided, That for the fiscal year ending the thirtieth day of June, two thousand six, expenditures are authorized from collections rather than pursuant to an appropriation by the Legislature.

(b) There is created in the State Treasury a special account designated the Board of Treasury Investments Investment Fund for use in receiving funds for investment, disbursing funds from investments and processing investment transactions.

(c) All fees dedicated, identified or readily identifiable to an entity, fund, pool or participant account shall be charged to that entity, fund, pool or participant account and all other fees shall be charged as a percentage of assets under management. At its annual meeting, the Board shall adopt a fee schedule and a budget reflecting fee schedules.

§ 12-6C-20. Termination of board

Pursuant to the provisions of article ten, chapter four of this code, the West Virginia Board of Treasury Investments shall continue to exist until the first day of July, two thousand ten.
APPENDIX K:

THE ACT – WEST VIRGINIA GOVERNMENTAL ETHICS ACT
WEST VIRGINIA CODE

Chapter 6B. Public Officers and Employees; Ethics; Conflicts of Interest; Financial Disclosure

Article 1. Short Title; Legislative Findings, Purposes and Intent; Construction and Application of Chapter; Severability

§6B-1-1. Short title.

This chapter shall be known as the “West Virginia Governmental Ethics Act.”

§6B-1-2. Legislative findings, purpose, declaration and intent.

(a) The Legislature hereby finds that the holding of a public office or public employment is a public trust. Independence and impartiality of public officials and public employees are essential for the maintenance of the confidence of our citizens in the operation of a democratic government. The decisions and actions of public officials and public employees must be made free from undue influence, favoritism or threat, at every level of government. Public officials and public employees who exercise the powers of their office or employment for personal gain beyond the lawful emoluments of their position or who seek to benefit narrow economic or political interests at the expense of the public at large undermine public confidence in the integrity of a democratic government.

(b) It is the purpose of this chapter to maintain confidence in the integrity and impartiality of the governmental process in the state of West Virginia and its political subdivisions and to aid public officials and public employees in the exercise of their official duties and employment; to define and establish minimum ethical standards for elected and appointed public officials and public employees; to eliminate actual conflicts of interest; to provide a means to define ethical standards; to provide a means of investigating and resolving ethical violations; and to provide administrative and criminal penalties for specific ethical violations herein found to be unlawful.

(c) The Legislature finds that the state government and its many public bodies and local governments have many part-time public officials and public employees serving in elected and appointed capacities; and that certain conflicts of interest are inherent in part-time service and do not, in every instance, disqualify a public official or public employee from the responsibility of voting or deciding a matter; however, when such conflict becomes personal to a particular public official or public employee, such person should seek to be excused from voting, recused from deciding, or otherwise relieved from the obligation of acting as a public representative charged with deciding or acting on a matter.

(d) It is declared that high moral and ethical standards among public officials and public employees are essential to the conduct of free government; that the Legislature believes that a code of ethics for the guidance of public officials and public employees will help them avoid conflicts between their personal interests and their public responsibilities, will improve standards of public service and will promote and strengthen the faith and confidence of the people of this state in their public officials and public employees.

(e) It is the intent of the Legislature that in its operations the West Virginia ethics commission created under this chapter shall protect to the fullest extent possible the rights of individuals affected.

§6B-1-3. Definitions.

As used in this chapter, unless the context in which used clearly requires otherwise:

(a) “Review Board” means the Probable Cause Review Board created by section two-a, article two of this chapter.
(b) “Compensation” means money, thing of value or financial benefit. The term “compensation” does not include reimbursement for actual reasonable and necessary expenses incurred in the performance of one’s official duties.

(c) “Employee” means any person in the service of another under any contract of hire, whether express or implied, oral or written, where the employer or an agent of the employer or a public official has the right or power to control and direct such person in the material details of how work is to be performed and who is not responsible for the making of policy nor for recommending official action.

(d) “Ethics Commission” or “Commission” means the West Virginia Ethics Commission.

(e) “Immediate family”, with respect to an individual, means a spouse with whom the individual is living as husband and wife and any dependent child or children, dependent grandchild or grandchildren and dependent parent or parents.

(f) “Ministerial functions” means actions or functions performed by an individual under a given state of facts in a prescribed manner in accordance with a mandate of legal authority, without regard to, or without the exercise of, the individual’s own judgment as to the propriety of the action being taken.

(g) “Person” means an individual, corporation, business entity, labor union, association, firm, partnership, limited partnership, committee, club or other organization or group of persons, irrespective of the denomination given such organization or group.

(h) “Political contribution” means and has the same definition as is given that term under the provisions of article eight, chapter three of this code.

(i) “Public employee” means any full-time or part-time employee of any state, county or municipal governmental body or any political subdivision thereof, including county school boards.

(j) “Public official” means any person who is elected or appointed to any state, county or municipal office or position and who is responsible for the making of policy or takes official action which is either ministerial or nonministerial, or both, with respect to: (1) Contracting for, or procurement of, goods or services; (2) administering or monitoring grants or subsidies; (3) planning or zoning; (4) inspecting, licensing, regulating or auditing any person; or (5) any other activity where the official action has an economic impact of greater than a de minimis nature on the interest or interests of any person.

(k) “Respondent” means a person who is the subject of an investigation by the Commission or against whom a complaint has been filed with the Commission.

(l) “Thing of value”, “other thing of value” or “anything of value” means and includes: (1) Money, bank bills or notes, United States treasury notes and other bills, bonds or notes issued by lawful authority and intended to pass and circulate as money; (2) goods and chattels; (3) promissory notes, bills of exchange, orders, drafts, warrants, checks, bonds given for the payment of money or the forbearance of money due or owing; (4) receipts given for the payment of money or other property; (5) any right or chose in action; (6) chattels real or personal or things which savor of realty and are, at the time taken, a part of a freehold, whether they are of the substance or produce thereof or affixed thereto, although there may be no interval between the severing and the taking away thereof; (7) any interest in realty, including, but not limited to, fee simple estates, life estates, estates for a term or period of time, joint tenancies, covenanted estates, estates in common, partial interests, present or future interests, contingent or vested interests, beneficial interests, leasehold interests or any other interest or interests in realty of whatsoever nature; (8) any promise of employment, present or future; (9) donation or gift; (10) rendering of services or the payment thereof; (11) any advance or pledge; (12) a promise of present or future interest in any business or contract or other agreement; or (13) every other thing or item, whether tangible or intangible, having economic worth. “Thing of value”, “other thing of value” or “anything of value” shall not include anything which is de minimis in nature nor a lawful political contribution reported as required by law.
§6B-1-4. Remedies and penalties in addition to other applicable remedies and penalties.

The provisions of this chapter shall be in addition to any other applicable provisions of this code and except for the immunity provided by section three, article two of this chapter shall not be deemed to be in derogation of or as a substitution for any other provisions of this code, including, but not limited to, article five-a, chapter sixty-one of this code and except for the immunity provided by section three, article two of this chapter the remedies and penalties provided in this chapter shall be in addition to any other remedies or penalties which may be applicable to any circumstances relevant to both.

§6B-1-5. Severability.

The provisions of subsection (cc), section ten, article two, chapter two of this code shall apply to the provisions of this chapter to the same extent as if the same were set forth in extenso herein.

§6B-1-6. Deposit of funds.

All moneys collected pursuant to this chapter except fines imposed pursuant to paragraph (D), subdivision (1), subsection (r), section four, article two of this chapter shall be deposited in the general revenue fund in the state treasury pursuant to the provisions of section two, article two, chapter twelve of this code.

Article 2. West Virginia Ethics Commission; Powers and Duties; Disclosure of Financial Interest by Public Officials and Employees; Appearance Before Public Agencies

§6B-2-1. West Virginia Ethics Commission created; members; appointment, term of office and oath; compensation and reimbursement for expenses; meetings and quorum.

(a) There is hereby created the West Virginia Ethics Commission, consisting of twelve members, no more than seven of whom shall be members of the same political party. The members of the Commission shall be appointed by the Governor with the advice and consent of the Senate. Within thirty days of the effective date of this section, the Governor shall make the initial appointments to the Commission. No person may be appointed to the Commission or continue to serve as a member of the Commission who holds elected or appointed office under the government of the United States, the state of West Virginia or any of its political subdivisions, or who is a candidate for any of those offices, who is employed as a registered lobbyist, or who is otherwise subject to the provisions of this chapter other than by reason of his or her appointment to or service on the Commission. A member may contribute to a political campaign, but no member shall hold any political party office or participate in a campaign relating to a referendum or other ballot issue.

(b) At least two members of the Commission shall have served as a member of the West Virginia Legislature; at least two members of the Commission shall have been employed in a full-time elected or appointed office in state government; at least one member shall have served as an elected official in a county or municipal government or on a county school board; at least one member shall have been employed full time as a county or municipal officer or employee; and at least two members shall have served part time as a member or director of a state, county or municipal board, commission or public service district and at least four members shall be selected from the public at large. No more than four members of the Commission shall reside in the same congressional district.

(c) Of the initial appointments made to the Commission, two shall be for a term ending one year after the effective date of this section, two for a term ending two years after the effective date of this section, two for a term ending three years after the effective date of this section, three for a term ending four years after the effective date of this section and three shall be for terms ending five years after the effective date of this section. Thereafter, terms of office shall be for five years, each term ending on the same day of the same month of the year as did the term which it succeeds. Each member shall hold office from the date of his or her appointment until the end of the term for which he or she was appointed or until his or her successor qualifies for office. When a vacancy occurs as a result of death, resignation or removal in the membership of this Commission, it shall be filled by appointment within
thirty days of the vacancy for the unexpired portion of the term in the same manner as original appointments. No member shall serve more than two consecutive full or partial terms and no person may be reappointed to the Commission until at least two years have elapsed after the completion of a second successive term.

(d) Each member of the Commission shall take and subscribe to the oath or affirmation required pursuant to section five, article IV of the Constitution of West Virginia. A member may be removed by the Governor for substantial neglect of duty, gross misconduct in office or violation of this chapter, after written notice and opportunity for reply.

(e) The Commission shall meet within thirty days of the initial appointments to the Commission at a time and place to be determined by the Governor, who shall designate a member to preside at that meeting until a chairman is elected. At its first meeting, the Commission shall elect a chairman and other officers as are necessary. The Commission shall within ninety days after its first meeting adopt rules for its procedures.

(f) Seven members of the Commission shall constitute a quorum, except that when the Commission is sitting as a hearing board pursuant to section four of this article, then five members shall constitute a quorum. Except as may be otherwise provided in this article, a majority of the total membership shall be necessary to act at all times.

(g) Members of the Commission shall receive the same compensation and expense reimbursement as is paid to members of the Legislature for their interim duties as recommended by the Citizens Legislative Compensation Commission and authorized by law for each day or portion thereof engaged in the discharge of official duties: Provided, That to be eligible for compensation and expense reimbursement, the member must be in personal attendance at the meeting in which the duties are performed.

(h) The Commission shall appoint an executive director to assist the Commission in carrying out its functions in accordance with Commission rules and with applicable law. The executive director shall be paid a salary fixed by the Commission or as otherwise provided by law. The Commission shall appoint and discharge counsel and employees and shall fix the compensation of employees and prescribe their duties. Counsel to the Commission shall advise the Commission on all legal matters and on the instruction of the Commission may commence appropriate civil actions: Provided, That no counsel shall both advise the Commission and act in a representative capacity in any proceeding.

(i) The Commission may delegate authority to the chairman or executive director to act in the name of the Commission between meetings of the Commission, except that the Commission shall not delegate the power to hold hearings and determine violations to the chairman or executive director.

(j) The principal office of the Commission shall be in the seat of government but it or its designated subcommittees may meet and exercise its power at any other place in the state. Meetings of the Commission shall be public unless: (1) They are required to be private by the provisions of this chapter relating to confidentiality; or (2) they involve discussions of Commission personnel, planned or ongoing litigation and planned or ongoing investigations.

(k) Meetings of the Commission shall be upon the call of the chair and may be conducted by telephonic or other electronic conferencing: Provided, That telephone or other electronic conferencing and voting are not permitted when the Commission is acting as a hearing board under section four of this article or when an investigative panel meets to receive an oral response as authorized under subsection (d), section four of this article. Members shall be given notice of meetings held by telephone or other electronic conferencing in the same manner as meetings at which the members are required to attend in person. Telephone or other electronic conferences shall be electronically recorded and the recordings shall be retained by the Commission in accordance with its record retention policy.

§ 6B-2-2. Same—General powers and duties.

(a) The Commission shall propose rules for promulgation in accordance with the provisions of chapter twenty-nine-a of this Code, to carry out the purposes of this article.
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(b) The Commission may initiate or receive complaints and make investigations, as provided in section four of this article, and upon complaint by an individual of an alleged violation of this article by a public official or public employee, refer the complaint to the Review Board as provided in section two-a of this article. Any person charged with a violation of this chapter is entitled to the administrative hearing process contained in section four of this article.

c) The Commission may subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of books, papers, records or other evidence needed for the performance of the Commission’s duties or exercise of its powers, including its duties and powers of investigation.

d) The Commission shall, in addition to its other duties:

(1) Prescribe forms for reports, statements, notices and other documents required by law;

(2) Prepare and publish manuals and guides explaining the duties of individuals covered by this law; and giving instructions and public information materials to facilitate compliance with, and enforcement of, this act; and

(3) Provide assistance to agencies, officials and employees in administering the provisions of this act.

e) The Commission may:

(1) Prepare reports and studies to advance the purpose of the law;

(2) Contract for any services which cannot satisfactorily be performed by its employees;

(3) Require the Attorney General to provide legal advice without charge to the Commission;

(4) Employ additional legal counsel;

(5) Request appropriate agencies of state to provide any professional assistance the Commission may require in the discharge of its duties: Provided, That the Commission shall reimburse any agency other than the Attorney General the cost of providing assistance; and

(6) Share otherwise confidential documents, materials or information with appropriate agencies of state government, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material or information.


(a) There is hereby established a Probable Cause Review Board that shall conduct hearings to determine whether there is probable cause to believe that a violation of the West Virginia Governmental Ethics Act has occurred and, if so, to refer that investigation to the Ethics Commission. The Review Board is an autonomous board, not under the direction or control of the Ethics Commission. The Review Board will review complaints received or initiated by the Ethics Commission to make a threshold determination of whether probable cause exists to believe that a violation of the West Virginia Governmental Ethics Act has occurred.

(b) The Governor, by and with the advice and consent of the Senate, shall appoint three persons as members of the Review Board, each of whom shall be a resident and citizen of the state. Each member of the Review Board shall hold office until his successor has been appointed and qualified. At least one member of the Board must be an attorney licensed by the state of West Virginia and no more than two members can belong to the same political party. The members of the Review Board shall be appointed for overlapping terms of two years, except that the original appointments shall be for terms of one, two and three years, respectively. Any member whose term expires may be reappointed by the Governor. In the event a Review Board member is unable to complete his or her term, a
Governor shall appoint a person with similar qualification to complete that term. Each Review Board member shall receive the same compensation and expense reimbursement as provided to Ethics Commission members pursuant to section one of this article. These and all other costs incurred by the Review Board shall be paid from the budget of the Ethics Commission.

(c) No person may be appointed to the Review Board or continue to serve as a member of the Review Board who holds elected or appointed office under the government of the United States, the state of West Virginia or any of its political subdivisions, or who is a candidate for any of such offices, or who is a registered lobbyist, or who is otherwise subject to the provisions of this chapter other than by reason of his or her appointment to or service on the Review Board. A Review Board member may contribute to a political campaign, but no member shall hold any political party office or participate in a campaign relating to a referendum or other ballot issue.

(d) The Ethics Commission shall propose, for approval by the Review Board, any procedural and interpretative rules governing the operation of the Review Board. The Commission shall propose these rules pursuant to article three, chapter twenty-nine-a of the code.

(e) The Ethics Commission shall provide staffing and a location for the Review Board to conduct hearings. The Ethics Commission is authorized to employ and assign the necessary professional and clerical staff to assist the Review Board in the performance of its duties and Commission staff shall, as the Commission deems appropriate, also serve as staff to the Review Board. All investigations and proceedings of the Review Board are deemed confidential as provided in section four of this article and members of the Review Board are bound to the same confidentiality requirements applicable to the Ethics Commission pursuant to this article.

(f) The Review Board may subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of books, papers, records or other evidence needed for the performance of the Review Board’s duties.

(g) Upon decision by the Review Board that probable cause exists to believe that a violation of this chapter has occurred, Commission staff shall send notice to the Commission members of the Review Board’s finding. After an ethics complaint has been submitted to the Review Board in accordance with section four of this article, the Commission may take no further action until it receives the Review Board’s probable cause finding.

§ 6B-2-3. Advisory opinions; enforcement; applicability; legislative review; rule making.

(a) A person subject to the provisions of this chapter may make application in writing to the ethics commission for an advisory opinion on whether an action or proposed action violates the provisions of this chapter or the provisions of section fifteen, article ten, chapter sixty-one of this code and would thereby expose the person to sanctions by the commission or criminal prosecution. The commission shall respond within thirty days from the receipt of the request by issuing an advisory opinion on the matter raised in the request. All advisory opinions shall be published and indexed in the code of state rules by the secretary of state: Provided, That before an advisory opinion is made public, any material which may identify the person who is the subject of the opinion shall, to the fullest extent possible, be deleted and the identity of the person shall not be revealed. A person subject to the provisions of this chapter may rely upon the published guidelines or an advisory opinion of the commission, and any person acting in good faith reliance on any such guideline or opinion shall be immune from the sanctions of this chapter and the sanctions of section fifteen, article ten, chapter sixty-one of this code, and shall have an absolute defense to any criminal prosecution for actions taken in good faith reliance upon any such opinion or guideline in regard to the sanctions of this chapter and the sanctions of section fifteen, article ten, chapter sixty-one of this code.

(b) By the first day of the third month of the calendar year, the ethics commission shall annually furnish copies of all advisory opinions issued during the preceding calendar year to the archives and history section of the division of culture and history, the office of the Clerk of the West Virginia House of Delegates, the office of the Clerk of the West Virginia Senate and the West Virginia Supreme Court of Appeals Law Library. Accompanying the initial delivery of the previous calendar year’s advisory opinions after the enactment of this subsection, the commission
shall supply each of these offices with copies of all advisory opinions issued subsequent to the creation of the commission.

§ 6B-2-3a. Complaints.

(a) The Commission may commence an investigation, pursuant to section four of this article, on the filing of a complaint duly verified by oath or affirmation, by any person.

(b) The Commission may order the executive director to prepare a complaint, upon a majority affirmative vote of its members, if it receives or discovers credible information which, if true, would merit an inquiry into whether a violation of this article has occurred.

(c)(1) No complaint may be accepted or initiated by the Commission against a public official or public employee during the sixty days before a primary or general election at which the public official or public employees is a candidate for elective office.

(2) The Commission shall stay any proceedings with regard to an ethics complaint filed against a public official or public employee candidate more than sixty days prior to the election: Provided, Where there has not yet been a probable cause determination with regard to the allegations in the complaint, the public official or public employee candidate may waive the postponement in writing, in which case the Commission and the Review Board shall process the complaint and provide the candidate with a probable cause determination at least thirty days prior to the election.

§6B-2-4. Processing complaints; dismissals; hearings; disposition; judicial review.

(a) Upon the filing of a complaint, the Executive Director of the Commission or his or her designee shall, within three working days, acknowledge the receipt of the complaint by first-class mail unless the complaint was initiated by the Commission or the complainant or his or her representative personally filed the complaint with the Commission and was given a receipt or other acknowledgment evidencing the filing of the complaint. No political party or officer, employee or agent of a political party acting in his or her official capacity may file a complaint for a violation of this chapter with the Commission. Nothing in this section prohibits a private citizen, acting in that capacity, from filing a verified complaint with the Commission under this section. Within fourteen days after the receipt of a complaint, the Executive Director shall refer the complaint to the Review Board created pursuant to section two-a of this article.

(b) Upon the referral of a complaint by the Executive Director pursuant to subsection (a) of this section, the Review Board shall determine whether the allegations of the complaint, if taken as true, would constitute a violation of law upon which the Commission could properly act under the provisions of this chapter. If the complaint is determined by a majority vote of the Review Board to be insufficient in this regard, the Review Board shall dismiss the complaint.

(c) Upon a finding by the Review Board that the complaint is sufficient, the Executive Director shall give notice of a pending investigation to the complainant, if any, and to the respondent. The notice of investigation shall be mailed to the parties and, in the case of the respondent, shall be mailed as certified mail, return receipt requested, marked “Addressee only, personal and confidential”. The notice shall describe the conduct of the respondent which is alleged to violate the law and a copy of the complaint shall be appended to the notice mailed to the respondent. Each notice of investigation shall inform the respondent that the purpose of the investigation is to determine whether probable cause exists to believe that a violation of law has occurred which may subject the respondent to administrative sanctions by the Commission, criminal prosecution by the state, or civil liability. The notice shall further inform the respondent that he or she has a right to appear before the Review Board and that he or she may
respond in writing to the Commission within thirty days after the receipt of the notice, but that no fact or allegation shall be taken as admitted by a failure or refusal to timely respond.

(d) Within the 45-day period following the mailing of a notice of investigation, the Review Board shall proceed to consider: (1) The allegations raised in the complaint; (2) any timely received written response of the respondent; and (3) any other competent evidence gathered by or submitted to the Commission which has a proper bearing on the issue of probable cause. A respondent may appear before the Review Board and make an oral response to the complaint. The Commission shall promulgate rules prescribing the manner in which a respondent may present his or her oral response. The Commission may ask a respondent to disclose specific amounts received from a source and request other detailed information not otherwise required to be set forth in a statement or report filed under the provisions of this chapter if the information sought is considered to be probative as to the issues raised by a complaint or an investigation initiated by the Commission. Any information thus received shall be confidential except as provided by subsection (e) of this section. If a person asked to provide information fails or refuses to furnish the information to the Commission, the Commission may exercise its subpoena power as provided in this chapter and any subpoena issued by the Commission shall have the same force and effect as a subpoena issued by a circuit court of this state. Enforcement of any subpoena may be had upon application to a circuit court of the county in which the Review Board is conducting an investigation through the issuance of a rule or an attachment against the respondent as in cases of contempt.

(e)(1) All investigations, complaints, reports, records, proceedings and other information received by the Commission and related to complaints made to the Commission or investigations conducted by the Commission pursuant to this section, including the identity of the complainant or respondent, are confidential and may not be knowingly and improperly disclosed by any current or former member or employee of the Commission or the Review Board except as follows:

(A) Once there has been a finding that probable cause exists to believe that a respondent has violated the provisions of this chapter and the respondent has been served by the Commission with a copy of the Review Board’s order and the statement of charges prepared pursuant to the provisions of subsection (g) of this section, the complaint and all reports, records, nonprivileged and nondeliberative material introduced at any probable cause hearing held pursuant to the complaint cease to be confidential.

(B) After a finding of probable cause, any subsequent hearing held in the matter for the purpose of receiving evidence or the arguments of the parties or their representatives shall be open to the public and all reports, records and nondeliberative materials introduced into evidence at the hearing, as well as the Commission’s orders, are not confidential.

(C) The Commission may release any information relating to an investigation at any time if the release has been agreed to in writing by the respondent.

(D) The complaint and the identity of the complainant shall be disclosed to a person named as respondent immediately upon the respondent’s request.

(E) Where the Commission is otherwise required by the provisions of this chapter to disclose information or to proceed in such a manner that disclosure is necessary and required to fulfill those requirements.

(2) If, in a specific case, the Commission finds that there is a reasonable likelihood that the dissemination of information or opinion in connection with a pending or imminent proceeding will interfere with a fair hearing or otherwise prejudice the due administration of justice, the Commission shall order that all or a portion of the information communicated to the Commission to cause an investigation and all allegations of ethical misconduct or criminal acts contained in a complaint shall be confidential and the person providing the information or filing a complaint shall be bound to confidentiality until further order of the Commission.

(f) If the members of the Review Board fail to find probable cause, the proceedings shall be dismissed by the Commission in an order signed by the members of the Review Board. Copies of the order of dismissal shall be sent...
(g) At least eighty days prior to the date of the hearing, the Commission shall serve the respondent by certified mail, return receipt requested, with the statement of charges and a notice of hearing setting forth the date, time and place for the hearing. The scheduled hearing may be continued only upon a showing of good cause by the respondent or under other circumstances as the Commission, by legislative rule, directs.

(h) The Commission may sit as a hearing board to adjudicate the case or may permit an assigned hearing examiner employed by the Commission to preside at the taking of evidence. The Commission shall, by legislative rule, establish the general qualifications for hearing examiners. The legislative rule shall also contain provisions which ensure that the functions of a hearing examiner will be conducted in an impartial manner and describe the circumstances and procedures for disqualification of hearing examiners.

(i) A member of the Commission or a hearing examiner presiding at a hearing may:

(1) Administer oaths and affirmations, compel the attendance of witnesses and the production of documents, examine witnesses and parties and otherwise take testimony and establish a record;

(2) Rule on offers of proof and receive relevant evidence;

(3) Take depositions or have depositions taken when the ends of justice will be served;

(4) Regulate the course of the hearing;

(5) Hold conferences for the settlement or simplification of issues by consent of the parties;

(6) Dispose of procedural requests or similar matters;

(7) Accept stipulated agreements;

(8) Take other action authorized by the Ethics Commission consistent with the provisions of this chapter.

(j) With respect to allegations of a violation under this chapter, the complainant has the burden of proof. The West Virginia Rules of Evidence governing proceedings in the courts of this state shall be given like effect in hearings held before the Commission or a hearing examiner. The Commission shall, by rule, regulate the conduct of hearings so as to provide full procedural due process to a respondent. Hearings before a hearing examiner shall be recorded electronically. When requested by either of the parties, the presiding officer shall order a transcript, verified by oath or affirmation, of each hearing held and so recorded. In the discretion of the Commission, a record of the proceedings may be made by a certified court reporter. Unless otherwise ordered by the Commission, the cost of preparing a transcript shall be paid by the party requesting the transcript. Upon a showing of indigency, the Commission may provide a transcript without charge. Within fifteen days following the hearing, either party may submit to the hearing examiner that party’s proposed findings of fact. The hearing examiner shall thereafter prepare his or her own proposed findings of fact and make copies of the findings available to the parties. The hearing examiner shall then submit the entire record to the Commission for final decision.

(k) The recording of the hearing or the transcript of testimony, as the case may be, and the exhibits, together with all papers and requests filed in the proceeding, and the proposed findings of fact of the hearing examiner and the
parties, constitute the exclusive record for decision by the Commission, unless by leave of the Commission a party is permitted to submit additional documentary evidence or take and file depositions or otherwise exercise discovery.

(l) The Commission shall set a time and place for the hearing of arguments by the complainant and respondent, or their respective representatives, and shall notify the parties thereof. Briefs may be filed by the parties in accordance with procedural rules promulgated by the Commission. The Commission shall issue a final decision in writing within forty-five days of the receipt of the entire record of a hearing held before a hearing examiner or, in the case of an evidentiary hearing held by the Commission acting as a hearing board in lieu of a hearing examiner, within twenty-one days following the close of the evidence.

(m) A decision on the truth or falsity of the charges against the respondent and a decision to impose sanctions must be approved by at least seven members of the Commission.

(n) Members of the Commission shall recuse themselves from a particular case upon their own motion with the approval of the Commission or for good cause shown upon motion of a party. The remaining members of the Commission shall, by majority vote, select a temporary member of the Commission to replace a recused member: Provided, That the temporary member selected to replace a recused member shall be a person of the same status or category, provided by subsection (b), section one of this article, as the recused member.

(o) Except for statements made in the course of official duties to explain Commission procedures, no member or employee or former member or employee of the Commission may make any public or nonpublic comment about any proceeding previously or currently before the Commission. Any member or employee or former member or employee of the Commission who violates this subsection is subject to the penalties contained in subsection (e), section ten of this article. In addition, violation of this subsection by a current member or employee of the Commission is grounds for immediate removal from office or termination of employment.

(p) A complainant may be assisted by a member of the Commission staff assigned by the Commission after a determination of probable cause.

(q) No employee of the Commission assigned to prosecute a complaint may participate in the Commission deliberations or communicate with Commission members or the public concerning the merits of a complaint.

(r)(1) If the Commission finds by evidence beyond a reasonable doubt that the facts alleged in the complaint are true and constitute a material violation of this article, it may impose one or more of the following sanctions:

(A) Public reprimand;

(B) Cease and desist orders;

(C) Orders of restitution for money, things of value, or services taken or received in violation of this chapter;

(D) Fines not to exceed five thousand dollars per violation; or

(E) Reimbursement to the Commission for the actual costs of investigating and prosecuting a violation. Any reimbursement ordered by the Commission for its costs under this paragraph shall be collected by the Commission and deposited pursuant to section six, article one of this chapter.

(2) In addition to imposing the above-specified sanctions, the Commission may recommend to the appropriate governmental body that a respondent be terminated from employment or removed from office.

(3) The Commission may institute civil proceedings in the circuit court of the county in which a violation occurred for the enforcement of sanctions.
(s) At any stage of the proceedings under this section, the Commission may enter into a conciliation agreement with a respondent if the agreement is deemed by a majority of the members of the Commission to be in the best interest of the state and the respondent. Any conciliation agreement must be disclosed to the public: Provided, That negotiations leading to a conciliation agreement, as well as information obtained by the Commission during the negotiations, shall remain confidential except as may be otherwise set forth in the agreement.

(t) Decisions of the Commission involving the issuance of sanctions may be appealed to the circuit court of Kanawha County, or to the circuit court of the county where the violation is alleged to have occurred, only by the respondent and only upon the grounds set forth in section four, article five, chapter twenty-nine-a of this code.

(u)(1) Any person who in good faith files a verified complaint or any person, official or agency who gives credible information resulting in a formal complaint filed by Commission staff is immune from any civil liability that otherwise might result by reason of such actions.

(2) If the Commission determines, by clear and convincing evidence, that a person filed a complaint or provided information which resulted in an investigation knowing that the material statements in the complaint or the investigation request or the information provided were not true; filed an unsubstantiated complaint or request for an investigation in reckless disregard of the truth or falsity of the statements contained therein; or filed one or more unsubstantiated complaints which constituted abuse of process, the Commission shall:

(A) Order the complainant or informant to reimburse the respondent for his or her reasonable costs;

(B) Order the complainant or informant to reimburse the respondent for his or her reasonable attorney fees; and

(C) Order the complainant or informant to reimburse the Commission for the actual costs of its investigation.

In addition, the Commission may decline to process any further complaints brought by the complainant, the initiator of the investigation or the informant.

(3) The sanctions authorized in this subsection are not exclusive and do not preclude any other remedies or rights of action the respondent may have against the complainant or informant under the law.

(v)(1) If at any stage in the proceedings under this section it appears to a Review Board, a hearing examiner or the Commission that there is credible information or evidence that the respondent may have committed a criminal violation, the matter shall be referred to the full Commission for its consideration. If, by a vote of two thirds of the members of the full Commission, it is determined that probable cause exists to believe a criminal violation has occurred, the Commission shall refer the matter to the appropriate county prosecuting attorney having jurisdiction for a criminal investigation and possible prosecution. Deliberations of the Commission with regard to referring a matter for criminal investigation by a prosecuting attorney shall be private and confidential. Notwithstanding any other provision of this article, once a referral for criminal investigation is made under the provisions of this subsection, the ethics proceedings shall be held in abeyance until action on the referred matter is concluded. If the referral of the matter to the prosecuting attorney results in a criminal conviction of the respondent, the Commission may resume its investigation or prosecution of the ethics violation, but may not impose a fine as a sanction if a violation is found to have occurred.

(2) If fewer than two thirds of the full Commission determine that a criminal violation has occurred, the Commission shall remand the matter to the Review Board, the hearing examiner or the Commission itself as a hearing board, as the case may be, for further proceedings under this article.

(w) The provisions of this section shall apply to violations of this chapter occurring after the thirtieth day of September, one thousand nine hundred eighty-nine, and within one year before the filing of a complaint: Provided, That the applicable statute of limitations for violations which occur on or after the first day of July, two thousand five, is two years after the date on which the alleged violation occurred.
§6B-2-5. Ethical standards for elected and appointed officials and public employees.

(a) Persons subject to section. — The provisions of this section apply to all elected and appointed public officials and public employees, whether full or part time, in state, county, municipal governments and their respective boards, agencies, departments and commissions and in any other regional or local governmental agency, including county school boards.

(b) Use of public office for private gain. — (1) A public official or public employee may not knowingly and intentionally use his or her office or the prestige of his or her office for his or her own private gain or that of another person. Incidental use of equipment or resources available to a public official or public employee by virtue of his or her position for personal or business purposes resulting in de minimis private gain does not constitute use of public office for private gain under this subsection. The performance of usual and customary duties associated with the office or position or the advancement of public policy goals or constituent services, without compensation, does not constitute the use of prestige of office for private gain.

(2) The Legislature, in enacting this subsection, recognizes that there may be certain public officials or public employees who bring to their respective offices or employment their own unique personal prestige which is based upon their intelligence, education, experience, skills and abilities, or other personal gifts or traits. In many cases, these persons bring a personal prestige to their office or employment which inures to the benefit of the state and its citizens. Those persons may, in fact, be sought by the state to serve in their office or employment because, through their unusual gifts or traits, they bring stature and recognition to their office or employment and to the state itself. While the office or employment held or to be held by those persons may have its own inherent prestige, it would be unfair to those individuals and against the best interests of the citizens of this state to deny those persons the right to hold public office or to be publicly employed on the grounds that they would, in addition to the emoluments of their office or employment, be in a position to benefit financially from the personal prestige which otherwise inheres to them. Accordingly, the Commission is directed, by legislative rule, to establish categories of public officials and public employees, identifying them generally by the office or employment held, and offering persons who fit within those categories the opportunity to apply for an exemption from the application of the provisions of this subsection. Exemptions may be granted by the Commission, on a case-by-case basis, when it is shown that: (A) The public office held or the public employment engaged in is not such that it would ordinarily be available or offered to a substantial number of the citizens of this state; (B) the office held or the employment engaged in is such that it normally or specifically requires a person who possesses personal prestige; and (C) the person’s employment contract or letter of appointment provides or anticipates that the person will gain financially from activities which are not a part of his or her office or employment.

(c) Gifts. — (1) A public official or public employee may not solicit any gift unless the solicitation is for a charitable purpose with no resulting direct pecuniary benefit conferred upon the official or employee or his or her immediate family: Provided, That no public official or public employee may solicit for a charitable purpose any gift from any person who is also an official or employee of the state and whose position is subordinate to the soliciting official or employee: Provided, however, That nothing herein shall prohibit a candidate for public office from soliciting a lawful political contribution. No official or employee may knowingly accept any gift, directly or indirectly, from a lobbyist or from any person whom the official or employee knows or has reason to know:

(A) Is doing or seeking to do business of any kind with his or her agency;

(B) Is engaged in activities which are regulated or controlled by his or her agency; or

(C) Has financial interests which may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of his or her official duties.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, a person who is a public official or public employee may accept a gift described in this subdivision, and there shall be a presumption that the receipt of such gift does not impair the impartiality and independent judgment of the person. This presumption may be rebutted
only by direct objective evidence that the gift did impair the impartiality and independent judgment of the person or that the person knew or had reason to know that the gift was offered with the intent to impair his or her impartiality and independent judgment. The provisions of subdivision (1) of this subsection do not apply to:

(A) Meals and beverages;

(B) Ceremonial gifts or awards which have insignificant monetary value;

(C) Unsolicited gifts of nominal value or trivial items of informational value;

(D) Reasonable expenses for food, travel and lodging of the official or employee for a meeting at which the official or employee participates in a panel or has a speaking engagement;

(E) Gifts of tickets or free admission extended to a public official or public employee to attend charitable, cultural or political events, if the purpose of such gift or admission is a courtesy or ceremony customarily extended to the office;

(F) Gifts that are purely private and personal in nature; or

(G) Gifts from relatives by blood or marriage, or a member of the same household.

(3) The Commission shall, through legislative rule promulgated pursuant to chapter twenty-nine-a of this code, establish guidelines for the acceptance of a reasonable honorarium by public officials and elected officials. The rule promulgated shall be consistent with this section. Any elected public official may accept an honorarium only when:

(1) That official is a part-time elected public official; (2) the fee is not related to the official’s public position or duties; (3) the fee is for services provided by the public official that are related to the public official’s regular, nonpublic trade, profession, occupation, hobby or avocation; and (4) the honorarium is not provided in exchange for any promise or action on the part of the public official.

(4) Nothing in this section shall be construed so as to prohibit the giving of a lawful political contribution as defined by law.

(5) The Governor or his designee may, in the name of the state of West Virginia, accept and receive gifts from any public or private source. Any gift so obtained shall become the property of the state and shall, within thirty days of the receipt thereof, be registered with the Commission and the division of culture and history.

(6) Upon prior approval of the joint committee on government and finance, any member of the Legislature may solicit donations for a regional or national legislative organization conference or other legislative organization function to be held in the state for the purpose of deferring costs to the state for hosting of the conference or function. Legislative organizations are bipartisan regional or national organizations in which the joint committee on government and finance authorizes payment of dues or other membership fees for the Legislature’s participation and which assist this and other state legislatures and their staff through any of the following:

(i) Advancing the effectiveness, independence and integrity of legislatures in the states of the United States;

(ii) Fostering interstate cooperation and facilitating information exchange among state legislatures;

(iii) Representing the states and their legislatures in the American federal system of government;

(iv) Improving the operations and management of state legislatures and the effectiveness of legislators and legislative staff, and to encourage the practice of high standards of conduct by legislators and legislative staff;

(v) Promoting cooperation between state legislatures in the United States and legislatures in other countries.
The solicitations may only be made in writing. The legislative organization may act as fiscal agent for the conference and receive all donations. In the alternative, a bona fide banking institution may act as the fiscal agent. The official letterhead of the Legislature may not be used by the legislative member in conjunction with the fund raising or solicitation effort. The legislative organization for which solicitations are being made shall file with the Joint Committee on Government and Finance and with the Secretary of State for publication in the State Register as provided in article two of chapter twenty-nine-a of the Code, copies of letters, brochures and other solicitation documents, along with a complete list of the names and last known addresses of all donors and the amount of donations received. Any solicitation by a legislative member shall contain the following disclaimer:

“This solicitation is endorsed by [name of member]. This endorsement does not imply support of the soliciting organization, nor of the sponsors who may respond to the solicitation. A copy of all solicitations are on file with the West Virginia Legislature’s Joint Committee on Government and Finance, and with the Secretary of State and are available for public review.”

(7) Upon written notice to the Commission, any member of the Board of Public Works may solicit donations for a regional or national organization conference or other function related to the office of the member to be held in the state for the purpose of deferring costs to the state for hosting of the conference or function. The solicitations may only be made in writing. The organization may act as fiscal agent for the conference and receive all donations. In the alternative, a bona fide banking institution may act as the fiscal agent. The official letterhead of the office of the Board of Public Works member may not be used in conjunction with the fund raising or solicitation effort. The organization for which solicitations are being made shall file with the Joint Committee on Government and Finance, with the Secretary of State for publication in the state register as provided in article two of chapter twenty-nine-a of the code and with the Commission, copies of letters, brochures and other solicitation documents, along with a complete list of the names and last known addresses of all donors and the amount of donations received. Any solicitation by a member of the Board of Public Works shall contain the following disclaimer: “This solicitation is endorsed by (name of member of Board of Public Works.) This endorsement does not imply support of the soliciting organization, nor of the sponsors who may respond to the solicitation. Copies of all solicitations are on file with the West Virginia Legislature’s Joint Committee on Government and Finance, with the Secretary of State and are available for public review.” Any moneys in excess of those donations needed for the conference or function shall be deposited in the Capitol Dome and Capitol Improvement Fund established in section two, article four of chapter five-a of this code.

(d) Interests in public contracts. — (1) In addition to the provisions of section fifteen, article ten, chapter sixty-one of this code, no elected or appointed public official or public employee or member of his or her immediate family or business with which he or she is associated may be a party to or have an interest in the profits or benefits of a contract which the official or employee may have direct authority to enter into, or over which he or she may have control: Provided, That nothing herein shall be construed to prevent or make unlawful the employment of any person with any governmental body: Provided, however, That nothing herein shall be construed to prohibit a member of the Legislature from entering into a contract with any governmental body, or prohibit a part-time appointed public official from entering into a contract which the part-time appointed public official may have direct authority to enter into or over which he or she may have control when the official has not participated in the review or evaluation thereof, has been recused from deciding or evaluating and has been excused from voting on the contract and has fully disclosed the extent of his or her interest in the contract.

(2) In the absence of bribery or a purpose to defraud, an elected or appointed public official or public employee or a member of his or her immediate family or a business with which he or she is associated shall not be considered as having an interest in a public contract when such a person has a limited interest as an owner, shareholder or creditor of the business which is the contractor on the public contract involved. A limited interest for the purposes of this subsection is:

(A) An interest:

(i) Not exceeding ten percent of the partnership or the outstanding shares of a corporation; or
(ii) Not exceeding thirty thousand dollars interest in the profits or benefits of the contract; or

(B) An interest as a creditor:

(i) Not exceeding ten percent of the total indebtedness of a business; or

(ii) Not exceeding thirty thousand dollars interest in the profits or benefits of the contract.

(3) Where the provisions of subdivisions (1) and (2) of this subsection would result in the loss of a quorum in a public body or agency, in excessive cost, undue hardship, or other substantial interference with the operation of a state, county, municipality, county school board or other governmental agency, the affected governmental body or agency may make written application to the Ethics Commission for an exemption from subdivisions (1) and (2) of this subsection.

(e) Confidential information. — No present or former public official or employee may knowingly and improperly disclose any confidential information acquired by him or her in the course of his or her official duties nor use such information to further his or her personal interests or the interests of another person.

(f) Prohibited representation. — No present or former elected or appointed public official or public employee shall, during or after his or her public employment or service, represent a client or act in a representative capacity with or without compensation on behalf of any person in a contested case, rate-making proceeding, license or permit application, regulation filing or other particular matter involving a specific party or parties which arose during his or her period of public service or employment and in which he or she personally and substantially participated in a decision-making, advisory or staff support capacity, unless the appropriate government agency, after consultation, consents to such representation. A staff attorney, accountant or other professional employee who has represented a government agency in a particular matter shall not thereafter represent another client in the same or substantially related matter in which that client’s interests are materially adverse to the interests of the government agency, without the consent of the government agency: Provided, That this prohibition on representation shall not apply when the client was not directly involved in the particular matter in which the professional employee represented the government agency, but was involved only as a member of a class. The provisions of this subsection shall not apply to legislators who were in office and legislative staff who were employed at the time it originally became effective on the first day of July, one thousand nine hundred eighty-nine, and those who have since become legislators or legislative staff and those who shall serve hereafter as legislators or legislative staff.

(g) Limitation on practice before a board, agency, commission or department. — (1) No elected or appointed public official and no full-time staff attorney or accountant shall, during his or her public service or public employment or for a period of one year after the termination of his or her public service or public employment with a governmental entity authorized to hear contested cases or promulgate or propose rules, appear in a representative capacity before the governmental entity in which he or she served or served or is or was employed in the following matters:

(A) A contested case involving an administrative sanction, action or refusal to act;

(B) To support or oppose a proposed rule;

(C) To support or contest the issuance or denial of a license or permit;

(D) A rate-making proceeding; and

(E) To influence the expenditure of public funds.

(2) As used in this subsection, “represent” includes any formal or informal appearance before, or any written or oral communication with, any public agency on behalf of any person: Provided, That nothing contained in this subsection shall prohibit, during any period, a former public official or employee from being retained by or employed to represent, assist or act in a representative capacity on behalf of the public agency by which he or she
was employed or in which he or she served. Nothing in this subsection shall be construed to prevent a former public official or employee from representing another state, county, municipal or other governmental entity before the governmental entity in which he or she served or was employed within one year after the termination of his or her employment or service in the entity.

(3) A present or former public official or employee may appear at any time in a representative capacity before the Legislature, a county commission, city or town council or county school board in relation to the consideration of a statute, budget, ordinance, rule, resolution or enactment.

(4) Members and former members of the Legislature and professional employees and former professional employees of the Legislature shall be permitted to appear in a representative capacity on behalf of clients before any governmental agency of the state or of county or municipal governments, including county school boards.

(5) An elected or appointed public official, full-time staff attorney or accountant who would be adversely affected by the provisions of this subsection may apply to the Ethics Commission for an exemption from the six months prohibition against appearing in a representative capacity, when the person’s education and experience is such that the prohibition would, for all practical purposes, deprive the person of the ability to earn a livelihood in this state outside of the governmental agency. The Ethics Commission shall by legislative rule establish general guidelines or standards for granting an exemption or reducing the time period, but shall decide each application on a case-by-case basis.

(h) Employment by regulated persons. — (1) No full-time official or full-time public employee may seek employment with, be employed by, or seek to purchase, sell or lease real or personal property to or from any person who:

(A) Had a matter on which he or she took, or a subordinate is known to have taken, regulatory action within the preceding twelve months; or

(B) Has a matter before the agency to which he or she is working or a subordinate is known by him or her to be working.

(2) Within the meaning of this section, the term “employment” includes professional services and other services rendered by the public official or public employee, whether rendered as employee or as an independent contractor; “seek employment” includes responding to unsolicited offers of employment as well as any direct or indirect contact with a potential employer relating to the availability or conditions of employment in furtherance of obtaining employment; and “subordinate” includes only those agency personnel over whom the public official or public employee has supervisory responsibility.

(3) A full-time public official or full-time public employee who would be adversely affected by the provisions of this subsection may apply to the Ethics Commission for an exemption from the prohibition contained in subdivision (1), of this subsection. The Ethics Commission shall by legislative rule establish general guidelines or standards for granting an exemption, but shall decide each application on a case-by-case basis.

(4) A full-time public official or full-time public employee may not take personal regulatory action on a matter affecting a person by whom he or she is employed or with whom he or she is seeking employment or has an agreement concerning future employment.

(5) A full-time public official or full-time public employee may not receive private compensation for providing information or services that he or she is required to provide in carrying out his or her public job responsibilities.
(i) **Members of the Legislature required to vote.** — Members of the Legislature who have asked to be excused from voting or who have made inquiry as to whether they should be excused from voting on a particular matter and who are required by the presiding officer of the House of Delegates or Senate of West Virginia to vote under the rules of the particular house shall not be guilty of any violation of ethics under the provisions of this section for a vote so cast.

(j) **Limitations on participation in licensing and rate-making proceedings.** — No public official or employee may participate within the scope of his or her duties as a public official or employee, except through ministerial functions as defined in section three, article one of this chapter, in any license or rate-making proceeding that directly affects the license or rates of any person, partnership, trust, business trust, corporation or association in which the public official or employee or his or her immediate family owns or controls more than ten percent. No public official or public employee may participate within the scope of his or her duties as a public official or public employee, except through ministerial functions as defined in section three, article one of this chapter, in any license or rate-making proceeding that directly affects the license or rates of any person to whom the public official or public employee or his or her immediate family, or a partnership, trust, business trust, corporation or association of which the public official or employee, or his or her immediate family, owns or controls more than ten percent, has sold goods or services totaling more than one thousand dollars during the preceding year, unless the public official or public employee has filed a written statement acknowledging such sale with the public agency and the statement is entered in any public record of the agency’s proceedings. This subsection shall not be construed to require the disclosure of clients of attorneys or of patients or clients of persons licensed pursuant to article three, eight, fourteen, fourteen-a, fifteen, sixteen, twenty, twenty-one or thirty-one, chapter thirty of this code.

(k) **Certain compensation prohibited.** — (1) A public employee may not receive additional compensation from another publicly-funded state, county or municipal office or employment for working the same hours, unless:

(A) The public employee’s compensation from one public employer is reduced by the amount of compensation received from the other public employer;

(B) The public employee’s compensation from one public employer is reduced on a pro rata basis for any work time missed to perform duties for the other public employer;

(C) The public employee uses earned paid vacation, personal or compensatory time or takes unpaid leave from his or her public employment to perform the duties of another public office or employment; or

(D) A part-time public employee who does not have regularly scheduled work hours or a public employee who is authorized by one public employer to make up, outside of regularly scheduled work hours, time missed to perform the duties of another public office or employment maintains time records, verified by the public employee and his or her immediate supervisor at least once every pay period, showing the hours that the public employee did, in fact, work for each public employer. The public employer shall submit these time records to the Ethics Commission on a quarterly basis.

(2) This section does not prohibit a retired public official or public employee from receiving compensation from a publicly-funded office or employment in addition to any retirement benefits to which the retired public official or public employee is entitled.

(l) **Certain expenses prohibited.** — No public official or public employee shall knowingly request or accept from any governmental entity compensation or reimbursement for any expenses actually paid by a lobbyist and required by the provisions of this chapter to be reported, or actually paid by any other person.

(m) Any person who is employed as a member of the faculty or staff of a public institution of higher education and who is engaged in teaching, research, consulting or publication activities in his or her field of expertise with public or private entities and thereby derives private benefits from such activities shall be exempt from the prohibitions contained in subsections (b), (c) and (d) of this section when the activity is approved as a part of an employment
contract with the governing board of the institution or has been approved by the employee’s department supervisor or the president of the institution by which the faculty or staff member is employed.

(n) Except as provided in this section, a person who is a public official or public employee may not solicit private business from a subordinate public official or public employee whom he or she has the authority to direct, supervise or control. A person who is a public official or public employee may solicit private business from a subordinate public official or public employee whom he or she has the authority to direct, supervise or control when:

(A) The solicitation is a general solicitation directed to the public at large through the mailing or other means of distribution of a letter, pamphlet, handbill, circular or other written or printed media; or

(B) The solicitation is limited to the posting of a notice in a communal work area; or

(C) The solicitation is for the sale of property of a kind that the person is not regularly engaged in selling; or

(D) The solicitation is made at the location of a private business owned or operated by the person to which the subordinate public official or public employee has come on his or her own initiative.

(o) The Commission may, by legislative rule promulgated in accordance with chapter twenty-nine-a of this Code, define further exemptions from this section as necessary or appropriate.

§6B-2-5a. Code of conduct for state administrative law judges.

(a) As used in this section, “state administrative law judge” means any public employee, public officer or contractor functioning as a hearing officer, referee, trial examiner or other position in state government to whom the authority to conduct an administrative adjudication has been delegated by an agency or by statute and who exercises independent and impartial judgment in conducting hearings and in issuing recommended decisions or reports containing findings of fact and conclusions of law in accordance with applicable statutes or rules, but does not include any person whose conduct is subject to the code of judicial conduct promulgated by the West Virginia Supreme Court of Appeals.

(b) In accordance with the provisions of chapter twenty-nine-a of this code, the commission, in consultation with the West Virginia state bar, shall propose rules for legislative approval establishing a code of conduct for state administrative law judges, which shall incorporate the following major provisions:

(1) A state administrative law judge shall uphold the integrity and independence of the administrative judiciary;

(2) A state administrative law judge shall avoid impropriety and the appearance of impropriety in all activities;

(3) A state administrative law judge shall perform the duties of the office impartially and diligently;

(4) A state administrative law judge shall regulate the judge’s extra-judicial activities to minimize the risk of conflict with judicial duties;

(5) A state administrative law judge shall refrain from political activity inappropriate to the office; and

(6) Appropriate civil penalties and sanctions for violations.

In proposing the rules, the commission shall consider the model codes of judicial conduct for state administrative law judges as drafted by the National Association of Administrative Law Judges and the American Bar Association.

(c) The legislative rules shall provide that an individual agency may develop a code of conduct for its own administrative law judges, which shall supersede the general code of conduct established under this section, if the
The commission determines that it is in substantial compliance with the objectives of the code proposed by the commission. Upon granting a waiver to an agency, the commission shall retain a copy of the agency’s code to be made available to the public.

(d) The commission shall propose the legislative rules by the first day of October, two thousand four, so that it may be considered by the Legislature at the regular session in the year two thousand five, and the commission may not promulgate an emergency rule on this matter in the interim.

§6B-2-5b. Ethics training requirements.

An individual who, on or after the effective date of this subsection, is elected or appointed to serve in the Legislature, as a member of the Board of Public Works, and those positions in the executive branch of state government which the Governor designates by executive order, shall, within six months of filling such position, attend a training course conducted by the Ethics Commission on the requirements of the Ethics Act. The Commission shall offer the training contemplated by this section once every four years and shall prescribe by legislative rule the nature, duration and content of the training and the manner in which the training will be conducted.

§6B-2-6. Financial disclosure statement; filing requirements.

(a) The requirements for filing a financial disclosure statement shall become initially effective on the first day of February, one thousand nine hundred ninety, for all persons holding public office or employment on that date and who are otherwise required to file such statement under the provisions of this section. The initial financial disclosure statement shall cover the period from the first day of July, one thousand nine hundred eighty-nine, for the period ending the thirty-first day of January, one thousand nine hundred ninety. Thereafter, the financial disclosure statement shall be filed on the first day of February of each calendar year to cover the period of the preceding calendar year, except insofar as may be otherwise provided herein. The following persons must file the financial disclosure statement required by this section with the ethics commission:

(1) All elected officials in this state, including, but not limited to, all persons elected statewide, all county elected officials, municipal elected officials in municipalities which have, by ordinance, opted to be covered by the disclosure provisions of this section, all members of the several county or district boards of education and all county or district school board superintendents;

(2) All members of state boards, commissions and agencies appointed by the governor; and

(3) Secretaries of departments, commissioners, deputy commissioners, assistant commissioners, directors, deputy directors, assistant directors, department heads, deputy department heads and assistant department heads.

A person who is required to file a financial disclosure statement under this section by virtue of becoming an elected or appointed public official whose office is described in subdivision (1), (2) or (3) of this subsection, and who assumes the office less than ten days before a filing date established herein or who assumes the office after the filing date, shall file a financial disclosure statement for the previous twelve months no later than thirty days after the date on which the person assumes the duties of the office, unless the person has filed a financial disclosure statement with the commission during the twelve-month period before he or she assumed office.

(b) A candidate for public office shall file a financial disclosure statement for the previous calendar year with the state ethics commission no later than ten days after he or she files a certificate of candidacy, but in all circumstances, not later than ten days prior to the election, unless he or she has filed a financial disclosure statement with the state ethics commission during the previous calendar year.

The ethics commission shall file a duplicate copy of the financial disclosure statement required in this section in the following offices within ten days of the receipt of the candidate’s statement of disclosure:
(1) Municipal candidates in municipalities which have opted, by ordinance, to be covered by the disclosure provisions of this section, in the office of the clerk of the municipality in which the candidate is seeking office;

(2) Legislative candidates in single county districts and candidates for a county office or county school board in the office of the clerk of the county commission of the county in which the candidate is seeking office;

(3) Legislative candidates from multicounty districts and congressional candidates in the office of the clerk of the county commission of the county of the candidate's residence.

After a ninety-day period following any election, the clerks who receive the financial disclosure statements of candidates may destroy or dispose of those statements filed by candidates who were unsuccessful in the election.

(c) No candidate for public office may maintain his or her place on a ballot and no public official may take the oath of office or enter or continue upon his or her duties or receive compensation from public funds unless he or she has filed a financial disclosure statement with the state ethics commission as required by the provisions of this section.

(d) The state ethics commission may, upon request of any person required to file a financial disclosure statement, and for good cause shown, extend the deadline for filing such statement for a reasonable period of time: Provided, That no extension of time shall be granted to a candidate who has not filed a financial disclosure statement for the preceding filing period.

(e) No person shall fail to file a statement required by this section.

(f) No person shall knowingly file a materially false statement that is required to be filed under this section.

§6B-2-7. Financial disclosure statement; contents.

The financial disclosure statement required under this article shall contain the following information:

(1) The name, residential and business addresses of the person filing the statement and all names under which the person does business.

(2) The name and address of each employer of the person.

(3) The name and address of each business in which the person filing the statement has or had in the last year an interest of ten thousand dollars at fair market value or five percent ownership interest, if that interest is valued at more ten thousand dollars.

(4) The identification, by category, of every source of income over one thousand dollars received during the preceding calendar year, in his or her own name or by any other person for his or her use or benefit, by the person filing the statement and a brief description of the nature of the services for which the income was received. This subdivision does not require a person filing the statement who derives income from a business, profession or occupation to disclose the individual sources and items of income that constitute the gross income of that business, profession or occupation nor does this subdivision require a person filing the statement to report the source or amount of income derived by his or her spouse.

(5) If the person, profited or benefitted in the year prior to the date of filing from a contract for the sale of goods or services to a state, county, municipal or other local governmental agency either directly or through a partnership, corporation or association in which the person owned or controlled more than ten percent, the person shall describe the nature of the goods or services and identify the governmental agencies which purchased the goods or services.

(6) Each interest group or category listed below doing business in this state with which the person filing the statement, did business or furnished services and from which the person received more than twenty percent of his or her gross income during the preceding calendar year. The groups or categories are electric utilities, gas utilities,
telephone utilities, water utilities, cable television companies, interstate transportation companies, intrastate transportation companies, oil or gas retail companies, banks, savings and loan associations, loan or finance companies, manufacturing companies, surface mining companies, deep mining companies, mining equipment companies, chemical companies, insurance companies, retail companies, beer, wine or liquor companies or distributors, recreation related companies, timbering companies, hospitals or other health care providers, trade associations, professional associations, associations of public employees or public officials, counties, cities or towns, labor organizations, waste disposal companies, wholesale companies, groups or associations promoting gaming or lotteries, advertising companies, media companies, race tracks and promotional companies.

(7) The names of all persons, excluding that person’s immediate family, parents or grandparents residing or transacting business in the state to whom the person filing the statement, owes, on the date of execution of this statement in the aggregate in his or her own name or in the name of any other person more than five thousand dollars: Provided, That nothing herein shall require the disclosure of a mortgage on the person’s primary and secondary residences or of automobile loans on automobiles maintained for the use of the person’s immediate family, or of a student loan, nor shall this section require the disclosure of debts which result from the ordinary conduct of the person’s business, profession, or occupation or of debts of the person filing the statement to any financial institution, credit card company, or business, in which the person has an ownership interest: Provided, however, That the previous proviso shall not exclude from disclosure loans obtained pursuant to the linked deposit program provided for in article one-a, chapter twelve of this code or any other loan or debt incurred which requires approval of the state or any of its political subdivisions.

(8) The names of all persons except immediate family members, parents and grandparents residing or transacting business in the state (other than a demand or savings account in a bank, savings and loan association, credit union or building and loan association or other similar depository) who owes on the date of execution of this statement more, in the aggregate, than five thousand dollars to the person filing the statement, either in his or her own name or to any other person for his or her use or benefit. This subdivision does not require the disclosure of debts owed to the person filing the statement which debts result from the ordinary conduct of the person’s business, profession or occupation or of loans made by the person filing the statement to any business in which the person has an ownership interest.

(9) The source of each gift, including those described in subdivision (2), subsection (c), section five of this article, having a value of over one hundred dollars, received from a person having a direct and immediate interest in a governmental activity over which the person filing the statement has control, shall be reported by the person filing the statement when such gift is given to said person in his or her name or for his or her use or benefit during the preceding calendar year: Provided, That, effective from passage of the amendments to this section enacted during the First Extraordinary Session of the Legislature in two thousand five, any person filing a statement required to be filed pursuant to this section on or after the first day of January, two thousand five, is not required to report those gifts described in subdivision (2), subsection (c), section five of this article that are otherwise required to be reported under section four, article three of this chapter: Provided, however, That gifts received by will or by virtue of the laws of descent and distribution, or received from one’s spouse, child, grandchild, parents or grandparents, or received by way of distribution from an inter vivos or testamentary trust established by the spouse or child, grandchild, or by an ancestor of the person filing the statement are not required to be reported. As used in this subdivision, any series or plurality of gifts which exceeds in the aggregate the sum of one hundred dollars from the same source or donor, either directly or indirectly, and in the same calendar year shall be regarded as a single gift in excess of that aggregate amount.

(10) The signature of the person filing the statement.

§6B-2-8. Exceptions to financial disclosure requirements and conflicts of interest provisions.

(a) Any person regulated by the provisions of this article need not report the holdings of or the source of income from any of the holdings of:
(1) Any qualified blind trust; or

(2) A trust—

(A) Which was not created directly by such individual, his spouse, or any dependent child, and

(B) The holdings or sources of income of which such individual, or a member of his or her immediate family, have no knowledge.

Failure to report the holdings of or the source of income of any trust referred to herein in good faith reliance upon this section shall not constitute a violation of sections six or seven of this article.

(b) The provisions of subsection (d), section five of this article shall not apply to holdings which are assets within the trusts referred to in subsection (a) of this section.

(c) For purposes of this section, the term “qualified blind trust” includes a trust in which a regulated person or immediate family has a beneficial interest in the principal or income, and which meets the following requirements:

(1) The trustee of the trust is a financial institution, an attorney, a certified public accountant, a broker, or an investment adviser, who (in the case of a financial institution or investment company, any officer or employee involved in the management or control of the trust)—

(A) Is independent of and unassociated with any interested party so that the trustee cannot be controlled or influenced in the administration of the trust by any interested party;

(B) Is not or has not been an employee of any interested party, or any organization affiliated with any interested party and is not a partner of, or involved in any joint venture or other investment with, any interested party; and

(C) Is not a relative of any interested party.

(2) Any asset transferred to the trust by an interested party is free of any restriction with respect to its transfer or sale unless such restriction is expressly approved by the ethics commission;

(3) The trust instrument which establishes the trust provides that—

(A) Except to the extent provided in paragraph (F) of this subdivision the trustee in the exercise of his authority and discretion to manage and control the assets of the trust shall not consult or notify any interested party;

(B) The trust shall not contain any asset the holding of which by an interested party is prohibited by any law or regulation;

(C) The trustee shall promptly notify the regulated person and the ethics commission when the holdings of any particular asset transferred to the trust by any interested party are disposed of;

(D) The trust tax return shall be prepared by the trustee or his designee, and such return and any information relating thereto (other than the trust income summarized in appropriate categories necessary to complete an interested party’s tax return), shall not be disclosed to any interested party;

(E) An interested party shall not receive any report on the holdings and sources of income of the trust, except a report at the end of each calendar quarter with respect to the total cash value of the interest of the interested party in the trust or the net income or loss of the trust or any reports necessary to enable the interested party to complete an individual tax return required by law, but such report shall not identify any asset or holding;
(F) Except for communications which solely consist of requests for distribution of cash or other unspecified assets of the trust, there shall be no direct or indirect communication between the trustee and an interested party with respect to the trust unless such communication is in writing and unless it relates only (i) to the general financial interest and needs of the interested party (including, but not limited to, an interest in maximizing income or long-term capital gain), (ii) to the notification of the trustee of a law or regulation subsequently applicable to the reporting individual which prohibits the interested party from holding an asset, which notification directs that the asset not be held by the trust, or (iii) to directions to the trustee to sell all of an asset initially placed in the trust by an interested party which in the determination of the reporting individual creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties by the reporting individual (but nothing herein shall require any such direction); and

(G) The interested parties shall make no effort to obtain information with respect to the holdings of the trust, including obtaining a copy of any trust tax return filed or any information relating thereto except as otherwise provided in this section.

(4) The proposed trust instrument and the proposed trustee is approved by the ethics commission and approval shall be given if the conditions of this section are met.


(a)(1) If after referral to the appropriate county prosecuting attorney under subsection (v), section four of this article the Ethics Commission finds that the prosecuting attorney is, due to ill health or conflict of interest, unable to undertake a criminal investigation or prosecution, the chair of the Ethics Commission may, upon a two-thirds vote of the members of the Ethics Commission, petition the appropriate circuit court for the appointment of a special prosecutor through the West Virginia Prosecuting Attorneys Institute pursuant to the provisions of section six, article four, chapter seven of this Code for the purpose of conducting an investigation to determine whether a violation of the criminal law of this state has occurred.

(2) If the West Virginia Prosecuting Attorneys Institute is unable, due to a conflict of interest of its Executive Director, to assign a special prosecuting attorney to a criminal investigation or prosecution, the chair of the Ethics Commission may, upon a two-thirds vote of the members of the Ethics Commission, petition the appropriate circuit court for the appointment of a special prosecutor through communication with the Board of Directors of the West Virginia Prosecuting Attorneys Institute.

(b) A special prosecutor shall have the same authority as a county prosecutor to investigate and prosecute persons subject to this article for criminal violations committed in connection with their public office or employment which constitute felonies. No person who is serving as a prosecuting attorney or assistant prosecuting attorney of any county is required to take an additional oath when appointed to serve as a special prosecuting attorney.

(c) The ethics committee shall be authorized to employ and assign the necessary professional and clerical staff to assist any such special prosecutor in the performance of his or her duties.

(d) The special prosecutor shall be empowered to make a presentment to any regularly or specially impaneled grand jury in the appointing circuit court. The special prosecutor shall be empowered to prosecute any person indicted by such grand jury.

§6B-2-10. Violations and penalties.

(a) Any person who violates the provisions of subsection (e), (f) or (g), section five of this article or violates the provisions of subdivision (1), subsection (e), section four of this article is guilty of a misdemeanor and, upon conviction, shall be confined in jail for a period not to exceed six months or shall be fined not more than one
thousand dollars, or both. A member or employee of the Commission or the Review Board convicted of violating said subdivision is subject to immediate removal from office or discharge from employment.

(b) Any person who violates the provisions of subsection (f), section six of this article by willfully and knowingly filing a false financial statement or knowingly and willfully concealing a material fact in filing the statement is guilty of a misdemeanor and, upon conviction, shall be fined not more than one thousand dollars, or confined in jail not more than one year, or both.

(c) Any person who knowingly fails or refuses to file a financial statement required by section six of this article is guilty of a misdemeanor and, upon conviction, shall be fined not less than one hundred dollars nor more than one thousand dollars.

(d) If any Commission member or staff knowingly violates subsection (o), section four of this article, such person, upon conviction thereof, shall be guilty of a misdemeanor and shall be fined not less than one hundred dollars nor more than one thousand dollars.

(e) Any person who violates the provisions of subdivision (2), subsection (e), section four of this article by knowingly and willfully disclosing any information made confidential by an order of the Commission is subject to administrative sanction by the Commission as provided in subsection (r) of said section.

(f) Any person who knowingly gives false or misleading material information to the Commission or who induces or procures another person to give false or misleading material information to the Commission is subject to administrative sanction by the Commission as provided in subsection (r), section four of this article.

Current through End of 2005 Fifth Extraordinary Session.
APPENDIX L:

INVESTMENT MANAGER DUE DILIGENCE & WATCH LIST POLICY
APPENDIX L: INVESTMENT MANAGER DUE DILIGENCE & WATCHLIST POLICY

Staff and Consultant are responsible for reporting to the Investment Committee any material events regarding an investment manager as well as the recommended action, if any. Staff and Consultant will regularly monitor each investment manager’s results versus expectations and conduct periodic due diligence meetings with investment managers according to the following schedule:

<table>
<thead>
<tr>
<th>Status</th>
<th>Due Diligence Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Performance at or above benchmark AND no organizational issues/concerns</td>
<td>Annual meeting rotating between investment manager’s offices &amp; Staff offices.</td>
</tr>
<tr>
<td>Performance significantly below benchmark and inconsistent with long-term results OR organizational issues/concerns</td>
<td>Special meeting in either investment manager’s offices or Staff offices.</td>
</tr>
</tbody>
</table>

Examples of material events and organizational issues/concerns include:

1. A change in investment philosophy.
2. A loss of one or more key personnel.
3. A new portfolio manager being assigned to the portfolio.
4. A change in the ownership structure of the firm.
5. Any occurrence that might potentially impact the management, professionalism, integrity or financial position of the firm.

Due diligence meetings will be conducted as an integral component of fiduciary responsibilities. The agendas for these meetings will be driven by Staff and the Consultant to include:

1. Investment performance; including comparisons to benchmarks and peers
2. Firm and personnel issues
3. Product issues
4. Investment process and style consistency
5. Trading and back office
6. Investment policy issues and compliance
7. Investment strategy and economic outlook

Staff and Consultant will provide the Investment Committee with written reports summarizing the assessments made as a result of due diligence meetings. These reports will include a recommendation for action where appropriate, i.e., retention, termination, reduction in account size, and follow-up meeting, or due diligence office visit.

Watch list Policy:

Identifies investment managers with performance-related and/or organizational issues which demand a higher-than-normal level to scrutiny. The Watch list shall be used to indicate a level of concern which may be unique to each situation and each investment manager, and to analyze significant events which may affect the long-term performance of the investment manager.
Criteria:

Events causing an investment manager to be placed on the Watch list include:

1. A manager performs below their benchmark over a 3 and/or 5-year cumulative period.
2. There is a change in the professionals managing the portfolio.
3. There is a change in the ownership and/or the organizational structure of the firm.
4. There is a significant decrease in the product’s assets.
5. There is an indication that the manager is deviating from their stated style and/or strategy.
6. There is an increase in the product’s fees and/or expenses.
7. Any event occurs that may interfere with the manager’s ability to fulfill their role in the future.

Time Period:

A recommendation for Watch list Status shall designate a period of time to assess the performance-related issues or organizational issues present. The investment manager shall remain on the Watch list until all outstanding issues are resolved.

Implications:

Being placed on the Watch list shall result in more frequent contact with the investment manager (including due diligence visits by Staff, Board and/or the Consultant) to monitor the conditions which led to placement on the Watch list. Managers placed on the Watch list may be requested to submit an Action Plan to address any deficiencies, and investment managers who do not correct outstanding issues in a timely manner shall be considered for dismissal.
APPENDIX M:

SECURITIES LITIGATION POLICY
APPENDIX M: SECURITIES LITIGATION POLICY

Staff shall maintain records on the purchase and sale of securities previously and currently held by the Consolidated Fund in a format that will enable counsel to determine whether or not to file a claim or pursue litigation. The West Virginia Board of Treasury Investments ("BTI") adopts this policy to establish procedures and guidelines for monitoring and participating in securities litigation when appropriate to protect the interests of the State of West Virginia and others with funds invested with the BTI. The principal objectives of the BTI in regard to securities litigation are to fulfill its fiduciary duty to recover funds lost through investments while minimizing costs and to maximize recovery of assets in securities litigation.

The BTI shall take reasonable, cost-effective steps to identify, pursue and collect upon claims under state and federal securities law for losses suffered by the BTI on its investments due to alleged or proven securities laws violations. The litigation may be pursued passively by filing a proof of claim in every securities class action or judgment in which the BTI is a member of the plaintiff class or actively by filing either a separate lawsuit or serving as lead plaintiff. The Board will only consider actively pursuing litigation in matters in which losses are estimated to be at least $1 million and BTI counsel has advised it is in the bests interests of the BTI.

Prior to the filing of a claim or litigation, staff shall provide BTI counsel with a complete analysis of the securities at issue and how any payments received will be distributed.

The BTI delegates to its Investment Committee the decision to file a claim. The BTI retains the authority to decide to opt out of a class settlement, to file suit or to act as lead plaintiff in a securities litigation matter.

The BTI may retain the services of a law firm with expertise in securities litigation matters through the issuance of an RFP. Staff shall review the proposals and make a recommendation to the BTI on the selection.

This outside counsel, in cooperation with BTI counsel, shall file any appropriate documentation for BTI participation in securities litigation, identify any matters in which the BTI has losses which give rise to potentially meritorious claims, monitor current or pending litigation affecting the BTI, file objections to and comments on settlements, evaluate potential claims, and recommend whether litigation should be pursued and the appropriate capacity for the BTI. By the 15th day of the following month, outside counsel shall remit status monthly reports to BTI counsel.

BTI counsel shall supervise and monitor outside counsel; update the BTI, the Investment Committee and staff on any securities litigation matters pending and coordinate activities of any outside counsel, including, without limitation, reviewing all recommendations from the outside counsel and reports from the custodian.

The BTI custodian shall monitor and assist in the timely filing of proofs of claim in securities litigation matters, collect and provide to BTI counsel all notices regarding the commencement, class certification and settlement of class action lawsuits in which the BTI has an interest as an actual or potential class member, and shall provide monthly reports of any pending matters to BTI counsel by the 15th day of the following month.

BTI counsel shall maintain information on all proofs of claim or litigation filed by the BTI, monitor the processing of claims and litigation through receipt of any recovery, and provide such other information as the BTI may request.