

**West Virginia Investment Management Board**

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***Policy Statements***

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# *Administrative Policies*

## **Conflict of Interest and Ethics Policy**

### **Ethics**

The Trustees and Staff shall maintain knowledge of and shall comply with all applicable laws, rules, and regulations of any governmental agency or regulatory agency governing the management of state and local government funds and shall not knowingly participate in, or assist, any acts in violation of those laws, rules or regulations. The Trustees and Staff shall comply with the Code of Conduct and Ethics established by the State's ethics laws as set forth in *W.Va. Code §6B-2-1 et sec.* The West Virginia Code of Conduct, including all applicable ethical standards, is contained within the "Legislative Citations" section of this Policy.

### **Representatives of Participant Plans**

*All meetings of the Board shall be open to the representatives of the participant plans. The representatives shall be subject to any rules, bylaws, guidelines, requirements, and standards promulgated by the Board. The representatives shall observe standards of decorum established by the Board. The representatives shall be subject to the same code of conduct applicable to the trustees and shall be subject to all Board rules and bylaws. The representatives shall also be subject to any requirements of confidentiality applicable to the trustees. Each representative shall be liable for any active which he or she undertakes which violates any rule, bylaw, or statute governing ethical standards, confidentiality, or other standard of conduct imposed upon the Trustees or the representatives. Any meeting of the Board may be closed, upon adoption of a motion by any trustee, when necessary to preserve the attorney-client privilege, to protect the privacy interests of individuals, to review personnel matters, or to maintain confidentiality when confidentiality is in the best interest of the beneficiaries of the trust. W.Va. Code §12-6-3k.*

# ***WEST VIRGINIA INVESTMENT MANAGEMENT BOARD***

## **CONTINUING EDUCATION POLICY**

**Effective July 1, 2004**

The West Virginia Investment Management Board (WVIMB) is organized to provide prudent fiscal administration and investment management services to designated State pension funds, the State's Workers Compensation and Pneumoconiosis funds, the States operating funds, and other State and local government funds. Accordingly, the WVIMB trustees and its employees have fiduciary duties commonly associated with pension and other trusts.

The Continuing Education Policy (the Policy) specifies certain continuing education requirements expected of trustees, representatives, committee members and those employees designated by the Board which shall include the Executive Director, Chief Financial Officer, Chief Investment Officer and General Counsel. All individuals subject to the requirements of this policy, may apply to the Personnel Committee to have any hours earned to meet the continuing education requirements of their profession, applied to meet the continuing education requirements of the WVIMB.

The Policy is to be used as a guideline for compliance by affected persons and personnel.

### **I. Purpose**

The Trustees of the WVIMB recognize the importance of keeping abreast of current developments and ideas in the investment field. The Policy is intended to impose a high standard of continuing education compliance on the trustees and employees of the WVIMB consistent with the highest standards of fiduciary responsibility. These standards are also applicable to participant plan representatives and committee members.

The Policy applies to all WVIMB trustees, participant plan representatives, committee members, and those Board designated employees. There are no exemptions from the Policy requirements and its compliance shall be annually reviewed by the personnel committee.

### **II. Hours of Continuing Education Required**

- A. Each trustee and any Board designated employee of the WVIMB shall be required, at a minimum, to complete twelve hours of approved continuing education within twelve months of the effective date of the Policy, and every year thereafter. The required twelve hours shall include at least one hour of ethics. Six hours may be carried over to satisfy the continuing education requirement for the subsequent year, provided they are not applied to satisfy the ethics requirement.
- B. The participant plan's representatives and committee members shall be required to complete twelve hours of approved continuing education within twelve months of the effective date of the Policy, and then every year thereafter. The required twelve hours shall include at least one hour of ethics. Six hours may be carried over to satisfy the

continuing education requirement for the subsequent year, provided they are not applied to satisfy the ethics requirement.

- C. Fifty minutes of attendance at an approved presentation shall be equal to one hour of continuing education.
- D. The number of hours required of Trustees, Representatives, Committee Members, or employees appointed or hired after the first day of July, of any year, shall be prorated on a monthly basis.

### **III. Approved Continuing Education**

- A. The Executive Director shall determine what shall qualify as “approved continuing education,” which may include, but is not limited to, seminars, presentations, classes, articles, books, videotapes and conferences. In order to avoid conflict, it is recommended that individuals seek pre-approval.
- B. The scope of approved continuing education courses shall include investing and fiduciary responsibilities.

### **IV. Compliance Reporting**

Each individual subject to the continuing education requirement of the Policy, shall provide a written compliance report to the Personnel Committee via the Executive Director, evidencing their compliance with the Policy. The compliance report is attached as Appendix A to this document. All parts of the form must be completed along with the individual’s signature and attestation in order to be considered a completed compliance report.

### **V. Audit and Remedy**

The Personnel Committee shall annually review for compliance with this Policy. This review shall take place as soon as practical subsequent to June 30 of each year. Any individual who has deficient documentation or insufficient hours shall have forty-five days to cure the deficiency. If after forty-five days the deficiency still exists, the Committee may recommend disciplinary action to the committee of the whole of the WVIMB. Disciplinary action may include, but is not limited to, reporting non-compliance to the Governor or appropriate selection body in the case of participant plan representatives and committee members.

### **VI. Reimbursement**

Each individual subject to the requirements of the Policy shall be entitled to reimbursement of their reasonable and necessary expenses incurred while attending the continuing education event.

Continuing education shall be a reimbursable item under the WVIMB’s expense policy. Individuals shall complete a WVIMB expense report to seek reimbursement.



**WEST VIRGINIA INVESTMENT MANAGEMENT BOARD**

**CONTINUING EDUCATION  
COMPLIANCE REPORT**

Name:

|   |                |
|---|----------------|
| <b>CONFERENCE</b> — Name of continuing education event: |                |
| Sponsor:  |                |
| Copy of agenda or flyer attached:                       | Yes [ ] No [ ] |
| Location:   |                |
| Date(s):  |                |

|                             |
|-----------------------------|
| <b>BOOK</b> — Name of book: |
| Author of book:             |

|   |
|---|
| <b>VIDEO</b> — Name of educational video:         |
| Subject matter of educational video and producer: |

|  |       |
|--|-------|
| Hours of <b>Ethics</b> :                           | hours |
| Hours of <b>Other</b> :                            | hours |
| <b>Total</b> credit hours of continuing education: | hours |

I attest that I:

- 1) I attended the above described event and was present for the number of hours that I am claiming;
- 2) I read the above described book or
- 3) I watched the above described video.

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(date)

## **Information Release Policy**

*The intent of this policy is to establish guidelines and procedures for the dissemination of information from or about, the West Virginia Investment Management Board (WVIMB) and it's activities.*

Much of the information frequently requested by interested parties is available, to anyone, at no charge, at the WVIMB web site ([www.wvimb.org](http://www.wvimb.org)). Documents may be viewed online at any time. If a hard copy is required, it can be printed from the web site or requested in accordance with the following procedures.

***NOTE:*** *Staff reserves the right to waive any or all of these requirements when deemed in the best interest of the WVIMB, its staff, constituents, participants, or the State of West Virginia.*

- 1) All requests must be submitted in writing. The request must specifically state the information being requested. The request may be faxed to (304) 345-5939 or mailed to the following address:

West Virginia Investment Management Board  
ATTN: Information Request  
500 Virginia Street, East, Suite 200  
Charleston, West Virginia 25301  
(304) 345-2672

- 2) There will be a fee of \$50 per hour (2 hour minimum) plus 25 cents per page of requested material. This is to cover our use of personnel, paper, supplies, equipment, facilities, and postage. If the information is available in a current, printed document, requestor may receive entire document for a fee determined by the staff based upon the actual production and mailing costs (no hourly or per page fee is applicable). If this is the first request by any person or institution, the minimum fee (\$100) or the document fee must be paid in advance, at the time of request. Any remaining balance will be due upon receipt of requested information.

For any subsequent requests, prepayment is not necessary. An invoice will be included with the requested information and is expected to be paid within 20 days of receipt of requested information. If payment is refused, further information requests will be denied until the requestors account returns to good standing.

- 3) Information will be supplied in any medium requested as long as staff can reasonably accommodate the request. (Examples of this would be email (Word or Excel), hard copy, fax, etc.) This policy does not guarantee receipt of information in desired format; however, every effort will be made to accommodate the request.
- 4) The West Virginia Investment Management Board shall respond in writing to the requestor within five business days. The response shall (1) furnish copies of the requested information, or (2) advise the requestor of the time and place at which he/she may inspect and copy the information, or (3) deny the request in accordance with state statute and this policy (Code citation **29B.1.4 Exemptions** included at the end of this policy for reference), or (4) notify the requestor that the requested information can not be compiled in 5 business days due to

extreme or unusual circumstances without disrupting critical investment management duties, and notify requestor as to approximately when the information will be available.

- 5) The West Virginia Investment Management Board may decline to honor requests that require the creation of a record containing a compilation of records, extraction of information from other records or any statistical analysis of records.

#### **§29B-1-4. Exemptions.**

The following categories of information are specifically exempt from disclosure under the provisions of this article:

- (1) Trade secrets, as used in this section, which may include, but are not limited to, any formula, plan pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented which is known only to certain individuals within a commercial concern who are using it to fabricate, produce or compound an article or trade or a service or to locate minerals or other substances, having commercial value, and which gives its users an opportunity to obtain business advantage over competitors;

- (2) Information of a personal nature such as that kept in a personal, medical or similar file, if the public disclosure thereof would constitute an unreasonable invasion of privacy, unless the public interest by clear and convincing evidence requires disclosure in the particular instance: Provided, That nothing in this article shall be construed as precluding an individual from inspecting or copying his own personal, medical or similar file;

- (3) Test questions, scoring keys and other examination data used to administer a licensing examination, examination for employment or academic examination;

- (4) Records of law-enforcement agencies that deal with the detection and investigation of crime and the internal records and notations of such law-enforcement agencies which are maintained for internal use in matters relating to law enforcement;

- (5) Information specifically exempted from disclosure by statute;

- (6) Records, archives, documents or manuscripts describing the location of undeveloped historic, prehistoric, archaeological, paleontological and battlefield sites or constituting gifts to any public body upon which the donor has attached restrictions on usage or the handling of which could irreparably damage such record, archive, document or manuscript;

- (7) Information contained in or related to examination, operating or condition reports prepared by, or on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions, except those reports which are by law required to be published in newspapers; and

- (8) Internal memoranda or letters received or prepared by any public body.

If you have any questions or need clarifications, please contact:

Executive Director  
West Virginia Investment Management Board  
500 Virginia Street, East, Suite 200  
Charleston, WV 25301  
(304) 345-2672

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# *Operational Policies*

## **Accounting Procedures**

The Board maintains accounting systems to account for each of the investment portfolios (portfolio accounting) and the participants who have units of ownership in each investment portfolio (participant accounting). The two systems are reconciled on an ongoing basis to ensure the proper matching of ownership to the related investment portfolios.

Portfolio Accounting – The Board follows Generally Accepted Accounting Principles (GAAP) for all accounting functions. This includes the accounting and auditing practices as prescribed by the American Institute of Certified Public Accountants' (AICPA) *Audit Guide for Investment Companies* and all related pronouncements of the Financial Accounting Standards Board (FASB) and the Governmental Accounting Standards Board (GASB).

Participant Accounting – The Board has formed commingled investment portfolios and sold units of ownership to multiple participants. The Board follows standard industry practices relating to unit accounting of participant ownership in these portfolios which mandates that a new price per share be determined as often as participants are allowed to contribute or withdraw from the portfolio. Monthly, investment income earned is declared as a dividend and is reinvested in that fund. Capital gains distributions are made on an annual basis.

Participant Directed Accounts – In this relationship the Board is custodian only. The participant is the sole owner of the assets and directs the staff as to the investment restrictions

## **Audit and Control**

*The Board shall cause an annual financial and compliance audit of the consolidated pension fund to be made by a certified public accounting firm having a minimum staff of ten certified public accountants and being a member of the American Institute of Certified Public Accountants, and, if doing business in West Virginia, being a member of the West Virginia Society of Certified Public Accountants... W.Va. Code §12-6-6a.*

*The Trustees shall retain an internal auditor to report directly to the Trustees and shall fix his or her compensation. The internal auditor shall be a certified public accountant with at least three years experience as an auditor. The internal auditor shall develop an internal audit plan, with board approval, for the testing of procedures and the security of transactions. W.Va. Code §12-6-4d.*

*The Board shall cause to be conducted an annual external audit of all investment transactions of the consolidated fund, by a nationally recognized accounting firm. W.Va. Code §12-6-15.*

The internal auditor shall also be responsible for a periodic review of internal controls designed to ensure that the assets held by the Board are protected from loss, theft, or misuse. This includes a review of the differing money and security transaction types, the execution of those transactions, the accounting for those transactions, and the separation of those duties.

Personnel involved with monetary or security transactions or the accounting of those transactions are required to take at least five continuous working days off per year.

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## **Performance Measurement**

The performance of each Investment Manager and Investment Pool is measured against at least two benchmarks and, if available, a comparable universe over various cycles on a quarterly basis. This evaluation looks at the performance of both the Manager and the effect the portfolio's restrictions have on the return. The Board also evaluates the performance of each Participant Plan and compares the return against the Plan's actuarial assumption in light of its objectives.

Performance reviews are a critical part of the portfolio management process. The Board will rely on its external investment Managers, Consultant, Custodian, and Staff to provide periodic performance reviews.

Managers: shall, as directed by the Staff, provide periodic performance reports utilizing a standardized reporting format specified by the Board. Managers may provide their standard performance information in a different format as supplemental information only, at their discretion. Managers will be expected to make periodic performance presentations to the Staff.

Consultant and/or Custodian: shall assist Staff in providing periodic performance reports. These reports shall detail the performance of individual investment Managers and the overall performance of each Investment Pool and Participant Plan.

Staff: shall be responsible for ensuring that performance reports are prepared and delivered in a timely manner, and will provide continual supervision of the performance reporting on the portfolio. At regular Board meetings, the Staff will be responsible for presenting an executive summary of the performance reports. The executive summary will include information for the most recently available month, quarter, year, 3 years and 5 years. Staff will complete a detailed performance measurement report on a quarterly basis and present the report to the Board for review outside the confines of the regular Board meetings. In addition, they shall present the results of any securities lending activities undertaken during the reporting period. The Board may provide direction regarding the specific format and content of the performance reports.

## Reporting Requirements

West Virginia statute provides for the distribution of the following reports:

- a) *Copies of the annual financial and compliance audit report shall be furnished to the Governor, State Treasurer, State Auditor, President of the Senate, Speaker of the House or Delegates, Council of Finance and Administration and Consolidated Public Retirement Board.*
- b) *The Board shall produce monthly financial statements for the consolidated pension fund and the consolidated fund and cause them to be delivered to each member of the Board and the Executive Secretary of the Consolidated Public Retirement Board as established in Sections One and Two, Article Ten-d, Chapter Five of the code, and to the Commissioner of the Bureau of Employment Programs as administrator of the Workers' Compensation Fund and Coal-Workers' Pneumoconiosis Fund, as established in section one, article one, chapter twenty-three of this code, and section one, article three of said chapter and section seven, article four-b of said chapter.*
- c) *The Board shall deliver in each quarter to the Council of Finance and Administration and the Consolidated Public Retirement Board a report detailing the investment performance of the retirement plans.*
- d) *The Board shall cause an annual performance audit to be made by a nationally recognized fiduciary service. The Board shall furnish copies of the audit report to the Governor, State Treasurer, State Auditor, President of the Senate, Speaker of the House or Delegates, Council of Finance and Administration and Consolidated Public Retirement Board.*
- e) *The Board shall provide any other information requested in writing by the Council of Finance and Administration.*
- f) *All statements and reports with respect to participant plans require in this section shall be available for inspection by the member and beneficiaries and designated representatives of the participant plans. W.Va. Code §12-6-6.*

*The Board shall prepare annually, or more frequently if deemed necessary by the Board, a report of its operations and the performance of the various funds administered by it. A copy thereof shall be furnished to the chief financial officer of each participant plan, the president of the senate, speaker of the house, legislative auditor, and upon request to any legislative committee, any banking institution or state or federal savings and loan association in the State, and any member of the news media, and such report shall be kept available for inspection by any citizen of this State. W.Va. Code §12-6-14.*

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**West Virginia Investment Management Board**  
***Operational Policies***

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The Board shall on a monthly basis provide to each state agency and any other entity investing monies in the consolidated fund an itemized statement of the agency's or the entity's account in the consolidated fund. The statement shall include the beginning balance, contributions, withdrawals, income distributed, change in value and ending balance. W.Va. Code §12-6-15.

# *Investment Policy Statement*

**I. Statement of Purpose of Investment Policy**

**A. Purpose**

This document specifically outlines the investment philosophy and practices of the West Virginia Investment Management Board (WVIMB, Board). It has been developed to serve as a plan for the management of those assets entrusted to the Board for investment. The Board believes it is crucial that it adopt a long-term plan by which these assets will be maintained and enhanced through prudent investment. The Board has adopted this Investment Policy Statement to serve as that long-term plan, in order that:

- there be a clear understanding on the part of the Trustees, Staff, participants, beneficiaries and all outside service providers as to the objectives, goals and restrictions with regard to investment of assets;
- assets be structured and invested in a prudent manner; and
- there be a meaningful basis for the evaluation of asset classes, investment managers and strategies used to achieve the investment objectives.

**This is the official policy document of the West Virginia Investment Management Board. Deviation from this document is not permitted without prior, explicit, written permission from the WVIMB, provided such deviation does not violate West Virginia statute or Constitution.**

**B. Definition of Terms**

For purposes of ease of administration and understanding of this Investment Policy Statement, the following terms are defined or clarified:

**BOARD:** The governing body for the West Virginia Investment Management Board, and any reference elsewhere to Board of Investments or West Virginia Trust Fund means the Board as defined herein.

**WVIMB:** The West Virginia Investment Management Board.

**TRUSTEES:** The Board of Trustees, either collectively or individually.

**CONSOLIDATED FUND:** That fund that consists of moneys of the state, state agencies, the Municipal Bond Commission, local governments, and as further defined by *W.Va. Code §12-6-8*.

**EXECUTIVE DIRECTOR:** The Executive Director is the staff position as defined by *W.Va Code §12-6-4(c)* serving the Board as the chief executive officer of the WVIMB staff.

STAFF: The Executive Director of the Board and/or any WVIMB employee.

CONSULTANT: The investment consultant(s) retained by the Board.

PARTICIPANT PLAN(s): Any component system, fund, or plan held in trust, or not otherwise suitable for investment in the Consolidated Fund. The Participant Plans currently include but are not limited to: the Death, Disability and Retirement Fund for Deputy Sheriffs; the Judges' Retirement System; the Public Employees' Retirement System; the Public Safety Death, Disability and Retirement Fund; the State Police Retirement System; the Teachers' Retirement System; The Workers' Compensation Fund I and II; the Pneumoconiosis Fund; the Workers' Compensation Employees Excess Liability Fund; and The Wildlife Endowment Fund, the Tobacco Settlement Medical Trust Fund, and the Prepaid Tuition Trust Fund.

## **II. Establishment and Authority**

### **A. Creation of Entity**

The West Virginia Investment Management Board was created during the 1997 legislative session and is cited as the West Virginia Investment Management Board Act. Selected portions of the enabling language are as follows:

*. .the West Virginia Investment Management Board is given the authority to develop, implement and maintain an efficient and modern system for the investment and management of the state's money. The Legislature further finds that in order to implement these sound fiscal policies, the West Virginia Investment Management Board shall operate as an independent board with its own full-time staff of financial professionals. W.Va. Code §12-6-1b.*

*. . the West Virginia Investment Management Board is empowered by this article to act as trustee of the irrevocable trusts created by this article, and to manage and invest other state funds. W.Va. Code §12-6-1f.*

*. . The board is created as a public body corporate..W.Va. Code §12-6-3a.*

### **B. Management**

*The board shall be governed by a board of trustees, consisting of thirteen members... W.Va. Code §12-6-3b.*

*The management and control of the board shall be vested solely in the trustees in accordance with the provisions of this article. W.Va. Code §12-6-4a.*

In addition, there are representatives and committees for each Participant Plan who are entitled by statute to provide input concerning the drafting, review or modification of the written Investment Policy Statement as it relates to their Participant Plan. The trustees are required to meet quarterly and to hold an annual meeting before the start of the fiscal year. The Board has delegated the day-to-day management responsibilities to the Executive Director and his staff.

C. Assets Managed by the Board

*The Board shall be vested with ownership of all securities or other investments lawfully held by the Board of Investments or the West Virginia Trust Fund as of the effective date of this article. All obligations and assets of the Board of Investments and the West Virginia Trust Fund, Inc. shall be vested in the West Virginia Investment Management Board as of the effective date of this article. W.Va. Code §12-6-16.*

The Board manages a number of investment pools that are used to achieve specific Participant Plan asset allocations and to provide cash management services for the Consolidated Fund.

**III. Investment Philosophy**

The primary objective of the Consolidated Fund is to provide liquid investment alternatives for the state, state agencies, the Municipal Bond Commission and local governments.

The primary objective of each Participant Plan is to provide benefits to its participants and beneficiaries. Based on general beliefs about the investment returns available from a well-diversified, prudently invested portfolio, the Board has adopted specific investment objectives for each Participant Plan, which are described in the “Participant Plan Descriptions” section of the Appendix.

In order to achieve a specified real rate of return for each Participant Plan, the Board relies on the prevailing financial theory, which currently is an investment strategy utilizing an appropriate long-term diversified asset allocation model. A prudently allocated investment program possesses a certain level of diversification, which produces risk reduction. In terms of level of impact, diversification should be considered along the following lines: (i.) asset classes (stocks, bonds, cash, etc.), (ii.) geography/country, (iii.) industry, and (iv.) maturity. Asset allocation modeling should also take into consideration specific unique circumstances of each Participant Plan, such as the size, liquidity needs and financial condition (funded status) of each Participant Plan as well as general business conditions. The factors mentioned here are not intended to be limiting; rather, they are outlined as a general indication of the importance of diversification to proper asset allocation. The Board determines the proper allocation among asset classes and managers, based on advice and analysis provided by Staff and/or an external investment Consultant.

The Board recognizes that even though its investments may be subject to short-term volatility, it is critical that the Board maintain the appropriate time horizon for each Participant Plan. This prevents ad-hoc revisions to its philosophy and policies in reaction to either speculation or short-term market fluctuations. In order to preserve this view, the Board has adopted the following formal review schedule:

| <b>Agenda Item</b>         | <b>Review Schedule</b> |
|----------------------------|------------------------|
| Investment Performance     | Quarterly              |
| Investment Policy          | Every Year             |
| Strategic Asset Allocation | Every Three Years      |
| Policy Asset Allocation    | Every Three Years      |

The Board may hire investment Managers to implement its objectives; these Managers will be given specific tactical roles within the overall strategic investment plan. Depending on their assignments, the managers may be judged on some or all of the following: (i) consistency of philosophy, style and key personnel, (ii) performance relative to an appropriate index or proxy group, and (iii) ability to add incremental value after costs. The Board shall monitor performance and supervise all Managers.

In determining its philosophy towards risk, the Board considers, in addition to its fiduciary obligations and statutory requirements, each entity's purpose and characteristics, financial condition, liquidity needs, sources and level of contributions, income and general business conditions. Based upon these many factors, the Board identifies where either a more aggressive or more conservative approach is warranted, on an individual plan by plan basis. Each Participant Plan's asset allocation targets and ranges are summarized in the "Participant Plan Descriptions" section of the Appendix.

#### **IV. Investment Objectives**

*The board, at the annual meeting...shall review, establish and modify, if necessary, the investment objectives of the individual participant plans, as incorporated in the investment policy statements of the respective trusts so as to provide for the financial security of the trust funds giving consideration to the following: (1) Preservation of Capital; (2) Diversification; (3) Risk Tolerance; (4) Rate of Return; (5) Stability; (6) Turnover; (7) Liquidity; and (8) Reasonable Cost of Fees. W.Va. Code §12-6-12-f.*

#### Consolidated Fund

The Board's objective is to manage the state's money in an efficient and economical manner. Realizing the majority of the funds are for operating expenses of the state, it has designed an investment strategy that addresses the short-term liquidity needs of the various pools and participants, limiting risk but still allowing for the higher total rate of return.

### Participant Plans

The Board's objective is to manage the Participant Plans' moneys in an efficient and economical manner, managing risk as it seeks to achieve the specific goals set out in each Participant Plans Description contained in the Appendix.

In addition, specific investment objectives for each investment pool are contained within the "Investment Pools" section of the Appendix.

## **V. Investment Responsibilities**

The Board is responsible for the investment and administration of the Participant Plans, the Consolidated Fund, and the investment pools; as such its operational requirements are complex. In order to properly carry out its investment strategies, the Board relies heavily on both staff and outside service providers (e.g., professional Consultants, investment Managers and Custodians). Because of the number of parties involved, their roles as fiduciaries must be clearly identified to ensure operational efficiency, clear lines of communication, and accountability in all aspects of operation.

### Board of Trustees

The Board has responsibility for establishing and maintaining broad policies and objectives for all aspects of WVIMB's operation. Central to this is the Board's responsibility for the prudent investment of all assets managed by the Board. The Board shall establish such broad policies and set direction, as set forth in this Investment Policy Statement.

The Board shall delegate the implementation of these policies and direction to the Investment Committee and Staff. In doing so, the Board shall maintain a "top-down" perspective, focussing on important policy level issues, maintaining the proper fiduciary perspective and time horizon for analysis of the progress of the assets and prudently use its time by evaluating/considering the most material issues.

### Investment Committee

The primary objective of the Investment Committee is to ensure that sufficient assets are available to provide liquidity to the Consolidated Fund and satisfy benefit payments or cash flow needs of the Plan Participants at the time they are needed or payable. As a secondary objective, the Investment Committee is responsible for achieving an optimum level of return within specified risk parameters and to do so effectively, prudently and in a cost efficient manner, in full compliance with applicable laws and regulations.

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

- Determination of long-term policies for risk tolerance and asset mix;
- Determination of permissible assets (subject to statutory limitation);
- Evaluation, selection and termination of investment managers;
- Determination of allocation between asset classes in the Policy Allocation and the Strategy Allocation;
- Regular review and revision of this Investment Policy Statement;
- Evaluation of investment results to ensure compliance with investment guidelines and determine success of investment strategies implemented;
- Evaluation and review of the WVIMB Executive Director and Chief Investment Officer as it regards their ability and effectiveness in carrying out the investment directives of the Board, properly and effectively communicating the current and prospective portfolio condition, working with and coordinating all outside relationships and conveying confidence and knowledge in their roles as stewards of the investment program. This evaluation will be supplied to the Personnel Committee at least annually;
- Other investment related issues as necessary for the prudent and cost effective investment of Fund assets.

The Investment Committee shall meet prior to the regular meeting of the Board to address overall investment activities. The Committee shall be briefed by staff and consultant on any topic or issue pertinent to the Board's operations. The Committee shall make a report regarding investment activities to the Board and shall make recommendations for Board action as necessary.

#### Personnel Committee

The Personnel Committee's primary objective is to ensure that staffing is adequate to effectively and efficiently accomplish the goals of the Board in a professional manner. Specifically, the Personnel Committee shall review and make recommendations to the Board, with advice and assistance of Staff, regarding compensation policies and staff structure. Additionally, it shall have such duties outlined in the Personnel Review Policy.

#### Executive Director

The Executive Director is appointed by and serves at the pleasure of the Board. The Executive Director is responsible for planning, organizing, and administering the operations of the WVIMB under the broad policy guidance and direction of the Board. The Executive Director, with assistance of Staff, monitors the performance of the investments; ensures funds are invested in accordance with Board policies; studies, recommends and implements policy and operational procedures that will enhance the investment program of the WVIMB; and ensures that proper internal controls are developed to safeguard the assets of the WVIMB. In fulfilling these responsibilities, the



Executive Director relies on internal Staff and the Consultants for information, advice and technical support. All recommendations from the Executive Director regarding enhancements to the investment program shall be made to the Investment Committee.

### Staff

The Staff provides internal investment and consulting services to the Board and the Executive Director. The primary functions of the internal Staff include: analyzing and rebalancing the overall asset allocation of the Participant Plans; execution of fixed income trades (see “Implementation – Trading Policy” section of the Appendix); providing technical advice; screening and monitoring external managers, serving as a liaison to the investment community; and informing and advising the Board and Executive Director on financial, economic and political developments that may effect the WVIMB. The Chairperson of the Investment Committee is to be notified of any rebalancing activity performed by the staff. The internal staff also works closely with the consultant in support of these duties.

### **External Investment Consultant**

The external investment Consultant will be selected by and serve at the pleasure of the Board, based upon recommendations regarding retention/termination from the Investment Committee to the Board. The Consultant’s duty is to work with the Board, Executive Director and Staff to help manage the investment process. This includes regular meetings with the Board and Investment Committee to provide an independent perspective on the issues facing the WVIMB, and each Participant Plans’ goals, investment structures, investment performance and investment managers. The Consultant will review asset allocations and performance in conjunction with Staff, and make recommendations to the Board as appropriate. The Consultant will assist in the preparation of investment performance reporting and analysis on all investment managers. The Consultant will assist with external manager selection and will promptly inform the Board and Staff of any material issues concerning the investment managers and discuss the impact of such.

### **External Investment Managers**

The external investment Managers will be selected by and serve at the pleasure of the Board, based upon recommendations regarding retention/termination from the Investment Committee to the Board. The Board will rely on the advice of and recommendations from the Investment Committee, Staff and Consultant in selecting and/or dismissing external investment Managers. External investment Managers will have demonstrated expertise with particular asset classes and/or management styles. Each Investment Manager shall be a registered adviser under the Investment Advisers Act of 1940 (or shall be appropriately exempt from registration). Managers will be given explicit written directions detailing their particular assignments, and will construct and manage investment portfolios that are consistent with the investment philosophy and disciplines for which they were hired. These guidelines, which are contained within the “Investment Manager Policies and Guidelines” section of the Appendix, will be specific as to the

particular role of that external investment Manager's portfolio in the overall investment structure, and will address the following topics:

- Permissible Investments
- Style Adherence
- Diversification
- Portfolio Quality Requirements
- Brokerage Issues
- Performance Objectives

External investment Managers will select, buy, and sell specific securities within their guidelines and adhere to the Brokerage Policy detailed within the "Implementation – Brokerage Policy" section of the Appendix. Compliance with these guidelines is mandatory. No deviation will be permitted without express written permission, in advance, from the Board.

Any external investment Manager employed by the Board is expected to communicate, in writing, any developments that may impact the assets of the Board within five business days of occurrence. The external investment Manager should communicate these developments simultaneously to the Chairperson of the Investment Committee, the Executive Director, and the Chief Investment Officer. Examples of these events include, but are not limited to:

- Significant change in investment philosophy
- Loss of one or more key management personnel
- Assignment of a new portfolio manager to the WVIMB
- Change in the ownership structure of the investment management firm
- Any occurrence which might potentially impact the management, professionalism, integrity or financial position of the investment management firm

Discretion is delegated to the Managers to carry out investment actions as directed by the Board. Managers will provide performance reporting to the Board and Staff upon request utilizing standardized reporting formats. Specific responsibilities and operational information for each manager will be addressed at length in the "Investment Manager Policies and Guidelines" section of the Appendix.

#### Custodian

The Custodian(s) holds directly, through its agents, its sub-custodians, or designated clearing systems, assets as designated by the Board. The Custodian is accountable for registration of those designated assets in good delivery form, collection of income generated by those assets, and any corporate action notification. The Custodian(s) is responsible for delivery and receipt of securities and cash when notified by the Board or its designee, and tracking and reporting of the aforementioned transactions. The Board may opt to designate other duties to the Custodian(s).

## **VI. Standard of Care**

*Any investment made under this article shall be made in accordance with the provisions of the “Uniform Prudent Investor Act” codified as article six-c, chapter (forty-four) of this code and is further subject to the following requirements:*

- a) *Trustees shall discharge their duties with respect to the 401(a) plans for the exclusive purpose of providing benefits to participants and their beneficiaries;*
- b) *Trustees shall diversify fund investment so as to minimize the risk of large losses unless, under the circumstances, it is clearly prudent not to do so;*
- c) *Trustees shall defray reasonable expenses of investing and operating the funds under management; and*
- d) *Trustees shall discharge their duties in accordance with the documents and instruments governing the trusts or other funds under management insofar as the documents and instruments are consistent with the provisions of this article. W.Va. State Code §12-6-11.*

## **VII. Asset Allocation**

The investments of the WVIMB are divided into the following general asset classes: global equities, fixed income and cash. As stated in Section III, the Investment Policy Statement shall continue to be refined based upon prevailing financial theory. Currently, it is common practice to construct portfolios using combinations of asset classes in order to improve the risk/return profile. This concept is called diversification, and is discussed briefly in Section III. The asset allocation decision is generally regarded as the most important decision to be made in the investment management process. Studies have indicated that approximately 85 percent of the variability in an investment portfolio’s return can be attributed to the asset allocation decision.

An asset/liability study is the basis for determining a portfolio’s impact on important financial measures on both a short-term and long-term basis. This asset/liability analysis identifies the risk/return trade-off inherent within each portfolio, thus allowing the WVIMB to identify a specific policy asset allocation for each Participant Plan. The policy asset allocation for each Participant Plan is established by the Trustees based upon the Board’s stated objectives for each Plan, the standard of care set forth in this Investment Policy Statement and the limitations imposed by statute. This Policy Allocation is defined as the allocation between the three major asset classes – global equity, fixed income, and cash. Based upon the criteria stated above, the Board has adopted a Policy Allocation for each Participant Plan as summarized within the “Participant Plan Descriptions” section of the Appendix.

It should be noted that West Virginia statute ultimately limits Participant Plan equity exposure to 60.0 percent of assets.

Within the three major asset classes, the Board may establish strategic allocations to secondary components of the classes, e.g. large cap, small cap, value, growth, etc. This will be defined as the Strategy Allocation and can be found in the “Investment Pools” section of the Appendix. The strategic allocations to these secondary components generally represent longer-term beliefs about the relative attractiveness between different segments within an asset class. They are also generally subject to higher return volatility than the major asset classes themselves, however, when aggregated together they allow for an additional level of diversification. As stated in Section III, a formal Board review of the Strategic Allocation together with a review of the Policy Allocation shall be conducted once every three years.

In November of 2003, the Board took additional steps to provide for flexibility to further refine the Strategy Allocation by delegating authority to the Allocation Committee (Executive Director, Chief Investment Officer, and Investment Consultant as approved by the Board only as individually named, which is reflected in the corresponding recorded minutes of the Board meeting on November 20, 2003) to collectively make allocation decisions based upon market conditions, including, but not limited to, valuation levels, market imbalances, and economic and market expectations. This flexibility allows the Plan(s) to take advantage of changing market conditions. The Board has placed ranges around the Strategy Allocation in order to maintain appropriate risk controls. Allocation decisions made by the Allocation Committee are defined as the Range Allocation. Any time this authority is exercised and Range Allocations are intentionally changed by vote of the three above-named individuals, the Board will receive written notice of the allocation change, the rationale, and the agreement or dissent of each voting party on the following business day. From time to time, a Range Allocation decision or other issue of clarification will necessitate that Staff revise individual manager guidelines located in Appendix D of this Investment Policy Statement. Any such change will be disclosed and communicated to the Board in this same written notice. A formal Board review of the Range Allocation will be conducted every three years, in conjunction with the Strategy Allocation and the Policy Allocation.

Cash equivalents held by managers can be disruptive to the allocation process. Equity managers are to be fully invested at all times, with the exception of brief periods between the sale of an existing security and the purchase of a replacement security. Fixed income managers are exempt from this because of the use of “barbell” strategies in constructing a fixed income portfolio. However, each fixed income manager accepts the Board’s intention to avoid market timing and acknowledges that total portfolio performance (including cash) shall be compared to established performance objectives.

#### **VIII. Measurement of Investment Objectives**

A primary responsibility of any Board is the oversight and monitoring of its investment portfolio. The components of the evaluation of portfolio results shall include regular examination of the following benchmarks to aid in the monitoring of asset allocation processes and decision-making results:

**A. Actuarial Benchmark**

The most important investment return objective to be considered when evaluating the Plan's performance is measured by a comparison of the Plan's return to the real rate of return that must be achieved in order for the Plans to meet their benefit obligations as determined by the Consolidated Pensions Retirement Board. While it is not critical to perform this comparison over shorter time periods (one to five years), the Plan's returns to the actuarial benchmark over longer time periods (five to thirty years) should be closely monitored.

**B. Policy Benchmark**

The policy benchmark is the primary determinant and control mechanism of the risk and return expectations for each Plan and is determined after carefully considering the liability expectations of that Plan. It is the most permanent of all of the benchmarks listed here because it is established using long-term asset and long-term liability assumptions. The policy benchmark is intended to measure the broad investment opportunities of each general asset class in which the Board has decided to invest.

The policy benchmark can only be changed upon Board approval, and must comply with all State laws, including, but not limited to, the *West Virginia Uniform Prudent Investor Act*

**C. Strategy Benchmark**

The strategy benchmark is created to measure the Board's decisions to deliberately deviate from the broad, passive market indices within any asset class with a long-term perspective. A strategic decision is a decision not to be 100% passively invested in the broad market index as defined in the policy benchmark above, and is intended to be maintained over an extended period of time (at least 3-5 years). For example, a strategic decision is a decision by the Board to over-weight or under-weight growth vs. value, small cap vs. large cap, or developed vs. emerging markets, which is different than that automatically represented by the broad indices in the policy benchmark.

The strategic benchmark will be determined by the Strategy Allocation as approved by the Board, and can and will be changed only upon Board approval, generally coinciding when Strategic Allocation changes occur as described in section VII. Asset Allocation.

D. Allocation Benchmark

The allocation benchmark is created to measure the performance results of the allocation changes made at the sub-asset class level that has been delegated from the Board to named individuals on WVIMB Staff and at Investment Consultant. Those named individuals make up the Allocation Committee. To the extent that the allocation benchmark exceeds the strategy benchmark, sub-asset class range decisions have added value. Likewise, to the extent that the allocation benchmark is lower than the strategy benchmark, sub-asset class range decisions have detracted from performance. This method of calculating allows the Board to examine results of the sub-asset class decisions in isolation, without being impacted by individual investment manager's results.

Allocation benchmarks will change with each sub-asset class allocation change. A formal Board review of the sub-asset class allocation will be conducted every three years, as described in section VII. Asset Allocation.

E. Implementation Benchmark

The implementation benchmark is created to measure the value added by the active management of assets, as well as the performance attributed to the hiring and termination decisions of individual, active investment managers as recommended by Staff and Investment Consultant and approved by the Board. The implementation benchmark will be calculated by subtracting the allocation benchmark from actual Plan total performance results.

The implementation benchmark will be reviewed each time the allocation benchmark is reviewed, or as deemed necessary by the Board

F. Investment Managers' Benchmarks

Each individual investment manager's benchmark is created to measure the manager's ability to add value net of fees over a predetermined time period (usually long enough to cover a full market cycle), as well as provide a source of guidance to the manager about the WVIMB's intentions of the portfolio they have been hired to manage. Each investment manager employed by WVIMB will have a specific benchmark assigned to it. The investment manager, WVIMB Staff, and Investment Consultant will unanimously agree to this benchmark before approaching the Board for hiring approval. Any subsequent changes to the benchmark will also need to be approved by unanimous decision by all parties and subsequently notified to the Board.

Investment manager's benchmarks are reported regularly (at least quarterly) to the Board with investment manager performance and individual benchmarks are

reviewed with the managers as appropriate. The reviews will be used to assess a manager's ongoing appropriateness within the asset allocation.

G. Peer Benchmark

While peer universe information can be a useful resource and tool from time to time, it has limited value as a relevant, consistent, long-term performance measure. This is primarily due to the fact that the constituents of peer universes (i.e., other public pension plans) all have very unique needs, as well as significant differences in demographics, resources, liabilities, and arbitrary statutory restrictions. The Board will compare its performance results to a peer universe from time to time to gauge differences and similarities with other public pension plans, but not as a primary evaluative measure of goal achievement.

**IX. Investment Guidelines and Limitations**

A. Permissible Investments

The Board recognizes 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 investment vehicles. While high levels of risk are to be avoided, the assumption of risk is warranted as long as it is compensated in order to allow the investment Managers the opportunity to achieve satisfactory long-term results consistent with objectives and fiduciary character of the Consolidated Fund and each Participant Plan.

All assets selected for investment within a portfolio must have a readily attainable market value, and must be readily marketable. Listed within the "Permissible Investments" section of the Appendix are the investment vehicles specifically permitted under this Investment Policy, except for statutorily required investments.

B. Statutory imposed guidelines and restrictions that apply across all portfolios are as follows:

- (a) *The board shall hold in equity investments no more than sixty percent of the assets managed by the board and no more than sixty percent of the assets of any individual participant plan or the consolidated fund.*
- (b) *The board shall hold in international securities no more than twenty percent of the assets managed by the board and no more than twenty percent of the assets of any individual participant plan or the consolidated fund.*

- (c) *The board may not at the time of purchase hold more than five percent of the assets managed by the board in the equity securities of any single company or association: Provided, That if a company or association has a market weighting of greater than five percent in the Standard & Poor's 500 index of companies, the board may hold securities of that equity equal to its market weighting.*
  
- (d) *The board shall at all times limit its asset allocation and types of securities to the following:*
  - (1) *The board may not hold more than twenty percent of the aggregate participant plan assets in commercial paper. Any commercial paper at the time of its acquisition shall be in one of the two highest rating categories by an agency nationally known for rating commercial paper;*
  
  - (2) *At no time shall the board hold more than seventy-five percent of the assets managed by the board in corporate debt. Any corporate debt security at the time of its acquisition shall be rated in one of the six highest rating categories by a nationally recognized rating agency; and*
  
  - (3) *No security may be purchased by the board unless the type of security is on a list approved by the board. The board may modify the securities list at any time and shall give notice of that action ...*
  
- (e) *Notwithstanding the investment limitations set forth in this section, it is recognized that the assets managed by the board, or the assets of the consolidated fund or participant plans, whether considered in the aggregate or individually, may temporarily exceed the investment limitations in this section due to market appreciation, depreciation and rebalancing limitations. Accordingly, the limitations on investments set forth in this section shall not be considered to have been violated if ... W.Va. State Code §12-6-12.*

AND

- (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. W.Va. Code §12-6-10*

Because each Participant Plan has its own objectives, the Trustees have formed multiple pooled portfolios to meet the differing needs. The Trustees have delineated objectives and restrictions for each individual pool, as described within the “Investment Pools” section of the Appendix.

# *Participant Plan Descriptions*

**PARTICIPANT PLAN DESCRIPTIONS**  
**Defined Benefit Plans: *Death, Disability and Retirement Fund***  
***for Deputy Sheriffs***

**History**

The Death, Disability and Retirement Fund for Deputy Sheriffs was created in 1998. As of July 1, 2002, the Plan covered a total of 923 participants. Of these, 747 were active members, 101 were retirees or beneficiaries, 75 terminated participants.

**Funded Status**

As of July 1, 2002 the market value of assets was approximately \$44.4 million with a funded ratio of 61%.

**Liquidity Needs**

The Plan currently has positive net cash flows.

**Investment Objectives**

The Total Plan investment objectives are as follows:

- To exceed the actuarial interest rate assumption of 7.5 percent per annum, net of fees.
- To achieve a total real rate of return of at least 4.0 percent per annum, net of fees.
- Preserve the current well-funded position while not subjecting the Plan to an undue level of risk.

**Asset Allocation**

Based upon the Board's determination of the appropriate risk tolerance for the Plan, the Board has adopted the following broad asset allocation guidelines for the assets managed for the Death, Disability and Retirement Fund for Deputy Sheriffs. (Policy targets have been established on a market value basis.)

| <b>Asset Class</b>                 | <b>Policy Allocation</b> |
|------------------------------------|--------------------------|
| Domestic Equity                    | 42.0%                    |
| International Equity               | 18.0%                    |
| <b>Total Equity</b>                | <b>60.0%</b>             |
| <b>Fixed Income</b>                | <b>40.0%</b>             |
| <b>Cash (included in FI above)</b> | <b>\$225,000</b>         |

## PARTICIPANT PLAN DESCRIPTIONS

### Defined Benefit Plans: *Judges' Retirement System*

#### History

The Judges' Retirement System was created in 1949. As of July 1, 2002, the Plan covered a total of 135 participants, of which 70 were active employees, 62 were retirees and beneficiaries, and had 3 terminated participants.

#### Funded Status

As of July 1, 2002, the market value of assets was approximately \$47.6 million, with a funded ratio of 52 percent. The State has established an objective of having the Plan fully funded by June 30, 2018.

#### Liquidity Needs

The Plan is currently cash flow positive.

#### Investment Objectives

The Total Plan investment objectives are as follows:

- To exceed the actuarial interest rate assumption of 6.5 percent per annum, net of fees.
- To achieve a total real rate of return of at least 4.0 percent per annum, net of fees.
- Reduce the unfunded liability while maintaining adequate liquidity to satisfy benefit payments and while not subjecting the Plan to an undue level of risk.

#### Asset Allocation

Based upon the Board's determination of the appropriate risk tolerance for the Plan, the Board has adopted the following broad asset allocation guidelines for the assets managed for the Judges' Retirement System. (Policy targets have been established on a market value basis.)

| Asset Class                        | Policy Allocation |
|------------------------------------|-------------------|
| Domestic Equity                    | 42.0%             |
| International Equity               | 18.0%             |
| <b>Total Equity</b>                | <b>60.0%</b>      |
| <b>Fixed Income</b>                | <b>40.0%</b>      |
| <b>Cash (included in FI above)</b> | <b>\$525,000</b>  |

## PARTICIPANT PLAN DESCRIPTIONS

### Defined Benefit Plans: *Public Employees' Retirement System*

#### History

The Public Employees' Retirement System was created in 1961. As of July 1, 2002, the Plan covered a total of 63,124 participants; comprised of 34,736 active employees, 18,190 retirees and beneficiaries, 10,198 terminated participants.

#### Funded Status

As of July 1, 2002, the market value of assets was approximately \$2,590 million, with a funded ratio of 75.4 percent. Current projections indicate that prospective employee and employer contributions, along with investment earnings, will no longer eliminate the unfunded liability by plan year 2007.

#### Liquidity Needs

The Plan is expected to have modest liquidity needs of approximately 1.0 percent to 2.0 percent per year for the foreseeable future.

#### Investment Objectives

The Total Plan investment objectives are as follows:

- To exceed the actuarial interest rate assumption of 7.5 percent per annum, net of fees.
- To achieve a total real rate of return of at least 4.0 percent per annum, net of fees.
- Reduce the unfunded liability while maintaining adequate liquidity to satisfy benefit payments and while not subjecting the Plan to an undue level of risk.

#### Asset Allocation

Based upon the Board's determination of the appropriate risk tolerance for the Plan, the Board has adopted the following broad asset allocation guidelines for the assets managed for the Public Employees' Retirement System. (Policy targets have been established on a market value basis.)

| <b>Asset Class</b>                 | <b>Policy Allocation</b> |
|------------------------------------|--------------------------|
| Domestic Equity                    | 42.0%                    |
| International Equity               | 18.0%                    |
| <b>Total Equity</b>                | <b>60.0%</b>             |
| <b>Fixed Income</b>                | <b>40.0%</b>             |
| <b>Cash (included in FI above)</b> | <b>\$19,500,000</b>      |

## PARTICIPANT PLAN DESCRIPTIONS

### Defined Benefit Plans: *Department of Public Safety Death, Disability and Retirement Fund (Plan A)*

#### History

The Public Safety Death, Disability and Retirement Fund was created in 1925. As of July 1, 2002, the Plan covered a total of 879 participants which was comprised of 288 active employees, 585 retirees and beneficiaries, and 6 terminated participants.

#### Funded Status

As of July 1, 2002, the market value of assets was approximately \$91.1 million, with a funded ratio of 22 percent. The State has established an objective of having the Plan fully funded by June 30, 2025.

#### Liquidity Needs

The Plan is currently expected to remain slightly cash flow positive.

#### Investment Objectives

The Total Plan investment objectives are as follows:

- To exceed that actuarial interest rate assumption of 7.5 percent per annum, net of fees.
- To achieve a total real rate of return of at least 4.0 percent per annum, net of fees.
- Reduce the unfunded liability while maintaining adequate liquidity to satisfy benefit payments and while not subjecting the Plan to an undue level of risk.

#### Asset Allocation

Based upon the Board's determination of the appropriate risk tolerance for the Plan, the Board has adopted the following broad asset allocation guidelines for the assets managed for the Public Safety, Death and Disability Retirement Fund. (Policy targets have been established on a market value basis.)

| <b>Asset Class</b>                 | <b>Policy Allocation</b> |
|------------------------------------|--------------------------|
| Domestic Equity                    | 42.0%                    |
| International Equity               | 18.0%                    |
| <b>Total Equity</b>                | <b>60.0%</b>             |
| <b>Fixed Income</b>                | <b>40.0%</b>             |
| <b>Cash (included in FI above)</b> | <b>\$3,000,000</b>       |

## PARTICIPANT PLAN DESCRIPTIONS

### Defined Benefit Plans: *State Police Retirement System (Plan B)*

#### History

The State Police Retirement System was created in 1994. As of July 1, 2002, the Plan covered 319 participants. Of these, 298 were active employees, 3 were retirees and beneficiaries, and 18 were terminated participants.

#### Funded Status

As of July 1, 2002, the market value of assets was approximately \$11.6 million, with a funded ratio of 85 percent.

#### Liquidity Needs

The Plan is expected to be in a positive net cash flow position for the foreseeable future.

#### Investment Objectives

The Total Plan investment objectives are as follows:

- To exceed the actuarial interest rate assumption of 7.5 percent per annum, net of fees.
- To achieve a total real rate of return of at least 4.0 percent per annum, net of fees.
- Reduce the unfunded liability while maintaining adequate liquidity to satisfy benefit payments and while not subjecting the Plan to an undue level of risk.

#### Asset Allocation

Based upon the Board's determination of the appropriate risk tolerance for the Plan, the Board has adopted the following broad asset allocation guidelines for the assets managed for the State Police Retirement System. (Policy targets have been established on a market value basis.)

| <b>Asset Class</b>                 | <b>Policy Allocation</b> |
|------------------------------------|--------------------------|
| Domestic Equity                    | 42.0%                    |
| International Equity               | 18.0%                    |
| <b>Total Equity</b>                | <b>60.0%</b>             |
| <b>Fixed Income</b>                | <b>40.0%</b>             |
| <b>Cash (included in FI above)</b> | <b>\$50,000</b>          |

## PARTICIPANT PLAN DESCRIPTIONS

### Defined Benefit Plans: *Teachers' Retirement System*

#### History

The Teachers' Retirement System was created in 1941. As of July 1, 2002, the Plan covered a total of 51,279 participants; comprised of 22,443 active employees, 24,977 retirees and beneficiaries, and 3,859 terminated participants.

#### Funded Status

As of July 1, 2002, the market value of assets was approximately \$1,100 million, with a funded ratio of 19 percent. The State has established an objective of having the Plan fully funded by June 30, 2034.

#### Liquidity Needs

The Plan has a very dynamic net cash flow position, which evolves from a positive net cash flow position currently, to no net cash flow needs in plan year 2006, to substantial liquidity needs of at least 10 percent per year beginning in plan year 2014.

#### Investment Objectives

The Total Plan investment objectives are as follows:

- To exceed the actuarial interest rate assumption of 7.5 percent per annum, net of fees.
- To achieve a total real rate of return of at least 4.0 percent per annum, net of fees.
- Reduce the unfunded liability while maintaining adequate liquidity to satisfy benefit payments and while not subjecting the Plan to an undue level of risk.

#### Asset Allocation

Based upon the Board's determination of the appropriate risk tolerance for the Plan, the Board has adopted the following broad asset allocation guidelines for the assets managed for the Teachers' Retirement System. (Policy targets have been established on a market value basis.)

| <b>Asset Class</b>                 | <b>Policy Allocation</b> |
|------------------------------------|--------------------------|
| Domestic Equity                    | 42.0%                    |
| International Equity               | 18.0%                    |
| <b>Total Equity</b>                | <b>60.0%</b>             |
| <b>Fixed Income</b>                | <b>40.0%</b>             |
| <b>Cash (included in FI above)</b> | <b>\$35,250,000</b>      |



## PARTICIPANT PLAN DESCRIPTIONS

### **Insurance Plans: *Workers' Compensation Fund***

#### **History**

The Workers' Compensation Fund was formed in 1913. The Plan was created to be the exclusive provider of workers compensation insurance in West Virginia.

#### **Funded Status**

As of July 1, 2003, the Plan assets were valued at approximately \$685 million, with an approximate funding ratio of 38 percent. The State has established an objective of closing the funding gap over a forty-year horizon.

#### **Liquidity Needs**

In June 2003, the West Virginia Workers' Compensation Bureau provided WVIMB with projected monthly net cash flows from July 2003 through June 2006. Until a permanent funding source for the Fund is secured, all current assets are invested in a laddered, US Treasury fixed income portfolio dedicated to provide cash flows from investment maturities that will coincide with the Plan's projected cash flow needs.

#### **Investment Objectives**

The Total Plan investment objective is to meet all projected cash flow needs as determined by the West Virginia Workers' Compensation Bureau through June 2006.

#### **Asset Allocation**

Based upon the Board's determination of the appropriate risk tolerance for the Plan, the Board has adopted the following asset allocation guidelines for the assets managed for the Workers' Compensation Fund.

| <b>Asset Class</b>                 | <b>Policy Allocation</b> |
|------------------------------------|--------------------------|
| Domestic Large Cap Equity          | 0.0%                     |
| Domestic Small Cap Equity          | 0.0%                     |
| International Equity               | 0.0%                     |
| <b>Total Equity</b>                | <b>0.0%</b>              |
| <b>Dedicated Fixed Income</b>      | <b>100.0%</b>            |
| <b>Cash (included in FI above)</b> | <b>Matures as needed</b> |

## **PARTICIPANT PLAN DESCRIPTIONS**

### **Insurance Plans: *Pneumoconiosis Fund***

#### **History**

The Pneumoconiosis Fund was formed in 1974 to provide for insurance coverage to coal operators for their potential liability under the Federal Coal Mine Health and Safety Act of 1969.

#### **Funded Status**

As of July 1, 2002, the Plan assets were valued at approximately \$354 million, with a funding ratio of 228 percent. In the past, the State has elected to transfer a portion of the surplus to The Workers' Compensation Fund in an effort to reduce the deficit within that Fund.

#### **Liquidity Needs**

The liquidity needs of the Pneumoconiosis Fund are actuarially determined based on the run-off of liabilities, which are assessed annually.

#### **Investment Objectives**

The Total Plan investment objectives are as follows:

- To exceed the actuarial interest rate assumption of 6.5 percent per annum, net of fees.
- Preserve the Fund's current surplus position.

#### **Asset Allocation**

Based upon the Board's determination of the appropriate risk tolerance for the Plan, the Board has adopted the following broad asset allocation guidelines for the assets managed for the Pneumoconiosis Fund. (Policy targets have been established on a market value basis.)

| <b>Asset Class</b>               | <b>Policy Allocation</b> |
|----------------------------------|--------------------------|
| Domestic Equity                  | 14.0%                    |
| International Equity             | 6.0%                     |
| <b>Total Equity</b>              | <b>20.0%</b>             |
| <b>Fixed Income</b>              | <b>75.0%</b>             |
| <b>Cash and Cash Equivalents</b> | <b>5.0%</b>              |

## PARTICIPANT PLAN DESCRIPTIONS

### Insurance Plans: *Workers' Compensation Employees Excess Liability Fund*

#### History

The Workers' Compensation EELF Fund was created in 1983 to provide insurance for employers who are liable for any excess damages not covered by regular Workers' Compensation. This is a voluntary fund with limited participation.

#### Funded Status

As of July 1, 2002, the Plan assets were valued at approximately \$9.7 million, with a funding ratio of 404 percent.

#### Liquidity Needs

Cash flow needs are sporadic and may represent a significant portion of the Fund.

#### Investment Objectives

The Total Plan investment objectives are as follows:

- To exceed the actuarial interest rate assumption of 6.5 percent per annum, net of fees.
- Provide adequate liquidity to meet cash flow requirements.

#### Asset Allocation

Based upon the Board's determination of the appropriate risk tolerance for the Plan, the Board has adopted the following broad asset allocation guidelines for the assets managed for the Worker's Compensation EELF Fund. (Policy targets have been established on a market value basis.)

| <b>Asset Class</b>                 | <b>Policy Allocation</b> |
|------------------------------------|--------------------------|
| Domestic Equity                    | 28.0%                    |
| International Equity               | 12.0 %                   |
| <b>Total Equity</b>                | <b>40.0%</b>             |
| <b>Fixed Income</b>                | <b>60.0%</b>             |
| <b>Cash (included in FI above)</b> | <b>\$1,250,000</b>       |

**PARTICIPANT PLAN DESCRIPTIONS**  
**Endowment Funds: *Wildlife Endowment Fund***

**History**

The Wildlife Endowment Fund was created in 1998. The objective for the Wildlife Endowment Fund is to supplement the Department of Natural Resources annual budget in support of various statewide projects.

**Asset Value**

As of July 1, 2002, the Plan assets were valued at approximately \$22.5 million.

**Liquidity Needs**

The liquidity needs of the Endowment Fund will be set on an annual basis and determined by a separate Wildlife Endowment Board as established by the Department of Natural Resources.

**Investment Objectives**

The Total Plan investment objectives are as follows:

- To achieve a total real rate of return of at least 4.0 percent per annum, net of fees.
- Provide adequate liquidity to meet cash flow requirements.

**Asset Allocation**

Based upon the Board's determination of the appropriate risk tolerance for the Plan, the Board has adopted the following broad asset allocation guidelines for the assets managed for the Wildlife Endowment Fund. (Policy targets have been established on a market value basis.)

| <b>Asset Class</b>               | <b>Policy Allocation</b> |
|----------------------------------|--------------------------|
| Domestic Equity                  | 42.0%                    |
| International Equity             | 18.0%                    |
| <b>Total Equity</b>              | <b>60.0%</b>             |
| <b>Fixed Income</b>              | <b>40.0%</b>             |
| <b>Cash and Cash Equivalents</b> | <b>0.00%</b>             |

## PARTICIPANT PLAN DESCRIPTIONS

### Endowment Funds: *Tobacco Settlement Medical Trust Fund*

#### History

The Tobacco Settlement Medical Trust Fund was established in 1999. The main objective of the Tobacco Settlement Medical Trust is to stabilize the states health related programs and delivery systems. They are also intended to be used “for the purpose of educating the public about the health risks associated with tobacco usage and for the establishment of a program designed to reduce and stop the use of tobacco by the citizens of this state and in particular by teenagers”.

#### Asset Value

As of July 1, 2002, the Plan assets were valued at approximately \$100 million.

#### Liquidity Needs

There are no current liquidity needs for the Tobacco Settlement Medical Trust Fund.

#### Investment Objectives

The Total Plan investment objectives are as follows:

- To achieve a total real rate of return of at least 4.0 percent per annum, net of fees.

#### Asset Allocation

Based upon the Board’s determination of the appropriate risk tolerance for the Plan, the Board has adopted the following broad asset allocation guidelines for the assets managed for the Tobacco Settlement Medical Trust Fund. (Policy targets have been established on a market value basis.)

| <b>Asset Class</b>               | <b>Policy Allocation</b> |
|----------------------------------|--------------------------|
| Domestic Equity                  | 42.0%                    |
| International Equity             | 18.0%                    |
| <b>Total Equity</b>              | <b>60.0%</b>             |
| <b>Fixed Income</b>              | <b>40.0%</b>             |
| <b>Cash and Cash Equivalents</b> | <b>0.00%</b>             |

## PARTICIPANT PLAN DESCRIPTIONS

### Endowment Funds: *Prepaid Tuition Trust Fund*

#### History

The Prepaid Tuition Trust Fund was established in 1997 with the objective of enhancing and improving higher education in the state of West Virginia. This is done by allowing qualified students to pay for necessary expenses of attending accredited higher education institutions and programs in advance (at a rate set today).

#### Asset Value

As of July 1, 2002, the Plan assets were valued at approximately \$57.2 million, with a funded status of 85%.

#### Liquidity Needs

There are no current liquidity needs for the Prepaid Tuition Trust.

#### Investment Objectives

The Total Plan investment objectives are as follows:

- To achieve a total real rate of return of at least 4.0 percent per annum, net of fees.
- To exceed the actuarial interest rate assumption of 7.25 percent per annum, net of fees.
- To generate long term, net of fee, returns that exceed the plans liquidity needs.
- To build and maintain an actuarial surplus at a level recommended by the actuaries.

#### Asset Allocation

Based upon the Board's determination of the appropriate risk tolerance for the Plan, the Board has adopted the following broad asset allocation guidelines for the assets managed for the Prepaid Tuition Trust Fund. (Policy targets have been established on a market value basis.)

| Asset Class                        | Policy Allocation |
|------------------------------------|-------------------|
| Domestic Equity                    | 42.0%             |
| International Equity               | 18.0%             |
| <b>Total Equity</b>                | <b>60.0%</b>      |
| <b>Fixed Income</b>                | <b>40.0%</b>      |
| <b>Cash (included in FI above)</b> | <b>\$10,000</b>   |

# *Permissible Investments*

## PERMISSIBLE INVESTMENTS

### Equities:

- U.S. Common Stocks and Preferred Stocks
- Non-U.S. Common Stocks and Preferred Stocks
- American Depository Receipts (ADR's)
- Commingled Funds
- Real Estate Investment Trusts (REIT's)
- Stock Warrants
- Stock Index Futures
- Exchange Traded Funds (ETF's)

### Fixed Income Investments:

- U.S. Government and Agency Securities and Government Instrumentalities
- Corporate Bonds (Investment and Non-Investment Grade)
- Taxable Municipal Bonds
- Asset-Backed Securities
- Mortgage-Backed Securities
- Convertible Bonds
- Trust Preferred Securities
- Yankee Bonds and Global Euro Bonds
- Securities registered under Rule 144A of the Securities Act of 1933 are permissible and will be classified into the appropriate security class as authorized above

### Derivatives:

- Derivative use specifically authorized in the WVIMB Derivative Use Policy



**Cash Equivalents:**

- U.S. Treasury Bills
- Commercial Paper
- Certificates of Deposit
- Repurchase Agreements
- Agency Discount Notes
- Bank Short-Term Investment Funds (STIF)
- Money Market Funds
- Securities registered under Rule 144A of the Securities Act of 1933 are permissible and will be classified into the appropriate security class as authorized above

**Restricted Investments:**

- Derivative use not specifically authorized in the WVIMB Derivative Use Policy
- Short sales or margin transactions
- Investment in commodities or commodity contracts
- Direct loans or extension lines of credit to any interested party
- Letter stock
- Unregistered securities and private placements (except those securities regulated by SEC Rule 144A), including 4. (2.) commercial paper

# *Investment Pools*

## INVESTMENT POOLS

### Consolidated Fund: *Government Money Market Fund*

#### Objectives

The Government Money Market Fund was created to invest restricted moneys of the state in treasury securities. The objective of the portfolio is to maintain sufficient liquidity to meet the daily disbursements of the participants while earning a small return above inflation. The portfolio is structured as a money market fund where the goal is a stable dollar value per share, thus preserving principal. The risk factor on this portfolio is low and managed through maturity restrictions. The default risk has been practically eliminated through the purchase of securities which the market considers default free. The participants are paid on an income basis, which includes interest income and realized gains and losses.

#### Benchmarks

- For purposes of complying with the exposure limits set forth for this Pool, and for purposes of evaluating investment returns (net of external management fees), the following benchmark will be utilized: the **Salomon 90-day T-bill Index**.
- For purposes of guiding investment strategy, external managers should also consider the portfolio's comparison to the following benchmarks: The Money Fund Report First Tier Institutional median return, the U.S. Effective Federal Funds Rate, and the inflation rate as defined by the annualized U.S. real GDP deflator (all net of external management fees).

#### Permissible Investments

The following security types are approved for use in the Government Money Market Fund:

1. US Treasury Bills, Notes and Bonds issued by the U.S. Treasury or securities issued by securities dealers that are backed by direct U.S. Treasury obligations
2. US Government Agency Bills, Notes and Bonds issued by a U.S. Government Agency (either a federally related institution or a government sponsored enterprise)
3. Repurchase Agreements – Repo collateral should be restricted to cash and security types approved in item 1 of the Permissible Investment section of this policy.
4. Government Money Market Funds

(Liquidity and quality will be the dominant characteristics of the holdings. Generally, the Government Money Market Fund will be dominated by money market type securities issued by the U.S. Government and its agencies.)

### **Maturity Restrictions**

The weighted average maturity of the Government Money Market Fund shall not exceed 60 days. The final maturity of securities held within the Government Money Market Fund shall be 397 days or less. The portfolio shall at all times maintain sufficient liquidity to meet daily withdrawals.

### **Quality and Other Restrictions**

1. All restrictions are based upon percentage of the portfolio holdings on an amortized cost basis.
2. The portfolio must at all times have at least 15.0 percent of the portfolio in treasury securities.
3. No more than 85.0 percent of the portfolio shall be invested in repurchase agreements.
4. Repurchase agreements must be 102 percent collateralized and may only be executed with primary dealers or top tier banks.
5. Securities that fall out of compliance may be held to maturity unless the holding violates state statute or other regulatory guidelines. The Board may require the manager to sell non-compliant assets when the portfolio changes composition.
6. The portfolio may not buy private placements, inverse floaters, or be leveraged in any manner.

## INVESTMENT POOLS

### Consolidated Fund: *Cash Liquidity Pool*

#### Objectives

The Cash Liquidity Pool was created to invest the majority of the state and local government operating funds. The objective of the portfolio is to maintain sufficient liquidity to meet the daily disbursements of the state and participants while earning a small return above inflation. The portfolio is structured as a money market fund where the goal is a stable dollar value per share, thus preserving principal. The risk factor on this portfolio is low and managed through numerous maturity restrictions, diversification guidelines, and credit limits. The participants are paid on an income basis that includes interest income and realized gains and losses.

#### Benchmarks

- For purposes of complying with the exposure limits set forth for this Pool, and for purposes of evaluating investment returns (net of external management fees), the following benchmark will be utilized: the **Salomon 90-day T-bill Index + 15 basis points**.
- For purposes of guiding investment strategy, external managers should also consider the portfolio's comparison to the following benchmarks: The Money Fund Report First Tier Institutional median return, the U.S. Effective Federal Funds Rate, and the inflation rate as defined by the annualized U.S. real GDP deflator (all net of external management fees).

#### Permissible Investments

The following security types are approved for use in the Cash Liquidity Pool:

1. US Treasury Bills, Notes and Bonds issued by the U.S. Treasury or securities issued by securities dealers that are backed by direct U.S. Treasury obligations
2. US Government Agency Bills, Notes and Bonds issued by a U.S. Government Agency (either a federally related institution or a government sponsored enterprise)
3. Certificates of Deposit
4. Commercial Paper (rated A1/P1 or better)
5. Corporate Notes and Bonds
6. Repurchase Agreements
7. Asset-Backed Securities
8. Money Market Funds

(Liquidity and quality will be the dominant characteristics of the holdings. Generally, the Cash Liquidity Pool will be dominated by money market type securities issued by the U.S. Government, its agencies, and U.S. based corporations.)

### **Maturity Restrictions**

The weighted average maturity of the Cash Liquidity Pool shall not exceed of 60 days. The portfolio shall at all times maintain sufficient liquidity to meet daily withdrawals.

### **Quality and Other Restrictions**

1. All restrictions are based upon percentage of the portfolio holdings on an amortized cost basis.
2. The portfolio must at all times have at least 15.0 percent of the portfolio in US Treasury securities.
3. No more than 75.0 percent of the portfolio may be invested in corporate securities.
4. No more than 5.0 percent of the portfolio may be invested in any one corporate name.
5. No more than 10.0 percent of the portfolio may be invested in Yankee issues.
6. No more than 3.0 percent of the portfolio may be invested in any one Yankee name.
7. All domestic corporate and Yankee securities must be rated AA- or higher (or its equivalent).
8. No more than 75.0 percent of the portfolio may be invested in floating rate notes.
9. Floating rate notes shall be based on a money market index. US Government backed floating rate notes shall not have a final maturity longer than 731 days. Floating rate notes not guaranteed by the US Government shall not have a final maturity longer than 397 days.
10. No more than 75.0 percent of the portfolio shall be invested in commercial paper, with a maximum of 50.0 percent of the 75.0 percent restriction in asset-backed commercial paper (max in ABCP = 50% \*75% = 37.5% of portfolio).
11. Commercial paper purchase will be limited to commercial paper with a minimum rating of A1 by Standard & Poor's and P1 by Moody's. The final maturity on commercial paper will be 185 days or less from the date of purchase.
12. No more than 75.0 percent of the portfolio shall be invested in certificates of deposit and the credit rating of the issuing bank must be rated A1/P1 by Standard & Poor's and Moody's.
13. Repurchase agreements must be 102 percent collateralized and may only be executed with primary dealers or top tier banks.
14. A maximum of 37.5 percent of the portfolio may be invested in asset-backed securities and asset-backed commercial paper **combined**, with no more than 20.0 percent of the portfolio invested in asset-backed securities. Asset-backed securities must have a minimum rating of AAA or A1/P1 by Standard and Poor's and Moody's. Furthermore, a maximum of 10.0 percent of the portfolio may be invested in any single issuer name and no more than 5.0 percent may be invested in any single issue. Additionally, for purposes of calculating the weighted average maturity of the portfolio, the average life of the asset-backed security shall be used.
15. Securities that fall out of compliance may be held to maturity unless the holding violates state statute or other regulatory guidelines. The Board may require the manager to sell non-compliant assets when the portfolio changes composition.

16. The portfolio may not buy unregistered securities or private placements with the exception of those securities issued pursuant to the SEC Rule 144A and commercial paper issued pursuant to rule 4(2) of the Securities Act of 1933. No more than 37.5 percent of the portfolio will be invested in 144A securities and commercial paper issued pursuant to Rule 4(2) **combined**.
17. The portfolio may not invest in inverse floaters or be leveraged in any manner.

## INVESTMENT POOLS

### Consolidated Fund: *Enhanced Yield Fund*

#### Objectives

The Enhanced Yield Fund was created to invest restricted moneys of the state, which have a perceived longer-term investment horizon. The goal of the portfolio is to earn an incremental return over the Cash Liquidity Fund with an objective of capital growth rather than current income. The portfolio will strike a monthly NAV value and is structured to allow participants monthly withdrawals and deposits. The risk factor on this portfolio is slightly higher than the Cash Liquidity Fund.

#### Benchmarks

- For purposes of complying with the exposure limits set forth for this Pool, and for purposes of evaluating investment returns (net of external management fees), the following benchmark will be utilized: the Salomon 1-3 Gov/Credit index plus 10 basis points.
- For purposes of guiding investment strategy, external managers should also consider the portfolio's comparison to the following benchmarks: The Money Fund Report First Tier Institutional median return, the U.S Effective Federal Funds Rate, and the inflation rate as defined by the annualized U.S. real GDP deflator (all net of external management fees).

#### Permissible Investments

The following security types are approved for use in the Enhanced Yield Fund:

1. US Treasury Bills, Notes and Bonds issued by the U.S. Treasury or securities issued by securities dealers that are backed by direct U.S. Treasury obligations
2. US Government Agency Bills, Notes and Bonds issued by a U.S. Government Agency (either a federally related institution or a government sponsored enterprise)
3. Certificates of Deposit
4. Commercial Paper (rated A1/P1 or better)
5. Corporate Notes and Bonds
6. Repurchase Agreements
7. Asset-Backed Securities
8. Money Market Funds

(Liquidity and quality will be the dominant characteristics of the holdings. Generally, the Enhanced Yield Fund will be dominated by money market type securities issued by the U.S. Government, it agencies, and U.S. based corporations.)



### **Maturity Restrictions**

The weighted average maturity of the Enhanced Yield Fund shall not exceed 731 days. The final maturity of securities held within the Enhanced Yield Fund shall be five years (1,827 days) provided, however, for purposes of this policy restriction, the “final maturity” for asset-backed securities shall be defined as the average life of the security. The portfolio shall at all times maintain sufficient liquidity to meet monthly withdrawals.

### **Quality and Other Restrictions**

1. All restrictions are based upon percentage of the portfolio holdings on a market value basis at the time of the security’s purchase.
2. The portfolio must at all times have at least 15.0 percent of the portfolio in treasury securities.
3. No more than 75.0 percent of the portfolio may be invested in corporate securities.
4. No more than 5.0 percent of the portfolio may be invested in any one corporate name.
5. No more than 20.0 percent of the portfolio may be invested in Yankee issues.
6. No more than 3.0 percent of the portfolio may be invested in any one Yankee name.
7. All domestic corporate and Yankee securities must be rated A- or higher (or its equivalent).
8. No more than 75.0 percent of the portfolio may be invested in floating rate notes.
9. Floating rate notes shall be based on a money market index and shall not have a final maturity longer than five years.
10. No more than 75.0 percent of the portfolio shall be invested in commercial paper, with a maximum of 50.0 percent of the 75.0 percent restriction in asset-backed commercial paper (max in ABCP =  $50\% * 75\% = 37.5\%$  of portfolio).
11. Commercial paper purchase will be limited to commercial paper with a minimum rating of A1 by Standard & Poor’s and P1 by Moody’s. The final maturity on commercial paper will be 185 days or less from the date of purchase.
12. No more than 50.0 percent of the portfolio shall be invested in certificates of deposit, and the credit rating of the issuing bank must be rated A1/P1 by Standard & Poor’s and Moody’s.
13. Repurchase agreements must be 102 percent collateralized and may only be executed with primary dealers or top tier banks.
14. A maximum of 37.5 percent of the portfolio may be invested in asset-backed securities and asset-backed commercial paper **combined**, with no more than 20.0 percent of the portfolio invested in asset-backed securities. Asset-backed securities must have a minimum rating of AAA or A1/P1 by Standard and Poor’s and Moody’s. Furthermore, a maximum of 10.0 percent of the portfolio may be invested in any single issuer name and no more than 5.0 percent may be invested in any single issue. Additionally, for purposes of calculating the weighted average maturity of the portfolio, the average life of the asset-backed security shall be used.

15. Securities that fall out of compliance may be held to maturity unless the holding violates state statute or other regulatory guidelines. The Board may require the manager to sell non-compliant assets when the portfolio changes composition.
16. The portfolio may not buy unregistered securities or private placements with the exception of those securities issued pursuant to the SEC Rule 144A and commercial paper issued pursuant to rule 4(2) of the Securities Act of 1933. No more than 37.5 percent of the portfolio will be invested in 144A securities and commercial paper issued pursuant to Rule 4(2) **combined**.
17. The portfolio may not invest in inverse floaters or be leveraged in any manner.

## INVESTMENT POOLS

### Consolidated Fund: *Single Agency Funds*

#### **Objectives**

The Single Agency Funds are portfolios set up for individual agencies that cannot commingle their moneys with other investors. The Board does not set objectives for these pools as the purchase of securities is made by the agency. The Board acts only as an advisor and custodian on these accounts.

#### **Benchmarks**

Not applicable.

#### **Permissible Investments**

The following security types are approved for use in the Single Agency Funds.

1. Any security permissible by state law.

#### **Maturity Restrictions**

1. No maturity limits.

## INVESTMENT POOLS

### *Short-Term Pool*

#### **Objectives**

The Short-Term Pool was created to maintain sufficient liquidity to meet the daily disbursements requested by the Participant Plans and to invest any contributions until the time the money is transferred to other asset classes without sustaining capital losses while earning a small return above inflation. The portfolio is structured as a money market fund where the goal is a stable dollar value per share, thus preserving principal. The risk factor on this portfolio is low and managed through numerous maturity restrictions, diversification guidelines, and credit limits. The participants are paid on an income basis that includes interest income and realized gains and losses.

#### **Benchmarks**

- For purposes of complying with the exposure limits set forth for this Pool, and for purposes of evaluating investment returns (net of external management fees), the following benchmark will be utilized: the Salomon 90-day T-bill Index + 15 basis points.
- For purposes of guiding investment strategy, external managers should also consider the portfolio's comparison to the following benchmarks: The Money Fund Report First Tier Institutional median return, the U.S Effective Federal Funds Rate, and the inflation rate as defined by the annualized U.S. real GDP deflator (all net of external management fees).

#### **Permissible Investments**

The following security types are approved for use in the Short-Term Pool:

1. US Treasury Bills, Notes and Bonds issued by the U.S. Treasury or securities issued by securities dealers that are backed by direct U.S. Treasury obligations
2. US Government Agency Bills, Notes and Bonds issued by a U.S. Government Agency (either a federally related institution or a government sponsored enterprise)
3. Certificates of Deposit
4. Commercial Paper (rated A1/P1 or better)
5. Corporate Notes and Bonds
6. Repurchase Agreements
7. Asset-Backed Securities
8. Money Market Funds

(Liquidity and quality will be the dominant characteristics of the holdings. Generally, the Short-Term Pool will be dominated by money market type securities issued by the U.S. Government, its agencies, and U.S. based corporations.)

### **Maturity Restrictions**

The weighted average maturity of the Short-Term Pool shall not exceed of 60 days. The portfolio shall at all times maintain sufficient liquidity to meet daily withdrawals.

### **Quality and Other Restrictions**

1. All restrictions are based upon percentage of the portfolio holdings on an amortized cost basis.
2. The portfolio must at all times have at least 15.0 percent of the portfolio in treasury securities.
3. No more than 75.0 percent of the portfolio may be invested in corporate securities.
4. No more than 5.0 percent of the portfolio may be invested in any one corporate name.
5. No more than 10.0 percent of the portfolio may be invested in Yankee issues.
6. No more than 3.0 percent of the portfolio may be invested in any one Yankee name.
7. All domestic corporate and Yankee securities must be rated AA- or higher (or its equivalent).
8. No more than 75.0 percent of the portfolio may be invested in floating rate notes.
9. Floating rate notes shall be based on a money market index. US Government backed floating rate notes shall not have a final maturity longer than 731 days. Floating rate notes not guaranteed by the US Government shall not have a final maturity longer than 397 days.
10. No more than 75.0 percent of the portfolio shall be invested in commercial paper , with a maximum of 50.0percent of the 75.0 percent restriction in asset-backed commercial paper (max in ABCP = $50\% * 75\% = 37.5\%$  of portfolio).
11. Commercial paper purchase will be limited to commercial paper with a minimum rating of A1 by Standard & Poor's and P1 by Moody's. The final maturity on commercial paper will be 185 days or less from the date of purchase.
12. No more than 75.0 percent of the portfolio shall be invested in certificates of deposit and the credit rating of the issuing bank must be rated A1/P1 by Standard & Poor's and Moody's.
13. Repurchase agreements must be 102 percent collateralized and may only be executed with primary dealers or top tier banks.
14. A maximum of 37.5 percent of the portfolio may be invested in asset-backed securities and asset-backed commercial paper **combined**, with no more than 20.0 percent of the portfolio invested in asset-backed securities.. Asset-backed securities must have a minimum rating of AAA or A1/P1 by Standard and Poor's and Moody's. Furthermore, a maximum of 10.0 percent of the portfolio may be invested in any single issuer name and no more than 5.0 percent may be invested in any single issue. Additionally, for purposes of calculating the weighted average maturity of the portfolio, the average life of the asset-backed security shall be used.

15. Securities that fall out of compliance may be held to maturity unless the holding violates state statute or other regulatory guidelines. The Board may require the manager to sell non-compliant assets when the portfolio changes composition.
16. The portfolio may not buy unregistered securities or private placements with the exception of those securities issued pursuant to the SEC Rule 144A and commercial paper issued pursuant to rule 4(2) of the Securities Act of 1933. No more than 37.5 percent of the portfolio will be invested in 144A securities and commercial paper issued pursuant to Rule 4(2) **combined**.
17. The portfolio may not invest in inverse floaters or be leveraged in any manner.

## INVESTMENT POOLS

### *Fixed Income Pool*

#### Objectives

The main objective for the Fixed Income Pool, which in aggregate comprises a core bond portfolio, is to generate investment income, provide stability, and enhance diversification but not at the expense of total return.

The Fixed Income Pool is comprised of three separate strategic asset classes, which when taken in aggregate enable adequate diversification. These strategic asset classes are listed in the table below along with their strategic benchmark:

| <b>Fixed Income Class</b>  | <b>Strategic Allocation</b> |
|----------------------------|-----------------------------|
| US Investment Grade        | 85.0%                       |
| US High Yield              | 15.0%                       |
| International Fixed Income | 0.0%                        |

The following allocation ranges were approved in November, 2003 in order to provide for asset allocation flexibility by delegating authority to the Allocation Committee consisting of the Executive Director, Chief Investment Officer, and Investment Consultant (individually named) to collectively make decisions based upon market conditions, including, but not limited to, valuation levels, market imbalances, and economic and market expectations. This flexibility allows the Plan(s) to take advantage of changing market conditions. The Board has approved allocation ranges in order to maintain appropriate risk controls.

| <b>Fixed Income Class</b>  | <b>Approved Allocation Range</b> |
|--|----------------------------------|
| US Investment Grade<br>(at least 10% US Treasury and/or US Agency securities at all times) | 80-90%                           |
| US High Yield  | 10-20%                           |
| International Fixed Income*  | 0-10%                            |

*\*Note: The combined allocation of the international developed equity, emerging markets equity, and international fixed income components may not exceed 20% of the Total Plan allocation, as mandated by statute.*

### **Benchmarks**

- The performance of the Fixed Income Pool will be measured against the Salomon Broad Investment Grade Index, and the Pool is expected to outperform this benchmark over three and five year periods, net of external investment management fees.
- The Pool shall seek investment performance that would place it above median versus comparable funds, measured over three and five year periods.

### **Permissible Investments**

The following security types are approved for use in the Fixed Income Pool:

1. US Treasury Bills, Notes and Bonds issued by the U.S. Treasury or securities issued by securities dealers that are backed by direct U.S. Treasury obligations
2. US Government Agency Bills, Notes and Bonds issued by a U.S. Government Agency (either a federally related institution or a government sponsored enterprise)
3. Corporate Notes and Bonds
4. Convertible Bonds (that trade in line with the underlying bond value)
5. Listed Fixed Income Mutual Funds (or unit of Commingled Trust Funds)
6. Fixed Income Futures Contracts, Options, Swaps, Currency Forwards, and Mortgage Derivatives when used in compliance with the WVIMB Derivatives Use Policy
7. Money Market Funds
8. Mortgage-Backed Securities (both pass-through and structured products)
9. Asset-Backed Securities
10. Trust Preferred Securities
11. Yankee Bonds
12. Rule 144-A Private Placements
13. Certificates of Deposit
14. Repurchase Agreements
15. Commercial Paper (rated A1/P1 or better)

(Generally, the Pool will be dominated by fixed income securities issued by the U.S. Government, its agencies, and U.S.-based corporations.)

### **Quality and Other Restrictions**

1. All restrictions are based upon percentage of the portfolio holdings on a market value basis at the time of the security's purchase.



2. No more than 5.0 percent of the portfolio may be invested in any one corporate name.
3. If more than 3.0 percent of the portfolio is invested in a single corporate name, the security must be rated AA- or higher (or its equivalent).
4. No more than 25.0 percent of the portfolio may be invested in floating rate notes.
5. No more than 25.0 percent of the portfolio shall be invested in commercial paper.
6. No more than 25.0 percent of the portfolio may be invested in Yankee Bonds, and must be rated A or better.
7. No more than 50.0 percent of the portfolio may be invested in asset-backed securities, and must be rated A or better.
8. The overall dollar-average quality rating of the bond fund will be AA- or higher and will comply with the constraints of this section. Individually managed portfolios may vary from this requirement as outlined under the manager investment guidelines.
9. All corporate notes and bonds must be rated B3 and/or B- or better by Standard & Poor's and Moody's respectively. Split-rated issues will be classified using the lower of the two ratings.
10. Convertible bonds must be rated Baa3 and/or BBB- or better by Standard & Poor's and Moody's. The maximum investment in convertible bonds and adjustable rate preferred stocks (total joint allocation) will be limited to 10 percent of any fixed income portfolio.
11. A maximum of 10.0 percent of the Fixed Income Pool may be invested in Rule 144-A private placements. (Issues which are rated by two prominent rating agencies, such as Standard & Poor's and Moody's, are classified as corporate issues and are not subject to the 10.0 percent constraint of Rule 144-A private placements.)
12. Equity securities are not permitted, which includes convertible bonds that have converted to equity securities.
13. Securities that fall out of compliance may be held to maturity unless the holding violates state statute or other regulatory guidelines. The Board may require the manager to sell non-compliant assets when the portfolio changes composition.
14. Each Manager is further restricted to the types of fixed income securities outlined in their specific guidelines, contained in Appendix D.

## INVESTMENT POOLS

### *Equity Pool*

#### A. Objective

1. The main objective for the Equity Pool is to provide for long-term growth for all participants.
2. The Equity Pool is comprised of five separate strategic asset classes, which when taken in aggregate enable adequate diversification. These strategic asset classes are listed in the table below along with their strategic benchmark:

| <b>Equity Class</b>                     | <b>Strategic Allocation</b> |
|---|-----------------------------|
| Domestic Large Capitalization           | 40.0%                       |
| Domestic Non-Large Capitalization Core  | 10.0%                       |
| Domestic Non-Large Capitalization Value | 20.0%                       |
| International Developed                 | 25.0%                       |
| Emerging Markets                        | 5.0%                        |

3. The following allocation ranges were approved in November, 2003 in order to provide for asset allocation flexibility by delegating authority to the Allocation Committee consisting of the Executive Director, Chief Investment Officer, and Investment Consultant (individually named) to collectively make decisions based upon market conditions, including, but not limited to, valuation levels, market imbalances, and economic and market expectations. This flexibility allows the Plan(s) to take advantage of changing market conditions. The Board has approved allocation ranges in order to maintain appropriate risk controls.

| <b>Sub-Asset Class</b>       | <b>Approved Allocation Range</b> |
|------------------------------|----------------------------------|
| Domestic Large Cap           | 30-50%                           |
| Domestic Non Large Cap Core  | 5-20%                            |
| Domestic Non Large Cap Value | 10-30%                           |
| International Developed*     | 15-35%                           |
| Emerging Markets*            | 0-10%                            |

*\*Note: The combined allocation of the international developed equity, emerging markets equity, and international fixed income components may not exceed 20% of the Total Plan allocation, as mandated by statute.*

The objective of the Equity pool is to outperform a customized equity benchmark over a full market cycle (3 to 5 years), net of external investment management fees. The customized benchmark will be comprised of 40 percent S&P 500, 30 percent Russell 2500, and 30 percent MSCI ACWI – ex U.S. *In addition, the Equity Pool shall seek investment performance that would place it above median versus comparable funds, measured over three and five year periods.*

The objective of the Large Cap component is to equal or exceed the large capitalization equity market (net of external investment management fees) as measured by the S&P 500 Stock Index over a full market cycle (3 to 5 years). Given the belief that the large capitalization equity market is very efficient, a significant portion of this Component will be passively managed. The Large Cap Component may also have an active component, in which advisors manage active portfolios in an attempt to increase the return of the Large Cap Component.

The objective of the Non-Large Cap component is to outperform the small capitalization equity market (net of external investment management fees) as measured by the Russell 2500 Index over a full market cycle (3 to 5 years). Given the belief that inefficiencies exist within the small cap market, a significant portion of this Component will be actively managed. The small cap allocation will generally be split between a structured value strategy and an active strategy.

The objective of the International Equity component is to outperform the international equity market (net of external investment management fees) as measured by the MSCI ACWI ex-U.S. Index (capitalization weighted) over a full market cycle (3 to 5 years). Given the belief that substantial inefficiencies exist within the international equity market, it is anticipated that the entire International Component be actively managed. Furthermore, a portion of the International Component may be invested in the emerging markets.

In the absence of a statutory definition for the term “international,” the Board has adopted the following definition:

An “international security” means a security, the trading of which occurs neither in whole nor in part in United States currency.

Each equity component will be diversified according to economic sector, industry, number of holdings and other investment characteristics. However, it is recognized that in order to achieve its investment objective, the actively managed portion of each component may not be fully diversified.

## B. Permitted Holdings

These security types are approved for use within the Equity Pool:

1. Domestic and Non-U.S. Common and Preferred Stocks and Warrants

2. Convertible Bonds and Adjustable Rate Preferred Stocks
  3. Equity Futures Contracts, Options, and Currency Forwards, when used in compliance with the WVIMB Derivatives Use Policy
  4. Mutual Fund Shares or Units of Commingled Trust Funds, Including Country Funds – In instances where commingled funds are utilized, the commingled fund’s deed of trust or prospectus takes precedence over the Investment Policy document. However, commingled funds will be specifically selected on the basis of their consistency with the Investment Policy document.
  5. Money Market Instruments or Other Cash Equivalents.
  6. Securities Eligible for the Short-Term Pool.
- C. Quality and Other Restrictions
1. Decisions as to individual security selection, security size and quality, number of industries and holdings, current income levels, and turnover are left to broad manager discretion. This discretion is subject to the usual standards of fiduciary prudence and quality and other restrictions as set forth in the “Investment Manager Policies and Guidelines” section of the Appendix. Furthermore, the following broad restrictions apply to the Equity Pool:
    - a. Cash shall be “swept” into a predetermined vehicle.
    - b. A maximum of 5.0 percent of an Investment Manager’s portfolio may be invested in any one Company, unless specifically authorized otherwise.
    - c. Investment Managers may invest in cash equivalents, adjustable rate preferred stocks or convertible bonds, with the understanding that performance will be measured against the benchmark stock index. Domestic Managers are limited to 3.0 percent, and International Managers are limited to 10.0 percent, or less, by Contract.
    - d. The use of derivatives will be restricted to hedging purposes only. Leveraged derivatives and derivatives used for speculative investments are prohibited.
  2. Each Manager is further restricted to the types of equity securities outlined in their specific guidelines, contained in Appendix D.

*Investment Manager Policies and  
Guidelines*

## **LARGE CAPITALIZATION DOMESTIC EQUITY MANAGER POLICY**

### **Investment Manager Policies and Guidelines** *Alliance Capital Management, L.P.*

#### **Policy:**

The portfolio under the supervision of Alliance Capital Management is intended to be a concentrated domestic equity portfolio. It is the Board of Trustees' policy to allocate a portion of the domestic, large capitalization component of the Equity Pool to actively managed concentrated portfolios.

Alliance Capital Management is one of two active large cap concentrated managers employed by the Fund. Alliance Capital Management has been hired to pursue an investment style which the Board has defined as a large cap concentrated growth domestic equity style. Alliance Capital Management is expected to produce investment returns that exceed the Russell 1000 Growth Index by 200 basis points on an annualized basis over rolling three-to-five year periods, net of fees.

#### **Guidelines:**

- A. The portfolio is to be a large cap domestic equity-oriented portfolio. Alliance Capital Management may purchase short-term cash equivalent instruments which, for the purpose of measurement, will be treated as equity reserves, not as fixed income securities. Convertibles are also permissible, however, they will be treated as equities as well.
- B. It is Alliance Capital Management's decision as to whether or not to utilize the Short-Term Investment Fund offered by the Fund's custodian, or another cash equivalent vehicle, and in doing so, is responsible for assessing the credit worthiness and relative return attractiveness of each cash equivalent fund used.
- C. While Alliance Capital Management will be running a concentrated portfolio, Alliance Capital Management will adhere to the following limitations in order to avoid undue risk inherent in non-diversified holdings.
  - 1. All restrictions are based upon percentage of the portfolio holdings on a market value basis at the time of the security's purchase.
  - 2. All equity investments should emphasize quality and good marketability.
  - 3. Market capitalization should be at least \$500 million for each security held.
  - 4. No more than 10.0 percent of the equity portfolio may be invested in securities of any one issuing corporation.

5. The portfolio shall hold a minimum of ten stocks and a maximum of thirty stocks.
  6. Investments in any corporation may not exceed 5.0 percent of the outstanding shares of that corporation.
  7. No more than 50.0 percent of the portfolio may be invested in a single sector.
- D. The portfolio performance will be measured on a total return basis which includes both income and change in market value.
- E. Alliance Capital Management will be reviewed quarterly based on the following characteristics:
1. Adherence to style risk assignment.
  2. Value-added over the Russell 1000 Growth Index, net of external investment management fees.
  3. The value-added over similar investment managers.
- F. The following investment activities are prohibited in the Alliance Capital Management portfolio:
1. Short sales, margin purchases or borrowing,
  2. Private placements or restricted securities, except those under Rule 144A,
  3. Futures, options, except those used for bona fide hedging purposes,
  4. Warrants or other options except when acquired as part of purchased security,
  5. Commodities,
  6. Direct purchases of real estate, and
  7. Foreign securities, unless they are listed or registered on a domestic exchange and are denominated in U.S. Dollars. A maximum of 20.0 percent of the portfolio value may be invested in ADRs or foreign securities listed on U.S. exchanges.
- G. The portfolio will comply with all federal and state laws and any restrictions imposed by this Board.

These guidelines are not to be construed as restrictive to Alliance Capital Management's ability to follow the strategies they consider are the most appropriate given the Board's directive, but rather as an exercise of the Board's fiduciary responsibility. If at any time Alliance Capital Management feels that these instructions are unrealistic, or may be a hindrance in pursuing their investment style, Staff and the Board are to be notified immediately in writing.

**Reporting Requirements:**

- A. Written summary reports of transactions, month-end market values, and monthly rates of return are to be provided to Staff within seven business days after the close of each month's business activity.
  - 1. For separate accounts, it is the responsibility of the investment manager to reconcile any pricing discrepancies between the manager's pricing service and the pricing services utilized by the West Virginia Investment Management Board. If pricing discrepancies have not been reconciled by the first business day following month-end, West Virginia Investment Management Board's pricing service shall be used in calculating performance.
  
- B. Significant changes in strategy are to be reported to Staff in writing as they occur. A significant change is defined as follows.
  - 1. An allocation to cash or cash equivalents that exceeds 3.0 percent over any rolling thirty-day period.
  - 2. A meaningful deviation from the investment guidelines communicated to the Board at the time of hiring or from the guidelines herein.

The investment manager hereby acknowledges that it is a fiduciary and accepts delegation of fiduciary duty by the Board to the Manager with respect to the Plan's assets under its discretion or control.

**Investment Manager:** Alliance Capital Management, L.P.

**Representative:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_



## LARGE CAPITALIZATION DOMESTIC EQUITY MANAGER POLICY

### Investment Manager Policies and Guidelines *Chartwell Investment Partners*

#### **Policy:**

The portfolio under the supervision of Chartwell Investment Partners is intended to be a concentrated domestic equity portfolio. It is the Board of Trustees' policy to allocate a portion of the domestic, large capitalization component of the Equity Pool to actively managed concentrated portfolios.

Chartwell Investment Partners is one of two active large cap concentrated managers employed by the Fund. Chartwell Investment Partners has been hired to pursue an investment style which the Board has defined as a large cap concentrated value domestic equity style. Chartwell Investment Partners is expected to produce investment returns that exceed the Russell 1000 Value Index by 200 basis points on an annualized basis over rolling three-to-five year periods, net of fees.

#### **Guidelines:**

- A. The portfolio is to be a large cap domestic equity-oriented portfolio. Chartwell Investment Partners may purchase short-term cash equivalent instruments which, for the purpose of measurement, will be treated as equity reserves, not as fixed income securities. Convertibles are also permissible, however, they will be treated as equities as well.
- B. It is Chartwell Investment Partners' decision as to whether or not to utilize the Short-Term Investment Fund offered by the Fund's custodian, or another cash equivalent vehicle, and in doing so, is responsible for assessing the credit worthiness and relative return attractiveness of each cash equivalent fund used.
- C. While Chartwell Investment Partners will be running a concentrated portfolio, Chartwell Investment Partners will adhere to the following limitations in order to avoid undue risk inherent in non-diversified holdings.
  1. All restrictions are based upon percentage of the portfolio holdings on a market value basis at the time of the security's purchase.
  2. All equity investments should emphasize quality and good marketability.
  3. Market capitalization should be at least \$500 million for each security held.
  4. No more than 10.0 percent of the equity portfolio may be invested in securities of any one issuing corporation.

5. The portfolio shall hold a minimum of ten stocks and a maximum of thirty stocks.
  6. Investments in any corporation may not exceed 5.0 percent of the outstanding shares of that corporation.
  7. No more than 50.0 percent of the portfolio may be invested in a single sector.
- D. The portfolio performance will be measured on a total return basis which includes both income and change in market value.
- E. Chartwell Investment Partners will be reviewed quarterly based on the following characteristics:
1. Adherence to style risk assignment.
  2. Value-added over the Russell 1000 Value Index, net of external investment management fees.
  3. The value-added over similar investment managers.
- F. The following investment activities are prohibited in the Chartwell Investment Partners portfolio:
1. Short sales, margin purchases or borrowing,
  2. Private placements or restricted securities, except those under Rule 144A,
  3. Futures, options, except those used for bona fide hedging purposes,
  4. Warrants or other options except when acquired as part of purchased security,
  5. Commodities,
  6. Direct purchases of real estate, and
  7. Foreign securities, unless they are listed or registered on a domestic exchange and are denominated in U.S. Dollars. A maximum of 20.0 percent of the portfolio value may be invested in ADRs or foreign securities listed on U.S. exchanges.
- G. The portfolio will comply with all federal and state laws and any restrictions imposed by this Board.

These guidelines are not to be construed as restrictive to Chartwell Investment Partners' ability to follow the strategies they consider are the most appropriate given the Board's directive, but rather as an exercise of the Board's fiduciary responsibility. If at any time Chartwell Investment Partners feels that these instructions are unrealistic, or may be a hindrance in pursuing their investment style, Staff and the Board are to be notified immediately in writing.

**Reporting Requirements:**

- A. Written summary reports of transactions, month-end market values, and monthly rates of return are to be provided to Staff within seven business days after the close of each month's business activity.
  - 1. For separate accounts, it is the responsibility of the investment manager to reconcile any pricing discrepancies between the manager's pricing service and the pricing services utilized by the West Virginia Investment Management Board. If pricing discrepancies have not been reconciled by the first business day following month-end, West Virginia Investment Management Board's pricing service shall be used in calculating performance.
  
- B. Significant changes in strategy are to be reported to Staff in writing as they occur. A significant change is defined as follows.
  - 1. An allocation to cash or cash equivalents that exceeds 3.0 percent over any rolling thirty-day period.
  - 2. A meaningful deviation from the investment guidelines communicated to the Board at the time of hiring or from the guidelines herein.

The investment manager hereby acknowledges that it is a fiduciary and accepts delegation of fiduciary duty by the Board to the Manager with respect to the Plan's assets under its discretion or control.

**Investment Manager:** Chartwell Investment Partners

**Representative:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## **LARGE CAPITALIZATION DOMESTIC EQUITY MANAGER POLICY**

### **Investment Manager Policies and Guidelines** *State Street Global Advisors*

#### **Policy:**

The portfolio under the supervision of State Street Global Advisors is intended to be a domestic equity portfolio. It is the Board of Trustees' policy to allocate a portion of the domestic, large capitalization component of the Equity Pool to an enhanced passively managed portfolio.

State Street has been hired to pursue an investment style that the Board has defined as a large cap enhanced passive core domestic equity. State Street is expected to produce investment returns that exceed the S&P 500 by 100 basis points on an annualized basis over rolling three-year to 5-year periods, net of fees.

#### **Guidelines:**

- A. The portfolio is to be a large cap domestic equity-oriented portfolio. State Street may purchase short-term cash equivalent instruments, which for the purpose of measurement, will be treated as equity reserves, not as fixed income securities.
- B. It is State Street's decision as to whether or not to utilize the Short-Term Investment Fund offered by the Fund's custodian, or another cash equivalent vehicle, and in doing so, is responsible for assessing the credit worthiness and relative return attractiveness of each cash equivalent fund used.
- C. The portfolio will be adequately diversified regarding individual securities and sectors to avoid the undue risk inherent in non-diversified holdings. In addition, State Street will adhere to the following limitations.
  1. The portfolio shall be invested only in securities within the S&P 500.
  2. Security weightings may not differ by more than 100 basis points from the weighting of that security in the S&P 500 Index at the time of purchase.
  3. Sector weightings typically may not differ by more than 50 basis points from the weighting of that sector in the S&P 500 Index at the time of purchase.
  4. In order to produce a fully invested portfolio and/or provide immediate market exposure or cash liquidity for monthly rebalancing cash flows, the portfolio may hold up to 10% of its value in S&P 500 futures contracts or S&P 500 SPDRs, unless the client contributes or withdraws more than 10% of the fund's value, in which case the fund may fully hedge that exposure until the transaction is complete.

- D. The portfolio performance will be measured on a total return basis that includes both income and change in market value.
- E. State Street will be reviewed quarterly based on the following characteristics:
  - 1. Adherence to style risk assignment.
  - 2. The predicted tracking error versus the S&P 500 Index should typically be less than 125 basis points.
- F. The following investment activities are prohibited in the State Street portfolio:
  - 1. Short sales, margin purchases or borrowing,
  - 2. Private placements or restricted securities, except those under Rule 144A,
  - 3. Warrants or other options except when acquired as part of purchased security,
  - 4. Commodities,
  - 5. Direct purchases of real estate, and
- G. The portfolio will comply with all federal and state laws and any restrictions imposed by this Board.

These guidelines are not to be construed as restrictive to State Street's ability to follow the strategies they consider are the most appropriate given the Board's directive, but rather as an exercise of the Board's fiduciary responsibility. If at any time State Street feels that these instructions are unrealistic, or may be a hindrance in pursuing their investment style, Staff and the Board are to be notified immediately in writing.

**Reporting Requirements:**

- A. Written summary reports of transactions, month-end market values, and monthly rates of return are to be provided to Staff within seven business days after the close of each month's business activity.
  - 1. For separate accounts, it is the responsibility of the investment manager to reconcile any pricing discrepancies between the manager's pricing service and the pricing services utilized by the West Virginia Investment Management Board. If pricing discrepancies have not been reconciled by the first business day following month-end, West Virginia Investment Management Board's pricing service shall be used in calculating performance.
  - 2. State Street shall notify the Board should the portfolio's allocation to ADRs or foreign securities listed on U.S. exchanges ever exceed 10.0 percent.

- B. Significant changes in strategy are to be reported to Staff in writing before they occur. A significant change is defined as follows.
1. An allocation to cash or cash equivalents that exceeds 3.0 percent over any rolling thirty-day period, excluding any cash or cash equivalent investment necessary to maintain an S&P 500 futures position allowable in Section C above.
  2. A meaningful deviation from the investment guidelines communicated to the Board at the time of hiring or from the guidelines herein.

The investment manager hereby acknowledges that it is a fiduciary and accepts delegation of fiduciary duty by the Board to the Manager with respect to the Plan's assets under its discretion or control.

**Investment Manager:** State Street Global Advisors

**Representative:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## NON-LARGE CAPITALIZATION DOMESTIC EQUITY MANAGER POLICY

### Investment Manager Policies and Guidelines *Aronson + Partners*

#### **Policy:**

The portfolio under the supervision of Aronson + Partners is intended to be a domestic equity portfolio. It is the Board of Trustees' policy to allocate a portion of the domestic, non-large capitalization component of the Equity Pool to actively managed portfolios.

Aronson + Partners is one of three active non-large cap managers employed by the Fund. Aronson + Partners has been hired to pursue an investment style which the Board has defined as a non-large cap relative value domestic equity style. Aronson + Partners is expected to produce investment returns that exceed the Russell 2500 Value Index by 200 basis points on an annualized basis over rolling three-to-five year periods, net of fees.

#### **Guidelines:**

- A. The portfolio is to be a non-large cap domestic equity-oriented portfolio. Aronson + Partners may purchase short-term cash equivalent instruments which, for the purpose of measurement, will be treated as equity reserves, not as fixed income securities. Convertibles are also permissible, however, they will be treated as equities as well.
- B. It is Aronson + Partner's decision as to whether or not to utilize the Short-Term Investment Fund offered by the Fund's custodian, or another cash equivalent vehicle, and in doing so, is responsible for assessing the credit worthiness and relative return attractiveness of each cash equivalent fund used.
- C. The portfolio will be adequately diversified according to the internal policies established by Aronson + Partners regarding individual securities and industries to avoid the undue risk inherent in non-diversified holdings.
  1. All equity investments should emphasize quality, income-producing companies of good marketability.
  2. Market capitalization should be at least \$50 million for each security held, at the time of purchase.
  3. No more than 10.0 percent of the portfolio shall have a market capitalization in excess of the largest capitalization stock within the benchmark.
  4. No more than 5.0 percent of the equity portfolio may be invested in securities of any one issuing corporation at the time of purchase.
  5. Investments in any corporation may not exceed 5.0 percent of the outstanding shares of that corporation at the time of purchase.
  6. The portfolio's allocation to any sector may not exceed the greater of 40.0 percent of the portfolio or 110.0 percent of the benchmark's sector allocation.

- D. The portfolio performance will be measured on a total return basis, which includes both income and change in market value.
- E. Aronson + Partners will be reviewed quarterly based on the following characteristics:
  - 1. Adherence to style risk assignment.
  - 2. Value-added over the Russell 2500 Value Index, net of external investment management fees.
  - 3. The value-added over similar investment managers.
- F. The following investment activities are prohibited in the Aronson + Partners portfolio:
  - 1. Short sales, margin purchases or borrowing,
  - 2. Private placements or restricted securities, except those under Rule 144A,
  - 3. Futures, options, except those used for bona fide hedging purposes.
  - 4. Warrants or other options except when acquired as part of purchased security,
  - 5. Commodities,
  - 6. Direct purchases of real estate, and
  - 7. Foreign securities, unless they are listed or registered on a domestic exchange and are denominated in U.S. Dollars. A maximum of 10.0 percent of the portfolio value may be invested in ADRs or foreign securities listed on U.S. exchanges.
- G. The portfolio will comply with all federal and state laws and any restrictions imposed by this Board.

These guidelines are not to be construed as restrictive to Aronson + Partners' ability to follow the strategies they consider are the most appropriate given the Board's directive, but rather as an exercise of the Board's fiduciary responsibility. If at any time Aronson + Partners feels that these instructions are unrealistic, or may be a hindrance in pursuing their investment style, Staff and the Board are to be notified immediately in writing.



**Reporting Requirements:**

- A. Written summary reports of transactions, month-end market values, and monthly rates of return are to be provided to Staff within seven business days after the close of each month's business activity.
  - 1. For separate accounts, it is the responsibility of the investment manager to reconcile any pricing discrepancies between the manager's pricing service and the pricing services utilized by the West Virginia Investment Management Board. If pricing discrepancies have not been reconciled by the first business day following month-end, West Virginia Investment Management Board's pricing service shall be used in calculating performance.
  
- B. Significant changes in strategy are to be reported to Staff in writing as they occur. A significant change is defined as follows.
  - 1. An allocation to cash or cash equivalents that exceeds 3.0 percent over any rolling thirty-day period.
  - 2. A meaningful deviation from the investment guidelines communicated to the Board at the time of hiring or from the guidelines herein.

The investment manager hereby acknowledges that it is a fiduciary and accepts delegation of fiduciary duty by the Board to the Manager with respect to the Plan's assets under its discretion or control.

**Investment Manager:** Aronson + Partners

**Representative:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## NON-LARGE CAPITALIZATION DOMESTIC EQUITY MANAGER POLICY

### **Investment Manager Policies and Guidelines** *Brandywine Asset Management, Inc.*

#### **Policy:**

The portfolio under the supervision of Brandywine Asset Management, Inc. is intended to be a domestic equity portfolio. It is the Board of Trustees' policy to allocate a portion of the domestic, non-large capitalization component of the Equity Pool to actively managed portfolios.

Brandywine Asset Management, Inc. is one of four active non-large cap managers employed by the Fund. Brandywine Asset Management, Inc. has been hired to pursue an investment style which the Board has defined as a structured non-large cap value domestic equity style which emphasizes value added through the manager's trading expertise. Brandywine Asset Management, Inc. is expected to produce investment returns that exceed the Russell 2500 Value Index by 200 basis points on an annualized basis over rolling three-to-five year periods, net of fees.

#### **Guidelines:**

- A. The portfolio is to be a non-large cap domestic equity-oriented portfolio. Brandywine Asset Management, Inc. may purchase short-term cash equivalent instruments which, for the purpose of measurement, will be treated as equity reserves, not as fixed income securities. Convertibles are also permissible, however, they will be treated as equities as well.
- B. It is Brandywine's decision as to whether or not to utilize the Short-Term Investment Fund offered by the Fund's custodian, or another cash equivalent vehicle, and in doing so, is responsible for assessing the credit worthiness and relative return attractiveness of each cash equivalent fund used.
- C. The portfolio will be adequately diversified according to the internal policies established by Brandywine Asset Management, Inc. regarding individual securities and industries to avoid the undue risk inherent in non-diversified holdings.
  1. All equity investments should emphasize quality, income-producing companies of good marketability.
  2. Market capitalization should be at least \$50 million for each security held, at the time of purchase.
  3. No more than 10.0 percent of the portfolio shall have a market capitalization in excess of the largest capitalization stock within the benchmark.
  4. No more than 5.0 percent of the equity portfolio may be invested in securities of any one issuing corporation at the time of purchase.
  5. Investments in any corporation may not exceed 5.0 percent of the outstanding shares of that corporation at the time of purchase.

6. No more than 25 percent of the portfolio may be invested in a single industry, as defined by SIC code.
- D. The portfolio performance will be measured on a total return basis, which includes both income and change in market value.
  - E. Brandywine Asset Management, Inc. will be reviewed quarterly based on the following characteristics:
    1. Adherence to style risk assignment.
    2. Value-added over the Russell 2500 Value Index, net of external investment management fees.
    3. The value-added over similar investment managers.
  - F. The following investment activities are prohibited in the Brandywine Asset Management, Inc. portfolio:
    1. Short sales, margin purchases or borrowing,
    2. Private placements or restricted securities, except those under Rule 144A,
    3. Futures, options, except those used for bona fide hedging purposes, as described in the WVIMB Derivatives Use Policy.
    4. Warrants or other options except when acquired as part of purchased security,
    5. Commodities,
    6. Direct purchases of real estate, and
    7. Foreign securities, unless they are listed or registered on a domestic exchange and are denominated in U.S. Dollars. A maximum of 10.0 percent of the portfolio value may be invested in ADRs or foreign securities listed on U.S. exchanges.
  - G. The portfolio will comply with all federal and state laws and any restrictions imposed by this Board.

These guidelines are not to be construed as restrictive to Brandywine Asset Management, Inc.' ability to follow the strategies they consider are the most appropriate given the Board's directive, but rather as an exercise of the Board's fiduciary responsibility. If at any time Brandywine Asset Management, Inc. feels that these instructions are unrealistic, or may be a hindrance in pursuing their investment style, Staff and the Board are to be notified immediately in writing.

**Reporting Requirements:**

- A. Written summary reports of transactions, month-end market values, and monthly rates of return are to be provided to Staff within seven business days after the close of each month's business activity.
  - 1. For separate accounts, it is the responsibility of the investment manager to reconcile any pricing discrepancies between the manager's pricing service and the pricing services utilized by the West Virginia Investment Management Board. If pricing discrepancies have not been reconciled by the first business day following month-end, West Virginia Investment Management Board's pricing service shall be used in calculating performance.
  
- B. Significant changes in strategy are to be reported to Staff in writing as they occur. A significant change is defined as follows.
  - 1. An allocation to cash or cash equivalents that exceeds 3.0 percent over any rolling thirty-day period.
  - 2. A meaningful deviation from the investment guidelines communicated to the Board at the time of hiring or from the guidelines herein.

The investment manager hereby acknowledges that it is a fiduciary and accepts delegation of fiduciary duty by the Board to the Manager with respect to the Plan's assets under its discretion or control.

**Investment Manager:** Brandywine Asset Management, Inc.

**Representative:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## NON-LARGE CAPITALIZATION DOMESTIC EQUITY MANAGER POLICY

### **Investment Manager Policies and Guidelines** *Wellington Management Company, L.L.P.*

#### **Policy:**

The portfolio under the supervision of Wellington Management Company is intended to be a domestic equity portfolio. It is the Board of Trustees' policy to allocate a portion of the domestic, non-large capitalization component of the Equity Pool to actively managed portfolios.

Wellington Management Company is one of three active non-large cap managers employed by the Fund. Wellington Management Company has been hired to pursue an investment style, which the Board has defined as a non-large cap core domestic equity style. Wellington Management Company is expected to produce investment returns that exceed the Russell 2500 Index by 200 basis points on an annualized basis over rolling three-to-five year periods, net of fees.

#### **Guidelines:**

- A. The portfolio is to be a non-large cap domestic equity-oriented portfolio. Wellington Management Company may purchase short-term cash equivalent instruments which, for the purpose of measurement, will be treated as equity reserves, not as fixed income securities. Convertibles are also permissible, however, they will be treated as equities as well.
- B. It is Wellington Management Company's decision as to whether or not to utilize the Short-Term Investment Fund offered by the Fund's custodian, or another cash equivalent vehicle, and in doing so, is responsible for assessing the credit worthiness and relative return attractiveness of each cash equivalent fund used.
- C. The portfolio will be adequately diversified according to the internal policies established by Wellington Management Company regarding individual securities and industries to avoid the undue risk inherent in non-diversified holdings.
  1. All equity investments should emphasize quality, income-producing companies of good marketability.
  2. Market capitalization should be at least \$50 million for each security held, at the time of purchase.
  3. No more than 10.0 percent of the portfolio shall have a market capitalization in excess of the largest capitalization stock within the benchmark.

4. No more than 5.0 percent of the equity portfolio may be invested in securities of any one issuing corporation at the time of purchase.
  5. Investments in any corporation may not exceed 5.0 percent of the outstanding shares of that corporation at the time of purchase.
  6. The portfolio's industry weights shall deviate by no more than 3.0 percent relative to the Russell 2500 benchmark.
- D. The portfolio performance will be measured on a total return basis which includes both income and change in market value.
- E. Wellington Management Company will be reviewed quarterly based on the following characteristics:
1. Adherence to style risk assignment.
  2. Value-added over the Russell 2500 Index, net of external investment management fees.
  3. The value-added over similar investment managers.
- F. The following investment activities are prohibited in the Wellington Management Company portfolio:
1. Short sales, margin purchases or borrowing,
  2. Private placements or restricted securities, except those under Rule 144A,
  3. Futures, options, except those used for bona fide hedging purposes.
  4. Warrants or other options except when acquired as part of purchased security,
  5. Commodities,
  6. Direct purchases of real estate, and
  7. Foreign securities, unless they are listed or registered on a domestic exchange and are denominated in U.S. Dollars. A maximum of 10.0 percent of the portfolio value may be invested in ADRs or foreign securities listed on U.S. exchanges.
- G. The portfolio will comply with all federal and state laws and any restrictions imposed by this Board.
- H. Wellington Management Company will utilize both the Intersection Quantitative Mid Cap product and the Small Cap 2000 product to manage the WVIMB portfolio. These products will be weighted in such a manner as to reflect the capitalization structure of the Russell 2500 benchmark.

These guidelines are not to be construed as restrictive to Wellington Management Company's ability to follow the strategies they consider are the most appropriate given the Board's directive, but rather as an exercise of the Board's fiduciary responsibility. If at any time Wellington Management Company feels that these instructions are unrealistic, or may be a hindrance in pursuing their investment style, Staff and the Board are to be notified immediately in writing.

**Reporting Requirements:**

- A. Written summary reports of transactions, month-end market values, and monthly rates of return are to be provided to Staff within seven business days after the close of each month's business activity.
  - 1. For separate accounts, it is the responsibility of the investment manager to reconcile any pricing discrepancies between the manager's pricing service and the pricing services utilized by the West Virginia Investment Management Board. If pricing discrepancies have not been reconciled by the first business day following month-end, West Virginia Investment Management Board's pricing service shall be used in calculating performance.
- B. Significant changes in strategy are to be reported to Staff in writing as they occur. A significant change is defined as follows.
  - 1. An allocation to cash or cash equivalents that exceeds 3.0 percent over any rolling thirty-day period.
  - 2. A meaningful deviation from the investment guidelines communicated to the Board at the time of hiring or from the guidelines herein.

The investment manager hereby acknowledges that it is a fiduciary and accepts delegation of fiduciary duty by the Board to the Manager with respect to the Plan's assets under its discretion or control.

**Investment Manager:** Wellington Management Company, L.L.P.

**Representative:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## NON-LARGE CAPITALIZATION DOMESTIC EQUITY MANAGER POLICY

### **Investment Manager Policies and Guidelines** *Westfield Capital Management Company, LLC*

#### **Policy:**

The portfolio under the supervision of Westfield Capital Management Company, LLC is intended to be a domestic equity portfolio. It is the Board of Trustees' policy to allocate a portion of the domestic, non-large capitalization component of the Equity Pool to actively managed portfolios.

Westfield Capital Management Company, LLC is one of four active non-large managers employed by the Fund. Westfield Capital Management Company, LLC has been hired to pursue an investment style which the Board has defined as a small/mid cap growth domestic equity style. Westfield Capital Management Company, LLC is expected to produce investment returns that exceed the Russell 2500 Growth Index by 200 basis points on an annualized basis over rolling three-to-five year periods, net of fees.

#### **Guidelines:**

- A. The portfolio is to be a small/mid cap domestic equity-oriented portfolio. Westfield Capital Management Company, LLC may purchase short-term cash equivalent instruments that, for the purpose of measurement, will be treated as equity reserves, not as fixed income securities. Convertibles are also permissible, however, they will be treated as equities as well.
- B. It is Westfield Capital Management Company, LLC's decision as to whether or not to utilize the Short-Term Investment Fund offered by the Fund's custodian, or another cash equivalent vehicle, and in doing so, is responsible for assessing the credit worthiness and relative return attractiveness of each cash equivalent fund used.
- C. The portfolio will be adequately diversified according to the internal policies established by Westfield Capital Management Company, LLC regarding individual securities and industries, seeking to avoid the undue risk inherent in non-diversified holdings.
  1. All equity investments should emphasize quality and good liquidity.
  2. Market capitalization should be at least \$50 million for each security held, at the time of purchase.
  3. No more than 5.0 percent of the equity portfolio may be invested in securities of any one issuing corporation at the time of purchase.
  4. Investments in any corporation may not exceed 5.0 percent of the outstanding shares of that corporation at the time of purchase.



5. No more than 40.0 percent of the portfolio may be invested in a single sector as defined by GICS.
- D. The portfolio performance will be measured on a total return basis that includes both income and change in market value.
- E. Westfield Capital Management Company, LLC will be reviewed quarterly based on the following characteristics:
1. Adherence to style risk assignment.
  2. Value-added over the Russell 2500 Growth Index, net of external investment management fees.
  3. The value-added over similar investment managers.
- F. The following investment activities are prohibited in the Westfield Capital Management Company, LLC portfolio:
1. Short sales, margin purchases or borrowing,
  2. Private placements or restricted securities, except those under Rule 144A,
  3. Futures, options, or any other derivative security.
  4. Warrants or other options except when acquired as part of purchased security,
  5. Commodities,
  6. Direct purchases of real estate, and
  7. Foreign securities, unless they are listed or registered on a domestic exchange and are denominated in U.S. Dollars. A maximum of 10.0 percent of the portfolio value may be invested in ADRs or foreign securities listed on U.S. exchanges.
- G. The portfolio will comply with all federal and state laws and any restrictions imposed in writing by this Board.

These guidelines are not to be construed as restrictive to Westfield Capital Management Company, LLC's ability to follow the strategies it considers are the most appropriate given the Board's directive, but rather as an exercise of the Board's fiduciary responsibility. If at any time Westfield Capital Management Company, LLC feels that these instructions are unrealistic, or may be a hindrance in pursuing their investment style, Staff and the Board are to be notified immediately in writing.

**West Virginia Investment Management Board**  
***Investment Policy Statement***

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The Manager hereby acknowledges that it is a fiduciary and accepts delegation of fiduciary duty by the Board to the Manager with respect to IMB's assets under its discretion or control.

**Investment Manager:** Westfield Capital Management Company, LLC

**Representative:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## INTERNATIONAL EQUITY MANAGER POLICY

### Investment Manager Policies and Guidelines *Capital Group International*

#### Policy:

The portfolio under the supervision of Capital is intended to be an Emerging Market equity portfolio. It is the Board of Trustees' policy to allocate up to 60 percent of the Consolidated Pension Fund assets to equity investments; one quarter of this amount will be invested with four international equity investment managers. Currently, Capital is one of four international equity investment managers employed by the Trustees. Capital has been selected to pursue an investment style that the Board defines as an emerging market, non-U.S. equity. This approach is different, yet complementary to the investment styles followed by the other international equity managers.

Capital is expected to maintain its assigned style orientation over time in order to preserve the structure of the international equity component of the equity portfolio. Capital is expected to produce investment returns that exceed the MSCI Emerging Markets Free Index by XXX basis points on an annualized basis over rolling three-to-five year periods, net of fees.

#### Guidelines:

The portfolio performance will be measured on a total return basis, which includes both income and change in market value.

Capital will be reviewed quarterly based on the following characteristics:

Adherence to style risk assignment.

Value-added over the MSCI Emerging Markets Free Index, net of fees.

#### Reporting Requirements:

- A. Trade instructions are to be communicated to Staff at the same time they are communicated to the custodian.
- B. Written summary reports of transactions, month-end market values, and monthly rates of return are to be provided to Staff within seven business days after the close of each month's business activity.
- C. Significant changes in strategy are to be reported to Staff in writing as they occur. A significant change is defined as a meaningful deviation from the investment guidelines communicated to the Board at the time of hiring.

**West Virginia Investment Management Board**  
***Investment Policy Statement***

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The investment manager hereby acknowledges that it is a fiduciary and accepts delegation of fiduciary duty by the Board to the Manager with respect to the Plan's assets under its discretion or control.

**Investment Manager:** Capital Group International

**Representative:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## INTERNATIONAL EQUITY MANAGER POLICY

### Investment Manager Policies and Guidelines *Mastholm Asset Management*

#### Policy:

The portfolio under the supervision of Mastholm is intended to be a non-U.S. equity oriented portfolio. It is the Board of Trustees' policy to allocate up to 60 percent of the Consolidated Pension Fund assets to equity investments; one quarter of this amount will be invested with four international equity investment managers. Currently, Mastholm is one of four international equity investment managers employed by the Trustees. Mastholm has been selected to pursue an investment style that the Board defines as a developed country, non-U.S. equity, bottom-up growth oriented approach with limited exposure to emerging markets. This approach is different, yet complementary to the investment styles followed by the other international equity managers.

Mastholm is expected to maintain its assigned style orientation over time in order to preserve the structure of the international equity component of the equity portfolio. Mastholm is expected to produce investment returns that exceed the EAFE Index by 200 basis points on an annualized basis over rolling three-to-five year periods, net of fees.

#### Guidelines:

- A. The portfolio is to consist of non-U.S. equity securities. Mastholm may purchase short-term cash equivalent instruments which, for the purpose of measurement, will be treated as equity reserves, not as fixed income securities.
- B. It is Mastholm's decision as to whether or not to utilize the Short-Term Investment Fund offered by the Fund's custodian, or another cash equivalent vehicle, and in doing so, is responsible for assessing the credit worthiness and relative return attractiveness of each cash equivalent fund used.
- C. The portfolio will be adequately diversified according to the internal policies established by Mastholm regarding individual securities, industries and countries to avoid the undue risk inherent in non-diversified holdings. In addition, Mastholm will adhere to the following limitations:
  1. All restrictions are based upon percentage of the portfolio holdings on a market value basis at the time of the security's purchase.
  2. All equity investments should emphasize quality companies with verifiable operating history and good marketability.
  3. Market capitalization should be at least \$100 million for each security held.

4. No more than 5.0 percent of the equity portfolio may be invested in securities of any one issuing corporation at the time of purchase.
  5. Investments in any corporation may not exceed 5.0 percent of the outstanding shares of that corporation.
  6. No more than 50.0 percent of the portfolio may be invested in a single economic sector.
  7. No more than 50.0 percent of the portfolio may be invested in a single country.
  8. No more than 20.0 percent of the portfolio may be invested in emerging markets.
  9. No more than 5.0 percent of the portfolio may be invested in cash, as measured over any rolling thirty-day period.
- D. The portfolio performance will be measured on a total return basis, which includes both income and change in market value.
- E. Mastholm will be reviewed quarterly based on the following characteristics:
1. Adherence to style risk assignment.
  2. Value-added over the EAFE Index, net of fees.
  3. The value-added over similar investment managers.
- F. The following investment vehicles are permissible in the Mastholm portfolio:
1. Common stock,
  2. Preferred stock,
  3. Warrants,
  4. Stock index futures,
  5. Foreign exchange forwards and swaps,
  6. Closed end country funds, and
  7. ADRs, if they are registered on domestic exchanges or traded on the OTC.
  8. Defensive country hedging is permissible; speculative cross hedging is prohibited.
- G. The portfolio will comply with all federal and state laws and any restrictions imposed by this Board.

These guidelines are not to be construed as restrictive to Mastholm's ability to follow the strategies they consider are most appropriate given the Fund's directive, but rather as an exercise of the Board's fiduciary responsibility. If at any time Mastholm feels that these instructions are unrealistic, or may be a hindrance in pursuing their investment style, Staff and the Board are to be notified immediately in writing.

**Reporting Requirements:**

- A. Trade instructions are to be communicated to Staff at the same time they are communicated to the custodian.
- B. Written summary reports of transactions, month-end market values, and monthly rates of return are to be provided to Staff within seven business days after the close of each month's business activity.
  - 1. For separate accounts, it is the responsibility of the investment manager to reconcile any pricing discrepancies between the manager's pricing service and the pricing services utilized by the West Virginia Investment Management Board. If pricing discrepancies have not been reconciled by the first business day following month-end, West Virginia Investment Management Board's pricing service shall be used in calculating performance.
- C. Significant changes in strategy are to be reported to Staff in writing as they occur. A significant change is defined as follows:
  - 1. An allocation to cash or cash equivalents that exceeds 5.0 percent over any rolling thirty-day period.
  - 2. A meaningful deviation from the investment guidelines communicated to the Board at the time of hiring or from the guidelines herein.

The investment manager hereby acknowledges that it is a fiduciary and accepts delegation of fiduciary duty by the Board to the Manager with respect to the Plan's assets under its discretion or control.

**Investment Manager:** Mastholm Asset Management

**Representative:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## INTERNATIONAL EQUITY MANAGER POLICY

### **Investment Manager Policies and Guidelines** *Silchester International Investors*

#### **Policy:**

The portfolio under the supervision of Silchester is intended to be a non-U.S. equity oriented portfolio. It is the Board of Trustees' policy to allocate up to 60percent of the Consolidated Pension Fund assets to equity investments; one quarter of this amount will be invested with four international equity investment managers. Currently, Silchester is one of four international equity investment managers employed by the Trustees. Silchester has been selected to pursue an investment style that the Board defines as a developed country, non-U.S. equity, bottom-up value oriented approach with limited exposure to emerging markets. This approach is different, yet complementary to the investment styles followed by the other international equity managers.

Silchester is expected to maintain its assigned style orientation over time in order to preserve the structure of the international equity component of the equity portfolio. Silchester is expected to produce investment returns that exceed the EAFE Index by 200 basis points on an annualized basis over rolling three-to-five year periods, net of fees.

#### **Guidelines:**

- A. The portfolio is to consist of non-U.S. equity securities. Silchester may purchase short-term cash equivalent instruments which, for the purpose of measurement, will be treated as equity reserves, not as fixed income securities.
- B. It is Silchester's decision as to whether or not to utilize the Short-Term Investment Fund offered by the Silchester trusts' custodian, or another cash equivalent vehicle, and in doing so, is responsible for assessing the credit worthiness and relative return attractiveness of each cash equivalent fund used.
- C. The portfolio will be adequately diversified according to the internal policies established by Silchester as contained in their Subscription Agreement regarding individual securities, industries and countries to avoid the undue risk inherent in non-diversified holdings. In addition, Silchester will adhere to the following limitations:
  - 1. All restrictions are based upon percentage of the portfolio holdings on a market value basis at the time of the security's purchase.
  - 2. All equity investments should emphasize quality companies with verifiable operating history and good marketability.
  - 3. Market capitalization should be at least \$100 million for each security held.



4. No more than 5.0 percent of the equity portfolio may be invested in securities of any one issuing corporation at the time of purchase.
  5. Investments in any corporation may not exceed 5.0 percent of the outstanding shares of that corporation.
  6. No more than 50.0 percent of the portfolio may be invested in a single economic sector.
  7. No more than 50.0 percent of the portfolio may be invested in a single country.
  8. No more than 10.0 percent of the portfolio may be invested in emerging markets.
  9. No more than 5.0 percent of the portfolio may be invested in cash, as measured over any rolling thirty-day period.
- D. The portfolio performance will be measured on a total return basis, which includes both income and change in market value.
- E. Silchester will be reviewed quarterly based on the following characteristics:
1. Adherence to style risk assignment.
  1. Value-added over the EAFE Index, net of fees.
  2. The value-added over similar investment managers.
- F. The following investment vehicles are permissible in the Silchester portfolio:
1. Common stock,
  2. Preferred stock,
  3. Warrants,
  4. Stock index futures,
  5. Foreign exchange forwards and swaps,
  6. Closed end country funds, and
  7. ADRs or similar instruments, if they are registered on domestic exchanges or traded on the OTC.
  8. Defensive country hedging is permissible; speculative cross hedging is prohibited.
- G. The portfolio will comply with all federal and state laws and any restrictions imposed by this Board. In addition, the portfolio is subject to the terms and conditions of the then current registration statement for the portfolio.

These guidelines are not to be construed as restrictive to Silchester's ability to follow the strategies they consider are most appropriate given the Fund's directive, but rather as an exercise

of the Board's fiduciary responsibility. If at any time Silchester feels that these instructions are unrealistic, or may be a hindrance in pursuing their investment style, Staff and the Board are to be notified immediately in writing.

**Reporting Requirements:**

- A. Trade instructions are to be communicated to Staff at the same time they are communicated to the custodian.
  
- B. Written summary reports of transactions, month-end market values, and monthly rates of return are to be provided to Staff within seven business days after the close of each month's business activity.
  - 1. For separate accounts, it is the responsibility of the investment manager to reconcile any pricing discrepancies between the manager's pricing service and the pricing services utilized by the West Virginia Investment Management Board. If pricing discrepancies have not been reconciled by the first business day following month-end, West Virginia Investment Management Board's pricing service shall be used in calculating performance.
  
- C. Significant changes in strategy are to be reported to Staff in writing as they occur. A significant change is defined as follows:
  - 1. An allocation to cash or cash equivalents that exceeds 5.0 percent over any rolling thirty-day period.
  - 2. A meaningful deviation from Silchester's internal investment guidelines communicated to the Board at the time of hiring or from the guidelines herein.

The investment manager hereby acknowledges that it is a fiduciary and accepts delegation of fiduciary duty by the Board to the Manager with respect to the Plan's assets under its discretion or control.

**Investment Manager:** Silchester International Investors

**Representative:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## INTERNATIONAL EQUITY MANAGER POLICY

### Investment Manager Policies and Guidelines *TT International*

#### Policy:

The portfolio under the supervision of TT International is intended to be a non-U.S. equity oriented portfolio. It is the Board of Trustees' policy to allocate up to 60 percent of the Consolidated Pension Fund assets to equity investments; one quarter of this amount will be invested with four international equity investment managers. Currently, TT International is one of four international equity investment managers employed by the Trustees. TT International has been selected to pursue an investment style that the Board defines as a developed country, non-U.S. equity, top-down oriented approach with limited exposure to emerging markets. This approach is different, yet complementary to the investment styles followed by the other international equity managers.

TT International is expected to maintain its assigned style orientation over time in order to preserve the structure of the international equity component of the equity portfolio. TT International is expected to produce investment returns that exceed the EAFE Index by 200 basis points on an annualized basis over rolling three-to-five year periods, net of fees.

#### Guidelines:

- A. The portfolio is to consist of non-U.S. equity securities. TT International may purchase short-term cash equivalent instruments which, for the purpose of measurement, will be treated as equity reserves, not as fixed income securities.
- B. It is TT International's decision as to whether or not to utilize the Short-Term Investment Fund offered by the Fund's custodian, or another cash equivalent vehicle, and in doing so, is responsible for assessing the credit worthiness and relative return attractiveness of each cash equivalent fund used.
- C. The portfolio will be adequately diversified according to the internal policies established by TT International regarding individual securities, industries and countries to avoid the undue risk inherent in non-diversified holdings. In addition, TT International will adhere to the following limitations:
  1. All restrictions are based upon percentage of the portfolio holdings on a market value basis at the time of the security's purchase.
  2. All equity investments should emphasize quality companies with verifiable operating history and good marketability.
  3. Market capitalization should be at least \$100 million for each security held.

4. No more than 5.0 percent of the equity portfolio may be invested in securities of any one issuing corporation at the time of purchase.
  5. Investments in any corporation may not exceed 5.0 percent of the outstanding shares of that corporation.
  6. No more than 50.0 percent of the portfolio may be invested in a single economic sector.
  7. No more than 50.0 percent of the portfolio may be invested in a single country.
  8. No more than 25.0 percent of the portfolio may be invested in emerging markets.
  9. No more than 10.0 percent of the portfolio may be invested in cash, as measured over any rolling thirty-day period.
- D. The portfolio performance will be measured on a total return basis, which includes both income and change in market value.
- E. TT International will be reviewed quarterly based on the following characteristics:
1. Adherence to style risk assignment.
  2. Value-added over the EAFE Index, net of fees.
  3. The value-added over similar investment managers.
- F. The following investment vehicles are permissible in the TT International portfolio:
1. Common stock,
  2. Preferred stock,
  3. Warrants,
  4. Stock index futures,
  5. Foreign exchange forwards and swaps,
  6. Closed end country funds, and
  7. ADRs, if they are registered on domestic exchanges or traded on the OTC.
  8. Currency hedging is permissible, including both hedging back to the U.S. dollar and cross-hedging.
- G. The portfolio will comply with all federal and state laws and any restrictions imposed by this Board.

These guidelines are not to be construed as restrictive to TT International's ability to follow the strategies they consider are most appropriate given the Fund's directive, but rather as an exercise of the Board's fiduciary responsibility. If at any time TT International feels that these instructions are unrealistic, or may be a hindrance in pursuing their investment style, Staff and the Board are to be notified immediately in writing.

**Reporting Requirements:**

- A. Trade instructions are to be communicated to Staff at the same time they are communicated to the custodian.
  
- B. Written summary reports of transactions, month-end market values, and monthly rates of return are to be provided to Staff within seven business days after the close of each month's business activity.
  - 1. For separate accounts, it is the responsibility of the investment manager to reconcile any pricing discrepancies between the manager's pricing service and the pricing services utilized by the West Virginia Investment Management Board. If pricing discrepancies have not been reconciled by the first business day following month-end, West Virginia Investment Management Board's pricing service shall be used in calculating performance.
  
- C. Significant changes in strategy are to be reported to Staff in writing as they occur. A significant change is defined as follows:
  - 1. An allocation to cash or cash equivalents that exceeds 10.0 percent over any rolling thirty-day period.
  
  - 2. A meaningful deviation from the investment guidelines communicated to the Board at the time of hiring or from the guidelines herein.

The investment manager hereby acknowledges that it is a fiduciary and accepts delegation of fiduciary duty by the Board to the Manager with respect to the Plan's assets under its discretion or control.

**Investment Manager:** TT International

**Representative:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## FIXED INCOME MANAGER POLICY

### Investment Manager Policies and Guidelines *Barclays Global Investors*

#### Policy:

The portfolio managed by Barclays is intended to be a combination of one or more passive and enhanced index funds of government, corporate and mortgage-backed domestic fixed income styles. Barclays is expected to produce investment returns that match a custom index, consisting of the designated index for each fund in which the Board is invested, weighted by the respective amounts invested in each fund, gross of fees.

#### Guidelines:

- A. The portfolio is to be a passive or enhanced index domestic bond portfolio. Barclays may purchase short-term cash equivalent instruments that, for the purpose of measurement, will be treated as fixed income securities.
- B. It is Barclays' decision as to whether or not to utilize the Short-Term Investment Fund offered by the custodian, or another cash equivalent vehicle, and in doing so, Barclay's is responsible for assessing the credit worthiness and relative return attractiveness of each cash equivalent fund used.
- C. Permitted investments will include the following index, or enhanced index vehicles:

#### Permissible Investments

- *Barclays Intermediate Corporate Bond Index Fund* – shall seek to closely approximate the total rate of return of the United States market for all outstanding investment grade corporate bonds with maturities between one and ten years as defined by the intermediate-term component of the Lehman Brothers Corporate Bond Index.
- *Barclays Long Corporate Bond Index Fund* – shall seek to closely approximate the total rate of return of the United States market for all outstanding investment grade corporate bonds with maturities greater than ten years as defined by the long-term component of the Lehman Brothers Corporate Bond Index.
- *Barclays Mortgage-Backed Securities Index Fund* – shall seek to closely approximate the total rate of return of the Lehman Brothers Mortgage-Backed Securities Index.
- *Barclays 7-10 Year Treasury Index Fund* – shall seek to closely approximate the total rate of return of the Lehman Brothers 7-10 Year US Treasury Index.
- *Barclays US Debt Bond Index Fund* – shall seek to closely approximate the total rate of return of the Lehman Brothers Aggregate Bond Index.

- *Barclays CoreActive Bond Fund (Enhanced index)* – shall seek to achieve a total return that is 0.50% to 0.75% higher than that of the Lehman Brothers Aggregate Bond Index while maintaining a tracking error of less than 0.76%.
- *Barclays US TIPS Index Fund* – shall seek to closely approximate the total rate of return of the Lehman Brothers US TIPS Index.
- *Barclays 20+ Treasury Index Fund* – shall seek to closely approximate the total rate of return of the Lehman Brothers 20+ Treasury Index.

D. The portfolio performance will be measured on a total return basis, which includes both income and change in market value. The benchmarks identified for each respective component include:

| <b>Portfolio</b>                  | <b>Benchmark</b>                     |
|-----------------------------------|--------------------------------------|
| Intermediate Corporate Bond Index | Lehman Intermediate Corporate Bond   |
| Long Corporate Bond Index         | Lehman Long Corporate Bond           |
| 7-10 Year Treasury Index Fund     | Lehman 7-10 Year Treasury Index      |
| Mortgage-Backed Securities Index  | Lehman Mortgage-Backed Securities    |
| US Debt Bond Index Fund           | Lehman Brothers Aggregate Bond Index |
| US TIPS Bond Index Fund           | Lehman Brothers US TIPS Index        |
| 20+ Treasury Bond Index Fund      | Lehman Brothers 20+ Treasury Index   |
| Core Active Bond Fund             | Lehman Brothers Aggregate Bond Index |

The tracking error versus the stated benchmarks will be reviewed quarterly.

- E. The Board will establish and direct the allocation of the assets among the permitted funds, and provide notice to Barclays of any changes in the target allocation. Barclays will rebalance to these targets on a monthly basis if actual allocation deviates by more than +/- 3.0 percent
- F. The following investment activities are prohibited in the Barclays portfolio:
  1. Short sales, margin purchases or borrowing,
  2. Private placements or restricted securities, except those under Rule 144A,
  3. Interest rate futures,
  4. Commodities,
  5. Direct purchases of real estate, and
  6. Foreign securities, unless they trade on U.S. Exchanges and are denominated in U.S. Dollars (Yankee Bonds and Global Euro Bonds).
- G. The portfolio will comply with all federal and state laws and any restrictions imposed by this Board.
- H. These guidelines do not conflict with the guidelines, as provided in the prospectus, that govern the funds. To the extent a conflict arises, Barclays will notify the Board verbally and in writing.

These guidelines are not to be construed as restrictive to Barclays' ability to follow the strategies they consider are the most appropriate given the Funds' directives, but rather as an exercise of the Board's fiduciary responsibility. If at any time Barclays' feels that these instructions are unrealistic, or may be a hindrance in pursuing their investment style, Staff and the Board are to be notified immediately in writing.

**Reporting Requirements:**

- A. Written summary reports of transactions, month-end market values, and monthly rates of return are to be provided to Staff within seven business days after the close of each month's business activity.
  - 1. For separate accounts, it is the responsibility of the investment manager to reconcile any pricing discrepancies between the manager's pricing service and the pricing services utilized by the West Virginia Investment Management Board. If pricing discrepancies have not been reconciled by the first business day following month-end, West Virginia Investment Management Board's pricing service shall be used in calculating performance.
  
- B. Significant changes in strategy are to be reported to Staff in writing as they occur. A significant change is defined as a meaningful deviation from the internal investment guidelines communicated to the Board at the time of hiring or from the guidelines herein.

The investment manager hereby acknowledges that it is a fiduciary and accepts delegation of fiduciary duty by the Board to the Manager with respect to the Plan's assets under its discretion or control.

**Investment Manager:** Barclays Global Investors

**Representative:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_



## **FIXED INCOME MANAGER POLICY**

### **Investment Manager Policies and Guidelines** *Hoisington Investment Management*

#### **Policy:**

Hoisington has been hired to pursue an investment style that the Board has defined as macroeconomic/duration manager. Hoisington is expected to produce investment returns that exceed the Salomon Brothers Broad Investment Grade Index by 65 basis points on an annualized basis over rolling three-to-five year periods, net of fees.

#### **Guidelines:**

- A. The portfolio is to be a duration managed domestic bond portfolio. Hoisington may purchase short-term cash equivalent instruments which, for the purpose of measurement, will be treated as fixed income securities.
- B. Unless otherwise instructed by Hoisington, WVIMB staff will invest any cash in short-term investment vehicles. Hoisington itself may invest in any other cash equivalent vehicle, and in doing so, Hoisington is responsible for assessing the credit worthiness and relative return attractiveness of alternative cash investments used.
- C. Hoisington will adhere to the following limitations:

#### Permissible Investments

- U.S. Treasury Bills, Notes and Bonds, including Zero Coupon Securities
- Money Market Instruments and Short-Term Investment Vehicles

#### Quality and Other Restrictions

1. All restrictions are based upon percentage of the portfolio holdings on a market value basis at the time of the security's purchase.
2. The effective duration of the portfolio may range from zero to 30.0 years.
3. The portfolio may be comprised of entirely zero coupon instruments.

- D. The portfolio performance will be measured on a total return basis, which includes both income and change in market value.
- E. Hoisington will be reviewed quarterly based on the following characteristics:
  - 1. Adherence to style risk assignment.
  - 2. Value-added over the Salomon Brother Broad investment Grade Index, net of external investment management fees.
  - 3. The value-added over similar investment managers.
- F. The following investment activities are prohibited in the Hoisington portfolio:
  - 1. Short sales, margin purchases or borrowing,
  - 2. Interest rate futures,
  - 3. Commodities,
  - 4. Direct purchases of real estate, and
  - 5. Foreign securities.
- G. The portfolio will comply with all federal and state laws and any restrictions imposed by this Board.

These guidelines are not to be construed as restrictive to Hoisington's ability to follow the strategies they consider are the most appropriate given the Fund's directive, but rather as an exercise of the Board's fiduciary responsibility. If at any time Hoisington feels that these instructions are unrealistic, or may be a hindrance in pursuing their investment style, Staff and the Board are to be notified immediately in writing.

**Reporting Requirements:**

- A. Written summary reports of transactions, month-end market values, and monthly rates of return are to be provided to Staff within seven business days after the close of each month's business activity.
  - 1. For separate accounts, it is the responsibility of the investment manager to reconcile any pricing discrepancies between the manager's pricing service and the pricing services utilized by the West Virginia Investment Management Board. If pricing discrepancies have not been reconciled by the first business day following month-end, West Virginia Investment Management Board's pricing service shall be used in calculating performance.

**West Virginia Investment Management Board**  
***Investment Policy Statement***

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- B. Significant changes in strategy are to be reported to Staff in writing as they occur. A significant change is defined as a meaningful deviation from the internal investment guidelines communicated to the Board at the time of hiring or from the guidelines herein.

The investment manager hereby acknowledges that it is a fiduciary and accepts delegation of fiduciary duty by the Board to the Manager with respect to the Plan's assets under its discretion or control.

**Investment Manager:** Hoisington Investment Management

**Representative:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

# **FIXED INCOME MANAGER POLICY**

## **Investment Manager Policies and Guidelines Western Asset Management**

The account is intended to be an active fixed income portfolio with the following style criteria:

- a. The Account will be constructed to earn superior returns with low volatility by actively investing in the extended fixed income market;
- b. The custom benchmark index, as defined in the investment management contract, is used as the IMB fixed income benchmark for reporting and objective purposes.

### **Core Portfolio**

1. This portfolio managed by Western Asset Management is intended to be a Core fixed income portfolio with the following style criteria:
  - a. The portfolio will be constructed to earn superior returns with low volatility by actively investing in the extended fixed income market;
  - b. The Manager will use a highly structured investment process which incorporates the following elements in the decision making process:
    - Establishing an interest rate forecast for various time periods;
    - Analyzing the extended market and conducting yield curve analysis;
    - Determining the proper market allocations;
    - Performing sector analysis to make sector investment decisions; and
    - Selecting Securities (with periodic credit committee review of individual holdings).
  - c. The Lehman Brothers Aggregate is used as the IMB fixed income benchmark.
2. Potential investments will be evaluated through disciplined, thorough investment analysis and due diligence.
3. The Manager shall have full discretion to direct and manage the investment and reinvestment of the assets allocated to the portfolio in accordance with this executed Contract and applicable federal or state statutes and regulations.
4. The Manager shall adhere to the portfolio management/construction concepts and the principles that were in use as of the effective date of this Contract.
5. The Manager is authorized to invest in; U.S. Treasury and Agency bills, notes and bonds; corporate notes and bonds; convertible bonds (that trade in line with the underlying bond value); listed fixed income mutual funds (or units of commingled funds); derivatives authorized in the IMB Derivative Use Policy; money market instruments (including 4.2.C commercial paper); mortgage-backed securities (both pass-through and structured products); asset-backed securities; trust preferred securities; yankee bonds and global Euro bonds; and Rule 144-A private placements.
6. Quality and Other Restrictions - All restrictions are based upon percentage of the portfolio holdings on a market value basis at the time of the security's purchase.

- A. The effective duration of the portfolio shall always remain between 80% and 120% of the effective duration measure of the Lehman Brothers Aggregate. Effective duration shall mean the modified duration of the portfolio adjusted for the expected cash flow effects of any embedded options. The Manager's calculation of effective duration measure shall include the effects of any outstanding derivative contracts or securities.
- B. At least 20.0 percent of the portfolio must be invested in securities backed by the full faith and credit of the U.S. Government.
- C. Investments in any single issuer (excluding obligations of the U.S. Government and its Agencies, with either direct or implied guarantee) may not exceed 5.0 percent of the portfolio's market value at time of purchase.
- D. Investments in any single issue (excluding obligations of the U.S. Government and its Agencies, with either direct or implied guarantee) may not exceed 5.0 percent of the total issue at time of purchase.
- E. Fixed income securities shall be limited to those rated (Baa3/BBB-) or above by Moody's or Standard and Poor's rating agencies respectively. The average dollar-weighted quality of the IMB'S Account shall not be less than AA as rated by Moody's or Standard and Poor's. Split-rated issues (i.e., securities rated investment grade by one rating agency and below investment grade by the other) will be classified using the lower of the two ratings.
- F. No more than 75.0 percent of the portfolio may be invested in corporate securities.
- G. No more than 25.0 percent of the portfolio may be invested in yankee bonds and global Euro bonds.
- H. No more than 25.0 percent of the portfolio may be invested in floating rate notes.
- I. No more than 25.0 percent of the portfolio may be invested in commercial paper.
- J. No more than 50.0 percent of the portfolio may be invested in repurchase agreements. Repurchase agreements must be 102 percent collateralized and may only be executed with primary dealers or top tier banks.
- K. No more than 50.0 percent of the portfolio may be invested in asset-backed securities, and must be rated A or better.
- L. No more than 35.0 percent of the portfolio may be invested in agency and private CMO's. Collateralized mortgage obligations issued by non-governmental agencies are limited to 20.0 percent of the portfolio and 5.0 percent by issue.
- M. Convertible bonds must be rated at least Baa3 and/or BBB-. The maximum investment in convertible bonds and adjustable rate preferred stocks (total joint allocation) will be limited to 10.0 percent of the portfolio.
- N. A maximum of five (5) percent of the portfolio may be invested in non-rated Rule 144A private placements. (Issues that are rated by either Standard & Poor's, or Moody's are classified as corporate issues and are not subject to this constraint but are governed by the other requirements of this Attachment.)
- O. Derivative use will be governed by the IMB's Derivative Use Policy.
- P. Equity securities are not permitted, which includes convertible bonds that have converted to equity securities. Western will liquidate any convertible bond security prior to conversion to an equity security.
- Q. In the event that a Security becomes non-compliant with any provision of this policy, this Contract, or state statute, the Manager will immediately notify IMB telephonically, and in writing within 24 hours. This communication must include a plan for resolution of the non-compliant Security.

7. The following investment activities are prohibited in the IMB Core Fixed Income portfolio:
  - A. Short sales, margin purchases or borrowing, unless used in full compliance with the IMB's Derivatives Use Policy.
  - B. Private placements or restricted securities, except those under Rule 144A,
  - C. Commodities,
  - D. Direct purchases of real estate, and
  - E. Direct purchase of equity securities of any type.
8. These guidelines are not to be construed as restrictive to Western's ability to follow the strategies they consider are the most appropriate given the portfolio's directive, but rather as an exercise of the Board's fiduciary responsibility. If at any time Western feels that these instructions are unrealistic, or may be a hindrance in pursuing their investment style, Staff and the Board are to be notified immediately in writing.
9. The portfolio shall be well diversified, in terms of industry, sectors, and individual issues.

### **High Yield Portfolio**

#### Objectives:

- Overall Investment Policy shall seek to meet the objectives set forth in the Western Asset High Yield Portfolio (the Prospectus).
- The Account will be constructed to earn superior returns with low volatility relative to the Lehman Brothers U.S. Corporate High Yield by actively investing in the high yield fixed income market.
- The objectives of the portfolio will be treated as a target only and should not be considered as an assurance or guarantee of performance.

#### Eligible Securities:

1. Western Asset Opportunistic US\$ High Yield Securities Portfolio, L.L.C.
2. Western Asset High Yield Portfolio

To be eligible, the above-named security shall hold an average-weighted credit quality rating of B3/B or above by Moody's or Standard and Poor's rating agencies respectively.

### **Emerging Markets Portfolio**

#### Objectives:

- Overall Investment Policy shall seek to meet the objectives set forth in the Western Asset Strategic Emerging Markets Portfolio, L.L.C Confidential Offering Memorandum.
- The Account will be constructed to earn superior returns with low volatility relative to the Lehman Brothers U.S. Emerging Markets Ex U.S. Aggregate by actively investing in the emerging markets fixed income market.
- The objectives for the portfolio will be treated as a target only and should not be considered as an assurance or guarantee of performance.

Eligible Securities:

The following commingled fixed income vehicle may be held:

- 1. Western Asset Strategic Emerging Markets Portfolio, L.L.C
- 2. Western Asset Opportunistic Emerging Markets Portfolio, L.L.C.

To be eligible, the above-named security shall be priced in US Dollars and trade in US Dollars.

**International Bond Portfolio**

Objectives

- Overall Investment Policy shall seek to meet the objectives set forth in the Western Asset Non-Dollar Portfolio, L.L.C Confidential Offering Memorandum.
- The Account will be constructed to earn superior returns with low volatility relative to the Citigroup Non USD World Government Bond Index, USD Hedged (when utilizing a USD hedged vehicle) or the Citigroup Non USD World Government Bond Index, Unhedged (when utilizing a non-hedged vehicle) by actively investing in the international bond fixed income market.
- The objectives of the portfolio will be treated as a target only and should not be considered as an assurance or guarantee of performance.

Eligible Securities

The following commingled fixed income vehicle may be held:

- 1. Western Asset Strategic International Investment Grade Securities Portfolio Unhedged, L.L.C.
- 2. Western Asset Strategic International Investment Grade Securities Portfolio Hedged, L.L.C.
- 3. Western Asset Opportunistic International Investment Grade Securities Portfolio, L.L.C.

To be eligible, the above-named security #2 shall be priced in US Dollars and trade in US Dollars.

**The Manager acknowledges it is a fiduciary within the meaning of ERISA with respect to IMB. Also, that it shall discharge its duties with respect to the IMB Account solely in the interest of IMB (1) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent expert acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, and (2) in accordance with the standard of care and other requirements of West Virginia Code Chapter 12, Article 6 and Chapter 44, Article 6C and the Investment Policy Statement.**

|                                      |              |
|--------------------------------------|--------------|
| IMB                                  | Manager      |
| By: _____                            | By: _____    |
| Name: <u>  H. Craig Slaughter  </u>  | Name: _____  |
| Title: <u>  Executive Director  </u> | Title: _____ |
| Date: _____                          | Date: _____  |

# *Implementation*



## **Authorized Broker Dealer List**

*(Approved February 14, 2003)*

### **List of the Primary Government Securities Dealers Reporting to the Securities Reports Division of the Federal Reserve Bank of New York**

ABN AMRO Incorporated  
BNP Paribas Securities Corp.  
Banc of America Securities LLC  
Banc One Capital Markets, Inc.  
Barclays Capital Inc.  
Bear, Stearns & Co., Inc.  
CIBC World Markets Corp.  
Citigroup Global Markets Inc.  
Countrywide Securities Corporation  
Credit Suisse First Boston Corporation  
Daiwa Securities America Inc.  
Deutsche Bank Securities Inc.  
Dresdner Kleinwort Wasserstein Securities LLC.  
Goldman, Sachs & Co.  
Greenwich Capital Markets, Inc.  
HSBC Securities (USA) Inc.  
J. P. Morgan Securities, Inc.  
Lehman Brothers Inc.  
Merrill Lynch Government Securities Inc.  
Mizuho Securities USA Inc.  
Morgan Stanley & Co. Incorporated  
Nomura Securities International, Inc.

UBS Warburg LLC.

#### **Other West Virginia Firms -**

Crews & Associates, Inc.  
Ferris Baker Watts & Co.  
Legg Mason Wood Walker, Inc.  
Wachovia Securities

#### **Banks -**

Bank One WV  
Huntington Banks WV  
Mellon Bank  
BB&T  
State Street Bank, Boston  
United National Bank, Parkersburg

## **Brokerage Policy**

As part of its fiduciary responsibility, it is important that the Board maintain a prudent policy pertaining to brokerage commissions paid on securities transactions. The Board hereby delegates discretion over placement and execution of securities transactions to its Managers subject to the following constraints:

- **Brokerage Commissions**

The Board believes that electronic crossing networks are an increasingly efficient and cost-effective means of equity trading. In order to encourage their use, the Board requires that its equity managers closely monitor their brokerage commission expenses. Brokerage commissions vary with investment styles and philosophies; some transactions are more or less difficult to execute than others.

The Staff and Consultant will negotiate an average commission per share ceiling for domestic equity portfolios and average commission as a percent of principal ceiling for international equity portfolios with each individual manager's guidelines.

Each of the WVIMB's Managers will, upon request, be required to provide the Staff with a report showing all brokerage transactions effected on behalf of the WVIMB. In the event that average commissions exceed the ceiling, a detailed explanation of the reasons why must also be provided. The Custodian shall also provide brokerage commission information to the Staff.

- **Directed Commissions/Brokerage**

It is the intention of the Board that all securities transactions be effected through brokerage firms to the best advantage of the Fund regarding price and execution. Given that some transactions are less difficult to execute than others, and that large discount brokers are positioned to efficiently execute the more easily executed trades at very competitive commission rates, the Board hereby directs Investment Managers to use large discount brokers in securities transactions for the WVIMB when the objective of best price and execution will not be compromised.

To facilitate the use of such brokers, the Staff will work with external investment Managers to negotiate the lowest brokerage commission rates possible with a select number of large discount brokerage firms for execution only trades.

- **Soft Dollars**

The Board recognizes that “soft dollar” commissions are allowed under Section 28(e) of the Securities and Exchange Act of 1934 (commonly referred to as the “Safe Harbor” provision). However, there is significant controversy surrounding the use and proper allocation of soft dollars by investment managers. The Board therefore requires its Managers to provide accounting of soft dollar transactions involving securities of the WVIMB. The Board believes it is possible to make a reasonable, though admittedly imprecise, allocation of these commission dollars across Manager accounts. These reports shall be provided periodically upon request to the Staff, and shall include the number of shares traded, dollar amount of soft dollar commissions, the brokerage firms to which they were directed, and an explanation of the goods or services received.

## **WVIMB Derivatives Use Policy**

*Approved May 24, 2001 (Revised May 23, 2003)*

*It is understood that any derivative transaction shall be used as a means to efficiently access desired markets and to control and manage portfolio risk. At no time shall the Manager engage in a derivative transaction that exposes the portfolio to any risk outside of the Manager's mandate and guidelines for the WVIMB. Any reference to "portfolio" in this document is defined as the individual Manager's portfolio, not the total WVIMB portfolio.*

**At the time of purchase, every derivative transaction evaluated for inclusion in the portfolio is subject to the following limitations:** 1) the resultant portfolio is not leveraged in any way, 2) for fixed income managers, the resultant duration of the portfolio is not affected by more than one year when including all derivative types in the portfolio's calculation, and 3) at no time will the combined absolute "notional value" of all derivative positions exceed **30%** of the Manager's total portfolio (with the exclusion of forward foreign currency exchange contracts used for hedging purposes).

### **FUTURES**

- The Manager may utilize interest rate, currency, or index futures that have recognized liquidity and are actively traded on major exchanges, or if over-the-counter, are executed with major dealers. The net position of non-US futures contracts shall be subject to, and included in, the current limitation on non-US securities in accordance with investment guidelines.

### **OPTIONS**

- The Manager may buy and sell equity, bond, currency, or index options that have recognized liquidity and are actively traded on major exchanges, or if over-the-counter, are executed with major dealers. The following types of options strategies may be employed:

#### Purchase of Call Options

Purchase of Put Options – When purchasing put options, the portfolios must hold the underlying asset in the portfolio to cover the notional amount of the option purchased.

Sale of Call Options – When selling call options, the portfolio must hold the underlying asset in the portfolio to cover the notional amount of the option sold.

Sale of Put Options – When selling put options, cash equal to the notional value of the options position must be held in the portfolio.

## **FORWARDS**

- The Manager may utilize inter-bank spot and forward foreign exchange contracts. The total exposure of all forward contracts shall not exceed the value of the portfolio's non-US securities and at no time shall currencies of countries be sold or purchased in which there is no underlying investment exposure. The market value of forward foreign exchange contracts sold short shall not exceed 100% of the market value of the underlying assets being hedged (both in local terms). The net exposure to any currency in local terms (whether from spot or forward contracts) is subject to the current limitation on non-US exposure in the portfolio and the current limitation on cash holdings as detailed in the investment manager guidelines.

## **SWAPS**

- The Manager may enter into interest rate, currency, or index swap agreements with the understanding that no exchange in principal occurs. In addition, collateral agreements will be in place to trigger margin movement whenever WVIMB's current mark-to-market amount to be received from a counterparty exceeds USD\$250,000. The amount to be paid to the counterparty by WVIMB when the mark-to-market amount exceeds \$250,000 will be at the discretion of the investment manager and counterparty.

## **MORTGAGE DERIVATIVES**

- For fixed income managers, collateralized mortgage obligations cannot be more sensitive to interest-rate changes than the underlying mortgage-backed security. Collateralized mortgage obligations issued by non-governmental agencies are limited to 20.0 percent of the portfolio and 5.0 percent by issue.

## **CREDITWORTHINESS**

- The Manager is authorized to derivative securities- only to the extent detailed in preceding guidelines- on a disclosed basis with counter-parties on the Manager's approved list. Creditworthiness of all counterparties to transactions must be monitored by the Manager using current industry standards on a regular basis and the manager should take all reasonable steps to protect the underlying assets in the event of adverse changes to counterparty creditworthiness.

## **RESTRICTED DERIVATIVE INVESTMENTS**

- Any derivative not explicitly mentioned in the preceding guidelines or Manager-specific guidelines (including, but not limited to, swaptions, credit default swaps, structured notes, mortgage derivatives, etc.) shall be considered **restricted**. "Linked" securities are restricted to the extent that the principal value or interest rate is tied to anything not specifically allowed as permissible investments. If the Manager wishes to discuss a potential derivative transaction not detailed in the written guidelines, the Manager should contact WVIMB and the transaction will be considered on a case-by-case basis. Any allowance of such transactions would have to be approved in writing by WVIMB.

### **CONFLICTING GUIDELINES**

In instances where commingled funds are utilized and a policy conflict exists in the use of derivatives, the commingled fund's derivatives use policy takes precedence over this policy.

## MANAGER MONITORING AND RETENTION POLICY

### I. POLICY OBJECTIVES AND PRINCIPLES

Investment manager retention and termination decisions have high costs, whether it be the decision to retain unskilled managers for too long, or the decision to terminate a skilled manager prematurely. Not only are the costs of redeploying assets considerable, but the variability of most manager returns complicates straightforward evaluations of manager skill. Without reliable assessments of manager skill, the WVIMB has little assurance that the manager we hire today will perform better than the manager we terminated yesterday.

This manager monitoring and retention policy provides a *systematic, consistent, and rational* framework, for manager retention and termination decisions, thereby avoiding untimely and haphazard actions that may adversely impact fund returns. In addition, the policy is intended to:

- Foster a *long-term* approach to manager evaluations;
- Provide a *logical* and *consistent* framework to evaluate manager skill;
- Improve client/manager communication by *apprising* each manager of the quantitative and qualitative standards by which they will be judged, and the near-term and long-term consequences of failing to meet these standards;
- Promote *timely* and *appropriate* responses to actual and potential performance issues; and
- Provide *flexibility* to allow application across all asset classes, management styles, and market environments.

This policy shall apply to all WVIMB managers, except where otherwise noted.

Although quantitative assessments of manager success are useful in judging whether managers have been successful in the past, they can be poor predictors of future success. Since the WVIMB's goal is to determine the likelihood of *future* success, it is critical that the ultimate retention/termination decision focus on the qualitative aspects of each manager relationship, as well as quantitative assessments of past performance.

Staff will utilize quantitative tools such as cumulative and rolling excess return <sup>(1)</sup> analysis to *identify* performance shortfalls, while qualitative assessments of organization, personnel and investment approach will be used to diagnose the *source* of the shortfall. Regular qualitative assessments are also valuable in flagging *potential* problems by drawing attention to developments that might lead to future poor performance.

In addition to identifying existing and potential problems, an important purpose of the manager monitoring and retention policy is to outline how and when the WVIMB will address specific issues and events. Depending on the significance of the issue or event, staff will select one of four possible courses of actions: do nothing and continue to monitor the situation, place the manager on the WVIMB Watch List, initiate a Comprehensive Review, or, under extraordinary

circumstances, request an emergency Board meeting and recommend termination of the manager immediately without a Comprehensive Review.

***Being placed on the WVIMB Watch List should not by definition automatically reflect negatively on any manager. It is merely an indication that an event of substance has occurred and requires monitoring until its effect on the specific account can be established.***

Inevitably, each retention/termination decision will be unique. Accordingly, it is intended that this manager monitoring and retention policy be flexible enough to account for specific manager, asset class, and market-related factors, but it is also intended that exceptions to this policy be rare.

## **II. MANAGER MONITORING**

### **A. Manager Meeting Frequency and Content**

Staff will meet with each investment manager not less than once every twelve months, and staff shall meet with each manager at their place of business not less than once every twenty-four months. Each meeting will include a review of the manager's near-term and long-term performance, their current investment strategy and capital market outlook, and any other pertinent issues related to the manager's organization, personnel, or investment process. The frequency, content, and timing of specific manager presentations will be subject to staff and the Board's discretion.

### **B. Qualitative Assessments**

The qualitative aspects of each manager relationship will be monitored through frequent oral and written contacts by staff with each manager and WVIMB consultants, and, when appropriate, through quarterly evaluations utilizing attribution, style and peer universe analyses. Qualitative assessments will focus on organizational and staff stability, adherence to investment philosophy and process, asset/client turnover, and the quality of client service.

A significant and potentially adverse event related to, but not limited to, any of the following qualitative issues or events may cause staff to either place a firm on the Watch List or initiate a Comprehensive Review, depending on the perceived significance of the event or issue in light of surrounding circumstances:

- A significant change in firm ownership and/or structure;
- The loss of one or several **key** personnel;
- A significant loss of clients and/or assets under management;
- A shift in the firm's philosophy or process which may be evidenced by style drift <sup>(2)</sup>, increases or decreases in tracking error <sup>(3)</sup>, or value-added coming from an unexpected source, etc;
- A significant and persistent lack of responsiveness to client requests;



- A significant decrease in the quality or volume of deal flow and/or a marked change in the investment types or deal terms negotiated by or available to the manager;
- Consistent failure to meet investment allocation targets; or
- Violation of WVIMB investment guidelines.

### C. Quantitative Assessments

In order to evaluate manager skill, cumulative and rolling assessments of excess return will be calculated for each external manager. The illiquid and longer-term nature of the Alternative Investment Program (AIP) necessitates a different quantitative assessment methodology from that utilized in the public markets. Sections II.C.1.a., II.C.1.b., and II.C.2., below, describe in detail the methodologies employed for public and AIP manager performance evaluations.

Judgments as to whether a manager has achieved WVIMB investment objectives, and judgments as to whether a manager will achieve WVIMB investment objectives in the future, ultimately rest with WVIMB staff and Board. Accordingly, WVIMB staff and the Board reserve the right under this policy to pursue, at any time, any course of action in response to absolute, relative, historic or perceived future investment performance. Notwithstanding the foregoing, the following decision rules will generally apply to quantitative assessments of manager performance:

1. **Public Market Managers** - Because of the large degree of variability in manager returns, it is often very difficult to assess whether a manager's over/under performance is the product of randomness or true investment skill. WVIMB's quantitative skill analysis considers the *variability* of a manager's excess return, in addition to the absolute *magnitude* of the excess return, when making judgments about manager skill relative to investment style.

Skilled managers often have periods of under performance, just as unskilled managers often experience periods of out-performance. Over long time periods, however, skilled managers will produce a *larger* average excess return more *frequently* than their unskilled peers.

- a. **Active Managers** - Cumulative and rolling returns will be utilized as follows:

If the manager's rolling, three-year or five-year excess return plots **below the benchmark** for four (4) consecutive quarters, the manager shall be placed on the Watch List.

If the manager's cumulative or rolling excess return plots **cause concern for any other reason**, the manager shall be placed on the Watch List.

- b. **Passive Managers** - The skill analysis methodology applied to WVIMB active management strategies is inappropriate for passive management strategies due to the low variability of manager returns and a zero alpha <sup>(5)</sup> expectation. Therefore, WVIMB shall utilize the annual performance ranges outlined in each manager's investment contract to monitor passive manager performance.

Beginning *one* year after inception date, staff will monitor the manager's four quarter rolling returns. If the manager's trailing four-quarter annual return exceeds the range set forth in the manager's investment management contract for two (2) consecutive quarters, staff shall place the manager on the WVIMB Watch List.

## 2. Alternative Asset Managers

(To be defined after formal approval of a program, recognizing the limitations of alternative investment programs.)

## D. Reporting

On an annual basis, staff shall prepare for each of WVIMB managers, a comprehensive relationship and performance review in accordance with the WVIMB annual due diligence program. Annually, staff shall also prepare, or cause to be prepared, reports to support the qualitative assessments including style measurement reports, attribution analysis, tracking error reports, and peer universe comparisons.

## III. COURSES OF ACTION

### A. Watch List

A manager will be placed on the Watch List as a result of a significant or potentially adverse development involving the manager as described in sections II.B., above. Being placed on the Watch List communicates to the manager, WVIMB's concern about a particular situation. **A manager will be placed on the Watch List for a specified length of time, not to exceed twelve months.** Staff will meet with the manager within ninety (90) days of their being placed on the Watch List to discuss the situation and the steps needed to be taken to resolve the issue to WVIMB satisfaction. A manager will generally remain on the Watch List until the specified time period expires, or until the issue is resolved to WVIMB satisfaction. If the issue has not been resolved by the expiration of the specified time period, a Comprehensive Review may be initiated. Also, a manager may be removed from the Watch List and a Comprehensive Review initiated, or be recommended for termination at any time if a situation deteriorates.

### B. Comprehensive Review

A Comprehensive Review of a manager will be undertaken as a result of serious under performance of a manager relative to its benchmark per section II.C. or as the result of a

*significant* and *adverse* change to the manager's organization, personnel, or investment process per section II.B. These categories of events cause Staff to seriously question the firm's ability to achieve WVIMB investment objectives in the future. A Comprehensive Review is a thorough, in-depth due diligence effort which explores all elements of a manager's organization, personnel, and investment philosophy and process. Comprehensive Reviews will be completed within 90 days of initiation.

In undertaking a Comprehensive Review, staff is ultimately deciding whether the firm should be "re-hired" today given the current events and prevailing circumstances. **Thus, the outcome of a Comprehensive Review is a decision to retain or terminate the manager.** The nature of certain investment vehicles may severely restrict or prohibit the immediate withdrawal of funds and/or the transfer of assets to another manager. In such cases, the decision to terminate a manager is not feasible and, therefore, WVIMB actions may be limited to filing a withdrawal request with the manager and waiting until the investments can be liquidated in a prudent manner, or seek other disposition strategies.

The Comprehensive Review will focus on whether the firm currently embodies enough of the following characteristics to provide reasonable assurance that WVIMB investment objectives in the future will be achieved. The list below represents characteristics that WVIMB believes are important to the success of a manager's investment program.

**Organization:**

- Stable ownership structure
- Experienced, dynamic leadership
- Clearly delineated lines of authority and responsibility
- Sound financial condition
- Controlled growth
- Strong compliance and internal control systems

**Personnel:**

- Investment staff is experienced and competent
- Low turnover in key positions
- Employees are highly motivated to meet client objectives
- Sufficient back-up and on-going training

**Investment Process and Philosophy:**

- Well-articulated philosophy as to how value is added in a particular market
- Investment process is systematic, focused and consistent
- Investment process exploits a perceived competitive advantage
- Investment process has been successfully applied in different market environments
- High quality research base
- Investment process/style can be benchmarked
- Strong trading capabilities
- High quality deal flow and investment opportunities

The Comprehensive Review shall also address whether the problem can be resolved within the scope of the existing relationship, and if not, how and to whom the assets should be redeployed. A decision to “re-hire” a manager may also be subject to the manager satisfying specified conditions and include a probationary period.

#### **IV. OTHER TERMINATION CONDITIONS**

This policy depicts circumstances where WVIMB may elect to terminate a manager for cause. However, all WVIMB investment management contracts permit WVIMB to terminate the manager, with or without cause, after no more than thirty-day (30) written notice. The investment management contracts also permit WVIMB to terminate a manager *immediately* upon learning of a breach of duty or confidentiality.

#### **V. DOCUMENT CONFLICTS; MODIFICATIONS**

Nothing herein shall be construed or interpreted as a modification or amendment to any Contract between the WVIMB and any Manager. In the event of a conflict between any provision of any such Contract and this policy, the provisions of the Contract shall prevail.

- <sup>1</sup> Difference between the manager’s return and the benchmark return
- <sup>2</sup> Changes in a portfolio’s predominant style characteristics over time (i.e. shifts from growth to value or large cap to small cap)
- <sup>3</sup> Standard Deviation of excess return
- <sup>4</sup> The range the manager’s excess return is anticipated to fall a specified percentage of the time based on the past variability of excess returns
- <sup>5</sup> Risk-adjusted excess returns

## **Policy Compliance**

As stated in the Investment Policy Statement, given that this is the official document of the Board, no deviation from the document is permitted without prior, explicit, written permission from the Board. All external investment Managers are employed at the pleasure of the Board, with a ten-day termination notice provision in the WVIMB's standard manager contract. Failure to follow these generic guidelines, and/or the manager-specific guidelines as set forth in the "Investment Manager Policies and Guidelines" section of the Appendix may result in termination.

During periods in which an investment manager is being funded with additional capital to invest within their portfolio, the manager is allowed to exceed the cash limitations described in their investment policies and guidelines, until such time as portfolio construction has been completed.

During periods in which a current manager of assets undergoes a material change in mandate of its investment guidelines, staff and the manager will agree on a reasonable time, not to exceed 30 days, in which the manager can be in technical violation of the policy as it transitions the portfolio to its new mandate.

Until such time that individual investment manager policies and guidelines have been adopted, any investment Manager who is managing assets on behalf of WVIMB shall adhere to the guidelines and restrictions which apply to the specific Investment Pool for which they manage assets as if the guidelines and restrictions applied to the Manager alone, regardless of whether the Manager is managing all or a portion of the assets within the Investment Pool.

## **Proxy-Voting**

The Board, as part of their duties and responsibilities, shall have the right to vote any and all proxies solicited in connection with securities held by WVIMB. The Board may delegate to the investment Managers who invest the WVIMB's assets the responsibility to vote any and all proxies. The Board and/or investment Manager, as applicable, has the responsibility to vote solely in the interest of WVIMB and to protect the value of the securities within the portfolio. If delegated to a Manager, the Manager will be required to establish a proxy-voting program in coordination with the Staff. Investment Managers shall keep accurate records of all proxies voted and shall submit a summary report of same to the Staff on an annual basis. A review will be coordinated with each Manager to confirm consistency with the Board's position. The Board reserves the right to provide additional proxy-voting direction to its Managers at any time.

## **Rebalancing**

The Board is responsible for asset allocation decisions and will periodically review its target allocations to confirm or adjust the targets, as described in Section III of the Investment Policy. Until such time as the Board changes the asset allocation ranges, it will be necessary to periodically rebalance the portfolio as a result of market value fluctuations. The Board has delegated to staff the duty of implementing the following systematic and cost-effective approach to rebalancing. Once the Participant Plan has reached its target equity allocation, the equity allocation shall be rebalanced back toward its equity target on a monthly basis utilizing cash flows and crossing opportunities. Specific manager allocations will be rebalanced back to target on an annual basis. Staff will report rebalancing activity to the Chair of the Investment Committee monthly.

## **Repurchase Agreements Policy**

Revised October 6, 2000

### **Statutory Citations:**

*§12-6-9h. Securities handling.*

*In financial transactions whereby securities are purchased by the board under an agreement providing for the resale of such 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.*

### **Authorized Counterparties:**

| <b>Counterparty</b> | <b>Contact</b> | <b>Phone Number</b> |
|---------------------|----------------|---------------------|
| Merrill Lynch       | Jim Harris     | 304-347-2525        |
| MSDW                | Casey Robinson | 304-357-4587        |
| Bank of America     | Herb Fanning   | 800-999-4360        |

To become and remain an Authorized Counterparty an entity must be rated “Investment Grade” and must conform to WVIMB’s Trading Policy.

### **Authorized Limits:**

The principal value for Repurchase Agreements purchased by the WVIMB trading desk shall be limited to \$150 million per counterparty for both the Consolidated Pension Fund and the Consolidated Fund.

If a counterparty is at the Authorized Limit and is successful in winning the bid on two or more consecutive days, the interest may be “rolled” over in the new Repurchase Agreement provided that the interest “rolled” does not exceed 1% of the original principal value of the Repurchase Agreement.



## **Securities Lending**

*(Approved May 22, 2003)*

The Board has elected to participate in securities lending and has set forth the following policy related to this activity. The objective of this program is to generate incremental income for the Plan, while not materially changing the risk profile of the Plan. In the event the Executive Director, Chief Investment Officer and the Consultant are in agreement that the risks' inherent in lending WVIMB securities have increased to a point that the risk/return tradeoff is no longer acceptable, the program may be temporarily suspended without Board consent. Following such a suspension, the Board will be notified and at the next regularly scheduled meeting, a decision will be made by the Board to either reinstate the program or continue suspension indefinitely.

- The lending program may be implemented through the use of agent lender(s), as determined by the Board. Any agent lender selected must agree in writing to comply with the WVIMB Securities Lending Policy.
- The agent lender(s) may lend financial securities including, but not limited to, U.S. and non-U.S. equities, corporate bonds, and U.S. and non-U.S. government securities.
- Any Agent shall have full discretion over the selection of borrowers and shall continually review the creditworthiness of potential borrowers through extensive analysis of publicly available information and any other material available to them.
- All loans shall be fully collateralized with cash, government securities or irrevocable bank letters of credit.
- Cash collateral received from securities borrowers will be deposited upon receipt in a pre-approved short-term investment vehicle or vehicles. Each pre-approved vehicle must comply with the following key objectives: safeguarding principal, assuring all cash collateral is invested in a timely manner, maintaining a diversified portfolio of investments, and maintaining adequate liquidity to meet the anticipated needs of the WVIMB.
- Collateralization of loans shall be at least 102% of the market value of loaned domestic securities plus accrued income and 105% for non-U.S. loans, respectively.
- The amount loaned to any one borrower shall not exceed \$225 million USD across the total program. This dollar limitation will be reviewed, and possibly adjusted, annually during the due diligence review.
- Securities on loan should be marked-to-market on a daily basis to assess adequacy of collateralization.
- The agent lender(s) shall provide periodically, and WVIMB staff will review, reports including, but not limited to, earnings schedules, performance and holdings within the loan program, performance and holdings within the collateral reinvestment program, collateralization detail, borrower detail, et al.
- The Securities Lending program should in no way inhibit the portfolio management activities of the other managers of the Plan.
- WVIMB staff shall be responsible for making an annual report to the Board on the securities lending program.
- WVIMB staff will monitor the agent lender(s) of the Securities Lending program in accordance with the WVIMB Manager Oversight and Retention Policy, verifying compliance quarterly, and conducting due diligence reviews annually equivalent to processes conducted on other external investment managers.

## **Trading Policy**

The Trustees may hire external entities to act as Advisors or Managers to WVIMB. The following guidelines apply to trading within fixed income and equity accounts.

- **Fixed Income Trading by WVIMB Staff**

Staff shall execute all trade recommendations of the Advisor unless the trade clearly violates the state code or Investment Policy. Fixed income trades shall be done in competition using at least three dealers, unless for some reason the security can only be offered by one dealer. At least one West Virginia based firm shall be called on each trade, when possible. In the event of a tie, each “tied” broker will be called back and given the opportunity to improve its quote, until the tie is broken. All trades must be executed on a recorded phone. All trades must be recorded on the portfolio accounting system within twenty-four hours of execution. All trades must be reviewed by a supervisor in the Investment Department.

The maturity of any cash equivalent investments made by Staff, which is not covered by any other specific investment policy, shall not exceed 45 days.

- **Fixed Income Trading by External Managers**

All fixed income trades executed by external fixed income Managers shall be at the discretion of the Manager subject to their fiduciary responsibility to WVIMB.

- **Fixed Income Authorized Broker Dealers**

Staff may only trade with financial dealers authorized by the Board. To be eligible to be placed on the list of authorized dealers, a dealer must either be a primary dealer or a West Virginia firm and must submit audited financial statements to the Board that will be reviewed by Staff and kept on file. The Board must approve the list of authorized dealers at least annually. The Chief Investment Officer may impose additional limitations to the approved list, including, but not limited to, the size of any one trade and the number of times a financial dealer may be called.

- **Equity Trading**

All equity trades executed by external equity Managers shall be at the discretion of the Manager subject to their fiduciary responsibility to WVIMB.

# *Legislative Citations*

## **West Virginia Code of Conduct**

### **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 or 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. 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 (b), relating to the use of public office or public employment for private gain, 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. Such 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 such persons may have its own inherent prestige, it would be unfair to such individuals and against the best interests of the citizens of this state to deny such persons the right to hold public office or 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 such public officials and public employees, identifying them generally by the office or employment held, and offering persons who fit within such categories the opportunity to apply for an exemption from the application of the provisions of this subsection. Such 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 as such 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 interest which may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of his 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 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 speaking engagement at the meeting;
  - (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 such 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.

**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 such 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 such part-time appointed public official may have direct authority to enter into or over which he or she may have control when such official has been recused from deciding or evaluating and excused from voting on such contract and has fully disclosed the extent of such 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 public 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 interest 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 such 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 six months after the termination of his or her public service or public employment with a governmental entity authorized to hear contested cases or promulgate regulations, appear in a representative capacity before the governmental entity in which he or she serves 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 regulation;
  - (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 six months 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 anytime in a representative capacity before the Legislature, a county commission, city or town council or a 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 for 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 sell or lease real or personal property to any person who:
  - (A) Had a matter on which he or she took, or 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 servant 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 subsection 1. 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 make inquiry as to whether they should by 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 the 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 one 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 of 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 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.

- L. 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 such institution or has been approved by the employees' department supervisor or the president of the institution by which the faculty or staff member is employed.

M. 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 who 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.

*The commission by legislative rule promulgated in accordance with chapter twenty-nine-A of this code may define further exemptions from this section as necessary or appropriate.*

**ARTICLE 11A.**  
**LEGISLATIVE APPROPRIATION OF TOBACCO**  
**SETTLEMENT FUNDS**

**§4-11A-1. Legislative findings and purpose.**

(a) On the twenty-third day of November, one thousand nine hundred ninety-eight, tobacco product manufacturers entered into a settlement agreement with the state. This "master settlement agreement" releases those manufacturers from past, present and specific future claims against them in return for payment of annual sums of money to the state, obligates the manufacturers to change their advertising and marketing practices and requires the establishment by the manufacturers of a national foundation for the interests of public health.

(b) The revenues received pursuant to the master settlement agreement are directly related to the past, present and future costs incurred by the state for the treatment of tobacco-related illnesses. The purpose of this article is to preserve the revenues received from the settlement.

(c) The receipt of funds in accordance with the master settlement agreement shall be deposited only in accordance with the provisions of this article.

(d) West Virginia receives approximately seventy million dollars in revenue each year under the terms of the master settlement agreement with the tobacco manufacturers. This revenue is used to fund programs of vital importance to the people of West Virginia, and the Legislature finds that it is in the best interest of the people of this state to protect these revenues.

**§4-11A-2. Receipt of settlement funds and required deposit in West Virginia tobacco settlement medical trust fund.**

(a) The Legislature finds and declares that certain dedicated revenues should be preserved in trust for the purpose of stabilizing the states health related programs and delivery systems. It further finds and declares that these dedicated revenues should also be preserved in trust for the purpose of educating the public about the health risks associated with tobacco usage and for the establishment of a program designed to reduce and stop the use of tobacco by the citizens of this state and in particular by teenagers.

(b) There is hereby created a special account in the state treasury, designated the "West Virginia Tobacco Settlement Medical Trust Fund", which shall be an interest-bearing account and may be invested in the manner permitted by section nine, article six, chapter twelve of this code, with the interest income a proper credit to the fund. Unless contrary to federal law, fifty percent of all revenues received pursuant to the master settlement agreement shall be deposited in this fund. Funds paid into the account may also be derived from the following sources:

(1) All interest or return on investment accruing to the fund;

(2) Any gifts, grants, bequests, transfers or donations which may be received from any governmental entity or unit or any person, firm, foundation or corporation; and

(3) Any appropriations by the Legislature, which may be made for this purpose.

(c) The moneys from the principal in the trust fund may not be expended for any purpose. The moneys in the trust fund resulting from interest earned on the moneys in the fund and the

return on investments of the moneys in the fund shall be available only upon appropriation by the Legislature as part of the state budget and expended in accordance with the provisions of section three of this article.

#### **§4-11A-3. Receipt of settlement funds and required deposit in the West Virginia tobacco settlement fund.**

(a) There is hereby created in the state treasury a special revenue account, designated the "Tobacco Settlement Fund", which shall be an interest bearing account and may be invested in the manner permitted by the provisions of article six, chapter twelve of this code, with the interest income a proper credit to the fund. Unless contrary to federal law, fifty percent of all revenues received pursuant to the master settlement agreement shall be deposited in this fund. These funds shall be available only upon appropriation by the Legislature as part of the state budget: *Provided*, That for the fiscal year two thousand, the first five million dollars received into the fund shall be transferred to the public employees insurance reserve fund created in article two, chapter five-a of this code.

(b) Appropriations from the tobacco settlement fund are limited to expenditures for the following purposes:

(1) Reserve funds for continued support of the programs offered by the public employees insurance agency established in article sixteen, chapter five of this code;

(2) Funding for expansion of the federal-state Medicaid program as authorized by the Legislature or mandated by the federal government;

(3) Funding for public health programs, services and agencies; and

(4) Funding for any state owned or operated health facilities.

(c) Notwithstanding the provisions of section two, article two, chapter twelve of this code, moneys within the tobacco settlement trust fund may not be redesignated for any purpose other than those set forth in this section.

#### **§4-11A-4. Limitation on appeal bond.**

The bond that any appellant who is a signatory or a successor to a signatory of the master settlement agreement may be required to post to stay execution on a judgment during an appeal in any cause of action shall be set in accordance with the provisions of section fourteen, article five, chapter fifty-eight of this code and the West Virginia rules of civil procedure: *Provided*, That an appeal bond may not exceed one hundred million dollars for compensatory damages and all other portions of a judgment other than punitive damages and one hundred million dollars for punitive damages unless the appellee proves by a preponderance of the evidence that the appellant or appellants are purposefully dissipating or diverting assets outside of the ordinary course of its business to the effect that the ability to pay the ultimate judgment is impaired. For purposes of this section, multiple judgments resulting from cases that have been consolidated or aggregated for purposes of trial proceedings shall be treated as a single judgment.

**§4-11A-5. Applicability.**

The provisions of section four of this article apply to all actions pending in the courts of this state on the effective date of this section and to any action filed in this state on or after the effective date: *Provided*, That the provisions of section four of this article providing for the maximum amount of an appeal bond shall not apply in any action brought by any signatory to the master settlement agreement seeking to enforce compliance with the terms of the master settlement agreement or for a breach of the master settlement agreement.

## **ARTICLE 6.**

### **WEST VIRGINIA INVESTMENT MANAGEMENT BOARD**

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

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

#### **§12-6-1a. Legislative findings.**

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

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

(c) The Legislature hereby finds and declares further that experience has demonstrated that prudent investment provides diversification and beneficial return not only for public employees but for all citizens of the state and that in order to have access to this sound fiscal policy, public employee and employer contributions to the 401(a) plans are declared to be made to an irrevocable trust on behalf of each plan, available for no use or purpose other than for the benefit of those public employees.

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

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

(f) The Legislature hereby finds and declares further that in accomplishing this purpose, the West Virginia investment management board, created and established by this article, is acting in all respects for the benefit of the state's public employees and ultimately the citizens of the state and the

West Virginia investment management board is empowered by this article to act as trustee of the irrevocable trusts created by this article and to manage and invest other state funds.

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

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

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

## **§12-6-2. Definitions.**

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

(1) "Beneficiaries" means those individuals entitled to benefits from the participant plans;

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

(3) "Consolidated fund" means the investment fund managed by the board and established pursuant to subsection (a), section eight of this article;

(4) "401(a) plan" means a plan which is described in section 401(a) of the Internal Revenue Code of 1986, as amended, and with respect to which the board has been designated to hold assets of the plan in trust pursuant to the provisions of section nine-a of this article;

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

(6) "Participant plan" means any plan or fund subject now or hereafter to subsection (a), section nine-a, article six of this chapter;

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

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

(9) "Securities" means all bonds, notes, debentures or other evidences of indebtedness and other lawful investment instruments; and



(10) "State funds" means all moneys of the state which may be lawfully invested except the "school fund" established by section four, article XII of the state constitution.

**§12-6-3. West Virginia investment management board continued; body corporate; trust fund board; trustees; nomination and appointment of trustees, qualifications and terms of appointment, advice and consent; annual and meetings; designation of representatives and committees; board meetings with committees regarding investment policy statement required; open meetings, qualifications.**

(a) There is hereby continued the West Virginia investment management board. The board is created as a public body corporate and established to provide prudent fiscal administration, investment and management for the funds of the participant plans and any other funds managed by the board.

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

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

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

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

(c) At the end of each trustee's term, the governor may reappoint or appoint a successor who shall serve for a term ending on the thirty-first day of January in the sixth year following the year of his or her appointment: *Provided*, That for all terms ending in the year two thousand one, two appointments shall be for two-year terms; two appointments shall be for three-year terms; one shall be for a four-year term; and two shall be for six-year terms. Except for vacancy appointments made pursuant to subsection (d) of this section, all subsequent appointments shall be for terms ending on the thirty-first day of January in the sixth year following the year of appointment. No more than six of the ten appointed trustees may belong to the same political party.

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

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

(f) Each trustee, other than those enumerated in subsection (b), subdivision (3) of this section, is entitled to receive and, at the trustee's option, the board shall pay to the trustee compensation in the amount of five thousand dollars per year and additional compensation in the amount of five hundred

dollars per meeting attended by the trustee in excess of the four quarterly meetings required by this section. In addition, all trustees shall receive reasonable and necessary expenses actually incurred in discharging trustee duties pursuant to this article.

(g) The board shall meet quarterly and may include in its bylaws procedures for the calling and holding of additional meetings. For any quarterly or additional meeting in which the board shall review or modify its securities list or its investment objectives pursuant to subsection (f), section twelve of this article, the board shall give ten days' notice in writing to the designated representative of each participant plan selected pursuant to subdivision (1), subsection (i) of this section and the meeting shall be open to the members and beneficiaries of the participant plans for that portion of the meeting in which the board undertakes the review or modification.

(h) The board shall hold an annual meeting before the start of the fiscal year. The annual meeting may also serve as a quarterly meeting. The annual meeting shall be open to the public and the board shall receive oral and written comments from representatives, members and beneficiaries of the participant plans and from other citizens of the state. At the annual meeting, the board shall adopt a fee schedule and a budget reflecting fee structures for the year.

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

(1) The West Virginia consolidated public retirement board shall promulgate procedural rules by which each 401(a) plan for which the board is trustee, shall designate an individual representative of each 401(a) plan and the West Virginia workers' compensation commission shall promulgate procedural rules by which the pneumoconiosis fund and the workers' compensation fund shall designate an individual representative of each fund.

(2) On or before the first day of June of each year, the consolidated public retirement board shall submit in writing to the board the names of the six designated representatives of the 401(a) plans and the workers' compensation commission shall submit the names of the two representatives.

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

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

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

(k) All meetings of the board shall be open to the representatives of the participant plans as appointed pursuant to subdivision (1), subsection (i) of this section. The representatives are subject to any rules, bylaws, guidelines, requirements and standards promulgated by the board. The representatives shall observe standards of decorum established by the board. The representatives are subject to the same

code of conduct applicable to the trustees and are subject to all board rules and bylaws. The representatives are also subject to any requirements of confidentiality applicable to the trustees. Each representative is liable for any act which he or she undertakes which violates any rule, bylaw or statute governing ethical standards, confidentiality or other standard of conduct imposed upon the trustees or the representatives. Any meeting of the board may be closed, upon adoption of a motion by any trustee, when necessary to preserve the attorney-client privilege, to protect the privacy interests of individuals, to review personnel matters or to maintain confidentiality when confidentiality is in the best interest of the beneficiaries of the trusts.

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

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

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

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

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

(e) Each trustee shall give a separate fiduciary or surety bond from a surety company qualified to do business within this state in a penalty amount of one million dollars for the faithful performance of his or her duties as a trustee. 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 trustee by the provisions of this section. The board may require a fiduciary or surety bond from a surety company qualified to do business in this state for any person who has charge of, or access to, any securities, funds or other moneys held by the board and the amount of the fiduciary or surety bond shall be fixed by the board. The premiums payable on all fiduciary or surety bonds shall be an expense of the board.

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

(g) The board is exempt from the provisions of sections seven and eleven, article three, chapter twelve of this code and article three, chapter five-a of said

code: *Provided*, That the trustees and employees of the board are subject to purchasing policies and procedures which shall be promulgated by the board. The purchasing policies and procedures may be promulgated as emergency rules pursuant to section fifteen, article three, chapter twenty-nine-a of this code.

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

### **§12-6-5. Powers of the board.**

The board may exercise all powers necessary or 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;
- (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, retain and employ legal, accounting, financial and investment advisors and consultants;
- (7) Acquire (by purchase, gift or otherwise), hold, exchange, pledge, lend and sell or otherwise dispose of securities and invest funds in interest earning deposits and in any other lawful investments;
- (8) Maintain accounts with banks, securities dealers and financial institutions both within and outside this state;
- (9) Engage in financial transactions whereby securities are purchased by the board under an agreement providing for the resale of the securities to the original seller at a stated price;
- (10) Engage in financial transactions whereby securities held by the board are sold under an agreement providing for the repurchase of the securities by the board at a stated price;
- (11) Consolidate and manage moneys, securities and other assets of the other funds and accounts of the state and the moneys of political subdivisions which may be made available to it under the provisions of this article;
- (12) Enter into agreements with political subdivisions of the state whereby moneys of the political subdivisions are invested on their behalf by the board;
- (13) Charge and collect administrative fees from 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) Contract with one or more banking institutions in or outside the state for the custody, safekeeping and management of securities held by the board;
- (16) Make and, from time to time, amend and repeal bylaws, regulations and procedures not inconsistent with the provisions of this article;
- (17) Hire its own employees, consultants, managers and advisors as it considers necessary and fix

their compensation and prescribe their duties;

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

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

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

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

(22) Establish one or more investment funds for the purpose of investing the funds for which it is trustee, custodian or otherwise authorized to invest pursuant to this article. Interests in each fund shall be designated as units and the board shall adopt industry standard accounting procedures to determine each fund's unit value. The securities in each investment fund are the property of the board and each fund shall be considered an investment pool or fund and may not be considered a trust nor may the securities of the various investment funds be considered held in trust. However, units in an investment fund established by or sold by the board and the proceeds from the sale or redemption of any unit may be held by the board in its role as trustee of the participant plans; and

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

#### **§12-6-5a. Legislative findings and limitation on certain board actions.**

(a) The Legislature hereby finds and declares that, during the period beginning the first day of August, one thousand nine hundred eighty-four, and ending on the thirty-first day of January, one thousand nine hundred eighty-nine, certain overapportionments or overpayments of interest earnings were made by the board of investments to local government participants in the consolidated investment fund local government account.

The Legislature also finds and declares that said participants were not at fault for any losses incurred by the consolidated fund during the aforesaid period, and that the participants were justified in accepting and using the overapportionments or overpayments of interest earnings credited to their accounts.

The Legislature further finds and declares that attempts by the board of investments, the state or any other state officer or agency to recover the overapportionments or overpayments would harm the public good and create economic hardship for local governments, and, therefore, said overapportionments or overpayments ought not to be subject to recovery by the board or any other state officer or agency.

(b) Neither the state, the board of investments nor any other state officer or agency may expend any funds or permit any personnel to seek, or attempt to recover, from participants in the consolidated fund local government account any moneys received by such participants solely as a result of erroneous allocation of interest earnings to the participants' account during the period of time beginning the first day of August, one thousand nine hundred eighty-four, and ending on the thirty-first day of January, one thousand nine hundred eighty-nine, unless authorized to do so by enactment of a separate and specific statute.

(c) This section shall not apply to any attempt by the board, the state or any other state officer or agency to recover moneys due for any other reason.

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

(a) The board shall cause an annual financial and compliance audit of the assets managed by the board to be 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 financial and compliance audit shall be made of the board's books, accounts and records with respect to its receipts, disbursements, investments, contracts and all other matters relating to its financial operations. Copies of the audit report shall be furnished to the governor, state treasurer, state auditor, president of the Senate, speaker of the House of Delegates, council of finance and administration and consolidated public retirement board.

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

(c) The board shall deliver in each quarter to the council of finance and administration and the consolidated public retirement board a report detailing the investment performance of the 401(a) plans.

(d) The board shall cause an annual audit of the reported returns of the assets managed by the board to be made by an investment consulting or a certified public accounting firm meeting the criteria set out in subsection (a) of this section. The board shall furnish copies of the audit report to the governor, state treasurer, state auditor, president of the Senate, speaker of the House of Delegates, council of finance and administration and consolidated public retirement board.

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

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

**§12-6-7. Legal status of agencies and boards continued.**

Except as otherwise provided in this article, every state agency or board shall continue to have 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, and shall continue to be constituted as provided by existing law.

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

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

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

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

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

### **§12-6-9. Fees for service.**

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

### **§12-6-9a. Trust indenture.**

The provisions of the trust indenture entered into by the governor on the first day of July, one thousand nine hundred ninety-six, with the West Virginia trust fund, inc., acting as the trustee, are superseded by the following provisions:

(a) The board shall continue to hold each of the participant plans specified by this article in a separate irrevocable trust as trustee pursuant to the terms and provisions set forth in this section and with the earnings and losses accounted for and charged individually to each participant plan and trust:

*Provided*: That the board shall be authorized to invest the assets held in each participant plan in any investment fund even though the board may also invest non-401(a) moneys in the investment fund. Participant plans, each declared by this section to be held in a separate irrevocable trust, include, but

are not limited to, the following and any other plans that may be added to this section or otherwise designated by the Legislature from time to time:

- (1) The public employees' retirement system;
- (2) The teachers' retirement system;
- (3) The West Virginia state police retirement system;
- (4) The death, disability and retirement fund of the division of public safety;
- (5) The judges' retirement system;
- (6) The deputy sheriffs' retirement system;
- (7) The pneumoconiosis fund;
- (8) The workers' compensation fund; and
- (9) The wildlife endowment fund.

(b) The Legislature hereby reserves the following rights and powers:

(1) The right by supplemental agreement to amend, modify or alter the terms of the trusts established by this section without consent of the trustee, or any beneficiary, except that no amendment to a trust which holds any 401(a) plan moneys may be made which allows at any time for any part of the corpus or income (other than the part that is required to pay taxes and administration expenses) to be used for, or diverted to, purposes other than for the exclusive benefit of the employees or their beneficiaries in accordance with the requirements of section 401(a)(2) of the Internal Revenue Code, as it may be amended from time to time; and

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

(c) In the administration of the trusts created by this article, the trustee has the following powers:

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

(2) To invest and reinvest the trust estate or any part of the trust estate, in any kind of property, real or personal, including, but not limited to, mortgage or mortgage participations, common stocks, preferred stocks, common trust funds, investment funds established by the board, bonds, notes or other securities, notwithstanding the provisions of articles five and six, chapter forty-four of this code;

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

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

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

(6) To employ and pay from the trusts legal and investment counsel, brokers and any other assistants and agents the trustee considers advisable; and

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

(d) All trust income shall be free from anticipation, alienation, assignment or pledge by, and free from attachment, execution, appropriation or control by or on behalf of, any and all creditors of any



beneficiary by any proceeding at law, in equity, in bankruptcy or insolvency.

(e) Notwithstanding any other provision of this article, in the case of a trust which holds any 401(a) plan's money, it is impermissible at any time for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, purposes other than the exclusive benefit of the employees and their beneficiaries in accordance with the requirements of section 401(a)(2) of the Internal Revenue Code, as it may be amended from time to time.

(f) The trustee may receive any other property, real or personal, tangible or intangible, of any kind whatsoever, that may be granted, conveyed, assigned, transferred, devised, bequeathed or made payable to the applicable trust and all the properties shall be held, managed, invested and administered by the trustee as provided in this article.

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

(h) The trustee shall render an annual accounting to the governor not more than one hundred twenty days following the close of the fiscal year of each trust.

(i) No trust shall be invalid by reason of any existing law or rule against perpetuities or against accumulations or against restraints upon the power of alienation, but each trust shall continue for the time necessary to accomplish the purposes for which it is established.

#### **§12-6-9b.**

Repealed.  
Acts, 1996 Reg. Sess., Ch. 258.

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

Notwithstanding the restrictions which may otherwise be provided by law with respect to the investment of funds, the board, all administrators, custodians or trustees of pension funds, each political subdivision of this state and each county board of education is authorized to invest funds in the securities of or any other interest in any investment company or investment trust registered under the Investment Company Act of 1940, 15 U.S.C.

§80a, the portfolio of which is limited: (i) To obligations issued by or guaranteed as to the payment of both principal and interest by the United States of America or its agencies or instrumentalities; and (ii) to repurchase agreements fully collateralized by obligations of the United States government or its agencies or instrumentalities: *Provided*, That the investment company or investment trust takes delivery of the collateral either directly or through an authorized custodian: *Provided, however*, That the investment company or investment trust is rated within one of the top two rating categories of any nationally recognized rating service such as Moody's or Standard & Poor's.

#### **§12-6-9d.**

Repealed.  
Acts, 1996 Reg. Sess., Ch. 258.

**§12-6-9e. Legislative findings; loans for industrial development; availability of funds and interest rates.**

(a) The Legislature hereby finds and declares that the citizens of the state benefit from the creation of jobs and businesses within the state; that a business and industrial development loan program provides 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 the 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 providing the needed risk capital to assist business and industrial development. This section is enacted in view of these findings.

(b) The board shall make available, subject to cash availability, in the form of a revolving loan, up to one hundred fifty 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 fifty 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 the rate shall be 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 shall be 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.

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. This provision shall be certified annually by an independent audit of the West Virginia economic development authority financial records.

(c) 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.

(d) Any and all outstanding loans made by the board, or any predecessor entity, to the West Virginia economic development authority shall be refunded by proceeds of the revolving loan contained in this section and no loans may be made hereafter by the board 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.

(e) The trustees of the board shall bear no fiduciary responsibility as provided in section eleven §12-6-11 of this article with specific regard to the revolving loan contemplated in this section.

(f) Subject to cash availability, the board shall make available to the West Virginia economic development authority from the consolidated fund a non-recourse 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 and by 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 non-revolving, and advances thereunder shall be made at times and in amounts as may be 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 thereof 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, which annual installments shall commence no later than the thirtieth day of June, two thousand three, in annual principal amounts as may be agreed upon between the board and the West Virginia economic development authority, and which annual installments need not be equal. The loan authorized by this subsection shall be non-recourse 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 economic development authority to the West Virginia enterprise advancement corporation made pursuant to this subsection shall also bear interest on the outstanding principal balance thereof at the rate of three percent per annum payable annually on or before the thirtieth day of June of each year, shall be non-recourse 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 of 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 the board shall have a security interest to secure repayment of 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 of 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 from the West Virginia economic development authority and, as a result thereof, the West Virginia economic development authority is unable to pay the principal or interest installments, or both, with respect to the loan authorized by this subsection by the board to the West Virginia economic development authority, the principal or interest, or both, as the case may be due on the loan made to the West Virginia economic development authority pursuant to this subsection shall be deferred, and any and all such 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 of its investments in the West Virginia enterprise capital fund, LLC. The trustees or the board shall bear no fiduciary responsibility as provided in section eleven, article six, chapter twelve of this code with regard to the loan authorized by this subsection.

**§12-6-9f.**

Repealed.  
Acts, 1996 Reg. Sess., Ch. 258.

**§12-6-9g.**

Repealed.  
Acts, 1997 Reg. Sess., Ch. 95.

**§12-6-9h. Securities handling.**

In financial transactions whereby securities are purchased by the board under an agreement providing for the resale of such 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.

**§12-6-10. Restrictions On Investments**

Notwithstanding any other provision in this code, moneys on deposit in the consolidated fund shall be invested as permitted by section twelve of this article subject 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.

### **§12-6-11. Standard of care.**

Any investments made under this article shall be made in accordance with the provisions of the "Uniform Prudent Investor Act" codified as article six-c, chapter forty-four of this code and is further subject to the following requirements:

(a) Trustees shall discharge their duties with respect to the 401(a) plans for the exclusive purpose of providing benefits to participants and their beneficiaries;

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

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

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

(e) The duties of the board apply only with respect to those assets deposited with or otherwise held by it.

### **§12-6-12. Investment restrictions.**

(a) The board shall hold in equity investments no more than sixty percent of the assets managed by the board and no more than sixty percent of the assets of any individual participant plan or the consolidated fund.

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

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

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

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

(2) At no time shall the board hold more than seventy-five percent of the assets managed by the board in corporate debt. Any corporate debt security at the time of its acquisition shall be rated in one of the six highest rating categories by a nationally recognized rating agency; and

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

(e) Notwithstanding the investment limitations set forth in this section, it is recognized that the assets managed by the board, or the assets of the consolidated fund or participant plans, whether considered in the aggregate or individually, may temporarily exceed the investment limitations in this section due to market appreciation, depreciation and rebalancing limitations. Accordingly, the limitations on investments set forth in this section shall not be considered to have been violated if the board rebalances the assets it manages or the assets of the consolidated fund or participant plans,

whichever is applicable, to comply with the limitations set forth in this section at least once every six months based upon the latest available market information and any other reliable market data that the board considers advisable to take into consideration.

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

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

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

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

### **§12-6-14. Reports of board.**

The board shall prepare annually, or more frequently if deemed necessary by the board, a report of its operations and the performance of the various funds administered by it. A copy thereof shall be furnished to the chief financial officer of each participant, the president of the senate, speaker of the house, legislative auditor, and upon request to any legislative committee, any banking institution or state or federal savings and loan association in this state, and any member of the news media, and such report shall be kept available for inspection by any citizen of this state.

### **§12-6-15. Consolidated fund audits.**

The board shall cause to be conducted an annual external audit of all investment transactions of the consolidated fund by a nationally recognized accounting firm: *Provided*, That the board shall on a monthly basis provide to each state agency and any other entity investing moneys in the consolidated fund an itemized statement of the agency's or the entity's account in the consolidated fund. The statement shall include the beginning balance, contributions, withdrawals, income distributed, change in value and ending balance.

### **§12-6-16. Existing investments.**

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

### **§12-6-17. Severability of provisions.**

If any provision of this article, or the applicability thereof to any person or circumstance, is held invalid, the remainder of this article and the applicability thereof and of such provision to other persons or circumstances shall not be affected thereby.

### **§12-6-18.**

Repealed.  
Acts, 1997 Reg. Sess., Ch. 95.

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

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

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

(c) The regional jail and correctional facility authority shall expend the loan proceeds received under the provisions of subsection (b) of this section to proceed with the projects included in the

letter submitted to the joint committee on government and finance dated the fifteenth day of January, one thousand nine hundred ninety-seven: *Provided*, That the letter shall not be construed to prioritize any project or projects which are included in the letter: *Provided, however*, That the authority may also expend loan proceeds for any expansion to any existing regional jail or any expansion to a regional jail under construction upon the effective date of this section.

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

#### **§12-6-20. Continuation of board.**

Pursuant to the provisions of article ten, chapter four of this code, the West Virginia investment management board shall continue to exist until the first day of July, two thousand three, unless sooner terminated, continued or reestablished pursuant to the provisions of that article.

#### **§12-6-21. Investment with regional jail and correctional facility authority.**

(a) The Legislature finds and declares:

(1) That the supreme court of appeals has determined and ordered that the constitution of this state imposes a duty on behalf of the state to make significant improvements in the jail and correctional facility system, including the duty to make capital improvements to facilities and to pay for the cost of those improvements;

(2) That construction of capital improvements requires that the cost of the facilities be financed over time; that capital improvements cannot be funded out of the current year appropriations of the Legislature; and that section fifty-one, article six of the constitution prohibits the Legislature amending the budget bill so as to create a deficit;

(3) That while the supreme court of appeals is empowered to interpret the laws, including the constitution of the state, section one, article ten of the constitution grants to the Legislature the power of taxation; section fifty-one, article six of the constitution grants to the Legislature the power of appropriation; and section one, article five of the constitution prohibits any branch of government from exercising powers properly belonging to another;

(4) That the enacting of new taxes, or the diversion of revenues from other essential departments and functions of government, in order to support capital improvements in jails and correctional facilities, is not in the interests of the people of the state represented in the Legislature, and is specifically rejected by the Legislature in its exercise of its legitimate constitutional powers;

(5) That the decision of the supreme court of appeals, imposing a duty on the state to construct and pay for capital improvements to jails and correctional facilities arising out of the Bill of Rights of the



United States constitution declared ratified in the year one thousand seven hundred ninety-one, and the state constitution of the year one thousand eight hundred sixty-three, constitutes a prior liability of the state within the meaning of section four, article ten of the constitution and an exception to the constitutional limitation on contracting state debt;

(6) That the construction of capital improvements of jail and correctional facilities may be funded through funds available for investment through the West Virginia investment management board, invested in such a manner as to be assured as high a rate of return as would be earned if these funds were otherwise invested, and repaid by the state as provided in this article.

(b) The investment management board shall upon request of the regional jail and correctional facility authority transfer moneys as an investment, from funds available for investment from the public employees retirement system, to the regional jail and correctional facility authority. The amount transferred may not exceed one hundred fifty million dollars in the aggregate and shall be used for the purposes of financing construction of regional jails, correctional facilities, juvenile detention facilities, juvenile correctional facilities, or extensions, renovations, improvements or additions thereto, or for the replacement or renovation of existing facilities. If the board has loaned money to the state building commission under subsection (b), section nineteen of this article, the total amount loaned shall be repaid to the board from funds made available under the investment made pursuant to this section. Prior to the expenditure of any of the funds, the regional jail and correctional facility authority shall certify to the joint committee on government and finance a list of projects that are to be funded from the invested funds. This certified list may not thereafter be altered or amended other than by legislative enactment. Funds shall be invested with the regional jail and correctional facility authority as requested by the regional jail and correctional facility authority. The money invested shall earn a return at a rate equal to the annualized rate of return earned by the core fixed-income portfolio of the public employees retirement system over the previous five years, plus one tenth of one percent: *Provided*, That in all events this rate of return may not be less than five percent per annum. The monthly rate of return shall be calculated every quarter. The manner and timing of the investment shall be determined by the board. The total of the amounts invested may not exceed a total of one hundred fifty million dollars during fiscal year one thousand nine hundred ninety-eight, and fiscal year one thousand nine hundred ninety-nine, cumulatively. The authority to make the investment authorized by this section expires on the thirtieth day of June, one thousand nine hundred ninety-nine.

(c) There is created in the state treasury a regional jail and correctional facility investment fund dedicated to the payment of investment earnings and the return of capital invested under this section. The treasurer shall administer the fund. The fund is an interest-bearing account with interest earned credited to and deposited back into the fund. The fund consists of amounts required to be deposited by section fourteen, article three, chapter thirty-three of this code.

(d) The treasurer shall, monthly, transfer amounts from the regional jail and correctional facility investment fund to the board that are sufficient to allow investment earnings to be paid and the capital invested returned in substantially equal amounts by the thirty-first day of August, two thousand twenty-three: *Provided*, That the amount of investment earnings paid and the capital invested returned during the fiscal year beginning the first day of July, one thousand nine hundred ninety-eight, may not exceed ten million dollars. Payment representing investment earnings and the return of capital invested shall begin six months from the date the initial funds are invested, or by the tenth day of January, one thousand nine hundred ninety-nine, whichever is later.

(e) The board shall calculate the amount of the projected annual investment earnings to be paid and the capital invested to be returned and certify the amount to the treasurer on the first day of December

of each year, until all investment earnings are paid and the total capital invested is returned. (f) As a condition precedent to the transfer and investment of moneys by the investment management board pursuant to subsection (b) of this section, either the investment management board or the regional jail and correctional authority shall have first caused a judicial determination to be made by an appropriate action initiated in the West Virginia supreme court of appeals regarding the transfer of moneys by the investment management board to the regional jail and correctional facility authority as an investment from funds available for investment from the public employees retirement system, and to otherwise determine the constitutionality of the provisions of Enrolled House Bill 4702, as enacted by the Legislature in the year one thousand nine hundred ninety-eight. This judicial determination shall be brought as soon as practicable, but not later than thirty days following the effective date of the amendments to this section made by the Legislature in the year one thousand nine hundred ninety-eight.

(g) The Legislature recognizes the fiduciary liability and responsibility imposed on the board by this article and by article six, chapter forty-four of this code. The board, its trustees and employees, have no liability, either personally or corporately with respect to the investment provided for in this section and the loans made under section nineteen of this article, if the investment and loans are made in accordance with the respective provisions of this section and section nineteen of this article.

(h) The regional jail and correctional facility authority shall expend the funds invested under the provisions of this section to proceed with the projects identified pursuant to subsection (b) of this section.

(i) The regional jail and correctional facility authority may return the total remaining capital invested upon thirty days written notice to the board and at the time of such return shall pay the investment earnings accrued to the return date.

## **ARTICLE 30**

### **WEST VIRGINIA PREPAID TUITION TRUST ACT**

#### **§18-30-1. Title.**

This article is known and cited as the "West Virginia College Prepaid Tuition and Savings Program Act."

#### **§18-30-2. Legislative findings and purpose.**

The Legislature hereby finds and determines that enhancing the accessibility and affordability of higher education for all citizens of West Virginia will promote a well-educated and financially secure population to the ultimate benefit of all citizens of West Virginia, and that assisting individuals and families in planning for future educational expenses by making the tax incentives in 26 U.S.C. §529 available to West Virginians are proper governmental functions and purposes of the state.

The Legislature also finds that continuation of the prepaid tuition plan and creation of a savings plan will further those governmental functions and purposes. It is, therefore, the legislative intent of this article to continue the prepaid tuition plan and to enhance the plan by authorizing the creation of a savings plan so that more students may attend eligible higher education institutions.

#### **§18-30-3. Definitions.**

For the purposes of this article, the following terms have the meanings ascribed to them, unless the context clearly indicates otherwise or as otherwise provided in 26 U.S.C.

§529:

(a) "Account" means a prepaid tuition account or a savings plan account established in accordance with this article.

(b) "Account owner" means the individual, corporation, association, partnership, trust or other legal entity who enters into a prepaid tuition contract and is obligated to make payments in accordance with the prepaid tuition contract or who enters into a savings plan contract and invests money in a savings plan account.

(c) "Beneficiary" means the individual designated as a beneficiary at the time an account is established, the individual designated as the beneficiary when beneficiaries are changed, the individual entitled to receive distributions from an account, and any individual designated by the account owner, his or her agent or his or her estate in the event the beneficiary is unable or unwilling to receive distributions under the terms of the contract.

(d) "Board" means the board of trustees of the college prepaid tuition and savings program as provided in section four of this article.

(e) "Distribution" means any disbursement from an account in accordance with 26 U.S.C. §529.

(f) "Eligible educational institution" means an institution of higher education that qualifies under 26 U.S.C. §529 as an eligible educational institution.

(g) "Prepaid tuition account" means an account established by an account owner pursuant to this article in order for the beneficiary to apply distributions in accordance with the prepaid tuition plan.

(h) "Prepaid tuition contract" means a contract entered into by the board and an account owner establishing a prepaid tuition account.

(i) "Prepaid tuition plan" means the plan that contractually guarantees payment of tuition at a West Virginia public eligible educational institution.

(j) "Program" means the West Virginia college prepaid tuition and savings program established under this article.

(k) "Qualified higher education expenses" mean higher education expenses permitted under 26 U.S.C. §529 for enrollment or attendance of a beneficiary at an eligible educational institution.

(l) "Savings plan" means the plan that allows account distributions for qualified higher educational expenses.

(m) "Savings plan account" means an account established by an account owner pursuant to this article in order for the beneficiary to apply distributions toward qualified higher education expenses at eligible educational institutions.

(n) "Savings plan contract" means a contract entered into by the board or its agent, if any, and an account owner establishing a savings plan account.

(o) "Treasurer" means the West Virginia state treasurer.

(p) "Tuition" means the quarter, semester or term undergraduate charges imposed by an eligible educational institution and all mandatory fees required as a condition of enrollment by all students for full-time attendance.

#### **§18-30-4. Creation of program; board; members; terms; compensation; proceedings generally.**

(a) The West Virginia college prepaid tuition and savings program is hereby created. The program consists of a prepaid tuition plan and a savings plan.

(b) The board of trustees of the prepaid tuition trust fund in existence immediately prior to the effective date of this section shall become the board of the college prepaid tuition and savings program and all powers, rights and responsibilities of the board of trustees of the prepaid tuition trust fund are transferred to the board of the college prepaid tuition and savings program. With the exception of the members of the board appointed pursuant to the provisions of subdivision (3) of subsection (c) of this section, the members of the board of trustees of the prepaid tuition trust fund shall become the members of the board of the college prepaid tuition and savings program on the effective date of this section and shall, for all purposes, serve the same terms that they would have served had the board of trustees of the prepaid tuition trust fund continued.

(c) The board consists of nine members and includes the following:

(1) The secretary of education and the arts, or his or her designee;

(2) The state treasurer, or his or her designee;

(3) Two representatives of the higher education policy commission, who may or may not be members of the higher education policy commission, appointed by the commission who serve as voting members of the board, one of whom shall represent the interests of the universities of West Virginia and one of whom shall represent the interests of the state colleges and community and technical colleges of West Virginia. The members appointed pursuant to the provisions of this subdivision shall assume the positions heretofore held by the representatives of the university system board of trustees and the state college system board of directors in existence prior to July 1, 2000;

(4) Five other members, appointed by the governor, with knowledge, skill and experience in an academic, business or financial field, to be appointed as follows:

(A) A private citizen not employed by, or an officer of, the state or any political subdivision of the state appointed from one or more nominees of the speaker of the House of Delegates;

(B) A private citizen not employed by, or an officer of, the state or any political subdivision of the state appointed from one or more nominees of the president of the Senate;

(C) One member representing the interests of private institutions of higher education located in this state appointed from one or more nominees of the West Virginia association of private colleges; and

(D) Two members representing the public.

(d) The public members and the member representing the interests of private institutions of higher education are appointed by the governor with the advice and consent of the Senate.

(e) Only state residents are eligible for appointment to the board.

(f) Members appointed by the governor serve a term of five years and are eligible for reappointment at the expiration of their terms. In the event of a vacancy among appointed members, the governor shall appoint a person representing the same interests to fill the unexpired term. Of the initial appointments to the board of trustees of the prepaid tuition trust fund in existence immediately prior to the effective date of this section, the governor shall appoint one member to a one-year term, one member to a two-year term, one member to a three-year term, one member to a four-year term, and one member to a five-year term. Thereafter, all terms are five years.

(g) Members of the board serve without compensation. The treasurer may pay all expenses, including travel expenses, actually incurred by board members in the conduct of their official duties. Expense payments are made from the college prepaid tuition and savings program administrative account, and are made at the same rate paid to state employees.

(h) The treasurer may provide support staff and office space for the board.

(i) The treasurer is the chairman and presiding officer of the board, and may appoint the employees the board considers advisable or necessary. A majority of the members of the board constitute a quorum for the transaction of the business of the board.

### **§18-30-5. Powers of the board.**

In addition to the powers granted by any other provision of this article, the board has the powers necessary or appropriate to carry out the provisions and objectives of this article, other methods of financing post-secondary education as relate to the program, and the powers delegated by any other law of the state or any executive order of the state. The board may also:

(a) Adopt and amend bylaws;

(b) Sue and be sued;

(c) Execute contracts and other instruments for necessary goods and services, employ necessary personnel and engage the services of private consultants, actuaries, auditors, counsel, managers, trustees, and any other contractor or professional needed. Selection of these services is not subject to the provisions of article three, chapter five-a of this code;

(d) Operate a prepaid tuition plan in accordance with this article and 26 U.S.C. §529;

(e) Operate a savings plan in accordance with this article and 26 U.S.C. §529;

(f) Develop and impose any requirements, policies, procedures and guidelines to implement and manage the program;

(g) Impose reasonable requirements for residency for beneficiaries at the time of purchase of a prepaid tuition contract. However, nothing in this subdivision establishes residency requirements for matriculation at state eligible educational institutions;

(h) Assess, collect and expend administrative fees, charges and penalties;

(i) Authorize the assessment, collection and retention of fees and charges against the amounts paid into and the earnings on the trust funds by a financial institution, investment manager, fund manager,

West Virginia investment management board, or other professional managing or investing the trust funds and accounts;

(j) Invest and reinvest any of the funds and accounts under the board's control with a financial institution, an investment manager, a fund manager, the West Virginia investment management board or other professional investing the funds and accounts. Investments made under this article shall be made in accordance with the provisions of article six-c, chapter forty-four of this code, the West Virginia uniform prudent investor act. No board member, nor any person, financial institution, investment manager, fund manager or the West Virginia investment management board to whom the board delegates any of its investment authority who acts within the standard of care set forth in this section is personally liable for losses suffered by the program on investments made pursuant to this article;

(k) Solicit and accept gifts, including bequests or other testamentary gifts made by will, trust or other disposition, grants, loans, aid, and property, real or personal of any nature and from any source, or to participate in any other way in any federal, state or local governmental programs in carrying out the purposes of this article. The board shall use the property received to effectuate the desires of the donor, and shall convert the property received into cash within ninety days of receipt;

(l) Propose legislative rules for promulgation in accordance with the provisions of article three-a, chapter twenty-nine-a of this code;

(m) Make all necessary and appropriate arrangements with eligible educational institutions in order to fulfill its obligations under the prepaid tuition contracts and the savings plan contracts; and

(n) Establish a direct-support organization which is a West Virginia corporation, not for profit, organized and operated to receive, hold, invest and administer property and make expenditures to or for the benefit of the purposes of this article, if the board determines a need for the organization exists. The board may authorize the direct-support organization to use program facilities and property, except money. The board may invest funds of the direct-support organization.

#### **§18-30-6. West Virginia prepaid tuition trust.**

(a) The "Prepaid Tuition Trust Fund" is continued within the accounts held by the state treasurer for administration by the board.

(b) The prepaid tuition trust fund shall receive all payments from account owners on behalf of beneficiaries of prepaid tuition contracts or from any other source, public or private. Earnings derived from the investment of moneys in the prepaid tuition trust fund shall remain in the prepaid tuition trust fund held in trust in the same manner as payments, except as refunded, applied for purposes of the beneficiaries, and applied for purposes of maintaining and administering the prepaid tuition plan.

(c) The corpus, assets and earnings of the prepaid tuition trust fund do not constitute public funds of the state and are available solely for carrying out the purposes of this article. Any contract entered into by or any obligation of the board on behalf of and for the benefit of the prepaid tuition plan does not constitute a debt of the state, but is solely an obligation of the prepaid tuition trust fund. The state has no obligation to any designated beneficiary or any other person as a result of the prepaid tuition plan. All amounts payable from the prepaid tuition trust fund are limited to amounts available in the prepaid tuition trust fund.

(d) Nothing in this article or in any prepaid tuition contract is a promise or guarantee of admission to, continued enrollment in, or graduation from an eligible educational institution.

(e) The requirements of the provisions of chapter thirty-two of this code do not apply to the sale of

a prepaid tuition contract by the board, its employees and agents.

(f) The prepaid tuition plan and the prepaid tuition trust fund shall continue in existence until terminated by the Legislature as it determines or by the board upon determining that continued operation is infeasible. Upon termination of the plan and after payment of all fees, charges, expenses and penalties, the assets of the prepaid tuition trust fund are paid to current account owners, to the extent possible, on a pro rata basis as their interests may appear, and any unclaimed assets in the program shall revert to the state in accordance with the uniform unclaimed property act in article eight, chapter thirty-six of this code.

(g) The board shall have the actuarial soundness of the prepaid tuition trust fund evaluated annually to ensure that sufficient funds are deposited in the prepaid tuition trust fund to meet obligations. If the board finds that additional contributions are needed to preserve the actuarial soundness of the prepaid tuition trust fund, it may adjust the terms of preexisting and subsequent prepaid tuition contracts to ensure the prepaid tuition trust fund's soundness: *Provided*, That any necessary adjustment to preexisting contracts are only assessed on future payments and not retroactively upon previous payments made by the account owners or donors to the prepaid tuition trust fund.

(h) The board shall build and maintain in the prepaid tuition trust fund an actuarial surplus, at a level recommended by the actuaries, to ensure appropriate funding for the trust fund.

(i) On or before the first day of December of each year, the chairman of the board shall submit to the governor the amount of any deficiency certified by an actuary as needed to meet the current obligations of the prepaid tuition trust fund for the next fiscal year. Notwithstanding any provision of this code to the contrary, the governor, after consultation with the budget section of the finance division of the department of administration, may request an appropriation to the board in the amount of the deficiency, to meet the current obligations of the prepaid tuition trust fund, in the budget presented to the next session of the Legislature for its consideration. The Legislature is not required to make any appropriation pursuant to this subsection, and the amount of the deficiency is not a debt or a liability of the state. As used in this section, "current obligations of the prepaid tuition trust fund" means amounts required for the payment of contract distributions or other obligations of the prepaid tuition trust fund, the maintenance of the fund, and operating expenses for the current fiscal year. Nothing in this subsection creates an obligation of state general revenue funds or requires any level of funding by the Legislature.

(j) To fulfill the charitable and public purposes of this article, neither the earnings nor the corpus of the prepaid tuition trust fund is subject to taxation by the state or any of its political subdivisions.

(k) Notwithstanding any provision of this code to the contrary, money in the prepaid tuition trust fund is exempt from creditor process and not subject to attachment, garnishment or other process; is not available as security or collateral for any loan, or otherwise subject to alienation, sale, transfer, assignment, pledge, encumbrance or charge; and is not subject to seizure, taking, appropriation or application by any legal or equitable process or operation of law to pay any debt or liability of any account owner, beneficiary or successor in interest.

#### **§18-30-7. West Virginia savings plan trust.**

(a) The board may establish a savings plan trust, and may establish a savings plan trust fund account, titled the "Savings Plan Trust Fund," within the accounts held by the treasurer or with a financial institution, an investment manager, a fund manager, the West Virginia investment management board or any other person for the purpose of managing and investing the trust fund.

Assets of the savings plan trust are held in trust for account owners and beneficiaries.

(b) The savings plan trust fund shall receive all moneys from account owners on behalf of beneficiaries of savings plan contracts or from any other source, public or private. Earnings derived from the investment of the moneys in the college savings trust fund shall remain in the fund, held in trust in the same manner as contributions, except as refunded, applied for purposes of the beneficiaries, and applied for purposes of maintaining and administering the savings plan.

(c) The corpus, assets and earnings of the savings plan trust fund do not constitute public funds of the state and are available solely for carrying out the purposes of this article. Any contract entered into by or any obligation of the board on behalf of and for the benefit of the savings plan does not constitute a debt or obligation of the state, but is solely an obligation of the savings plan trust fund. The state has no obligation to any designated beneficiary or any other person as a result of the savings plan. All amounts payable from the savings plan trust fund are limited to amounts available in the fund.

(d) Nothing in this article or in any savings plan contract is a promise or guarantee that the distributions available for a beneficiary will cover the cost of qualified higher education expenses at an eligible educational institution, or as a promise or guarantee of admission to, continued enrollment in, or graduation from an eligible higher education institution.

(e) The requirements of the provisions of chapter thirty-two of this code do not apply to the sale of a savings plan contract by the board, its employees and agents.

(f) The savings plan and any savings plan trust fund shall continue in existence until terminated by the Legislature as it determines or by the board upon determining that continued operation is infeasible. Upon termination of the plan, the balances of savings plan accounts, less any distributions, refunds, fees, charges and penalties, are sent to account owners, to the extent possible, and any unclaimed assets in the program shall revert to the state in accordance with the uniform unclaimed property act in article eight, chapter thirty-six of this code.

(g) The state pledges to account owners and beneficiaries of the savings plans that the state will not limit or alter the rights under this article which are vested until the obligations are met and discharged. However, nothing in this subsection prohibits the Legislature from discontinuing or terminating a savings plan.

(h) In order to fulfill the charitable and public purposes of this article, neither the earnings nor the corpus of the savings plan trust fund is subject to taxation by the state or any of its political subdivisions.

(i) Notwithstanding any provision of this code to the contrary, money in the savings plan trust fund is exempt from creditor process and not subject to attachment, garnishment, or other process; is not available as security or collateral for any loan, or otherwise subject to alienation, sale, transfer, assignment, pledge, encumbrance or charge; and is not subject to seizure, taking, appropriation or application by any legal or equitable process or operation of law to pay any debt or liability of any account owner, beneficiary or successor in interest.

### **§18-30-8. College prepaid tuition and savings program administrative account.**

There is hereby created a separate account within the state treasurer's office titled the "college prepaid tuition and savings program administrative account" for the purposes of implementing, operating and maintaining the trust funds and program created by this article. On the effective date



of this section, all moneys in the prepaid tuition trust fund administrative account are hereby transferred to the college prepaid tuition and savings program administrative account.

The administrative account shall receive all fees, charges and penalties collected by the board. Expenditures from the fund are authorized from collections subject to appropriations made by the Legislature.

### **§18-30-9. Income tax deduction for purchasers.**

As provided in section twelve-a, article twenty-one, chapter eleven of this code, any payment made under a prepaid tuition contract or other college savings plan administered by the board, pursuant to the provisions of this article, is eligible for a tax deduction.

### **§18-30-10. Reports and account; annual audit.**

(a) In addition to any other requirements of this article, the board shall:

(1) Provide annually summary information on the financial condition of the prepaid tuition trust fund and statements on the savings plan accounts to the respective account owners;

(2) Prepare, or have prepared, a quarterly report on the status of the program, including the trust funds and the administrative account, and provide a copy of the report to the joint committee on government and finance and the legislative oversight commission on education accountability; and

(3) Prepare, or have prepared, an annual actuarial report of the prepaid tuition trust fund and transmit a copy of the report to the governor, the president of the Senate, the speaker of the House of Delegates and the legislative oversight commission on education accountability.

(b) All accounts of the board, including the trust funds, are subject to an annual external audit by an accounting firm, selected by the board, of which all members or partners assigned to head the audit are members of the American institute of certified public accountants. The audit shall comply with the requirements of section thirty-three, article two, chapter five-a of this code.

### **§18-30-11. Financial aid eligibility.**

The calculations of a beneficiary's eligibility for state student financial aid for higher education may not include or consider the value of distributions available in a prepaid tuition account or the value of distributions available in a savings plan account.

### **§18-30-12. Confidentiality.**

Any information that would tend to disclose the identity of a beneficiary, account owner or donor is exempt from the provisions of chapter twenty-nine-b of this code. Nothing in this section prohibits disclosure or publication of information in a statistical or other form which does not identify the individuals involved or provide personal information. Account owners are permitted access to their own personal information.

**§18-30-13. Board of trustees; authorization of rules.**

The legislative rules filed in the state register on the thirtieth day of September, one thousand nine hundred ninety-seven, modified by the board of trustees of the West Virginia prepaid tuition trust fund to meet the objections of the legislative oversight commission on education accountability and refiled in the state register on the thirtieth day of January, one thousand nine hundred ninety-eight, relating to the West Virginia prepaid tuition trust fund (rules for the West Virginia prepaid tuition trust fund), are authorized.

## **ARTICLE 6A.**

### **UNIFORM MANAGEMENT OF INSTITUTIONAL FUNDS ACT.**

#### **§44-6A-1. Short title.**

This article shall be known as the "Uniform Management of Institutional Funds Act."

#### **§44-6A-2. Definitions.**

The following words or phrases as used in this article shall have the meanings ascribed to them in this section, unless the context of this article clearly indicates otherwise:

(a) "Endowment fund" means an institutional fund, or any part thereof, not wholly expendable by the institution on a current basis under the terms of the applicable gift instrument;

(b) "Gift instrument" means a will, deed, trust agreement, grant, conveyance, agreement, memorandum, writing or other governing document (including the terms of any institutional solicitations from which an institutional fund resulted) that was executed or in effect before or after the effective date of this article under which property is transferred to, or held by or on behalf of, an institution as an institutional fund;

(c) "Governing board" means the body responsible for the management of an institution or of an institutional fund;

(d) "Historic dollar value" means the aggregate fair value in dollars of: (i) An endowment fund at the time it became an endowment fund; (ii) each subsequent donation to the fund at the time it is made; and (iii) each accumulation made pursuant to a direction in the applicable gift instrument at the time the accumulation is added to the fund. The determination of historic dollar value made in good faith by the institution is conclusive;

(e) "Institution" means an incorporated or unincorporated organization organized and operated exclusively for educational, religious, charitable or other eleemosynary purpose, a governmental organization to the extent that it holds funds exclusively for any of these purposes, or a community foundation or community trust;

(f) "Institutional fund" means a fund held by an institution for its exclusive use, benefit or purposes, but does not include (i) A fund held for an institution by a trustee that is not an institution, unless the fund is held exclusively for the benefit of either a community foundation or community trust by a bank, a trust company or another fiduciary that is a trustee of the community foundation or community trust; or (ii) a fund in which a beneficiary that is not an institution has an interest, other than possible rights that could arise upon violation or failure of the purposes of the fund;

(g) "Community foundation" or community trust" means an institution that has been established to attract contributions of a capital or endowment nature for the benefit of a particular community or area whose contributions are often received and maintained in the form of separate trusts or funds which are subject to varying degrees of control by the governing body of the community foundation or community trust and which the governing body in good faith believes meets the requirements of the regulations issued by the internal revenue service, United States department of treasury, presently codified as 26 CFR 1.170A-9(e)(10) and (11), to qualify as a "publicly supported" organization and to be treated as a "single entity" rather than as an aggregation of separate funds.

### **§44-6A-3. Appropriation of appreciation; rule of construction.**

(a) The governing board may appropriate for expenditure for the uses and purposes for which an endowment fund is established so much of the net appreciation, realized and unrealized, in the fair value of the assets of an endowment fund over the historic dollar value of the fund as is prudent under the standard established by section six of this article. This section does not limit the authority of the governing board to expend funds as permitted under other law, the terms of the applicable gift instrument, or the charter of the institution.

(b) Subsection (a) of this section does not apply if the applicable gift instrument indicates the donor's intention that net appreciation shall not be expended. A restriction upon the expenditure of net appreciation may not be implied from a designation of a gift as an endowment, or from a direction or authorization in the applicable gift instrument to use only "income," "interest," "dividends," or "rents, issues or profits," or "to preserve the principal intact," or a direction which contains other words of similar import. This rule of construction applies to gift instruments executed or in effect before or after the effective date of this article.

### **§44-6A-4. Investment authority.**

In addition to an investment otherwise authorized by law or by the applicable gift instrument, and without restriction to investments a fiduciary may make, the governing board, subject to any specific limitations set forth in the applicable gift instrument or in the applicable law other than law relating to investments by a fiduciary, may:

(a) Invest and reinvest an institutional fund in any real or personal property deemed advisable by the governing board, whether or not it produces a current return, including mortgages, stocks, bonds, debentures and other securities of profit or nonprofit corporations, shares in or obligations of associations, partnerships or individuals, and obligations of any government or subdivision or instrumentality thereof;

(b) Retain property contributed by a donor to an institutional fund for as long as the governing board deems advisable;

(c) Include all or any part of an institutional fund in any pooled or common fund maintained by the institution; and

(d) Invest all or any part of an institutional fund in any other pooled or common fund available for investment, including shares or interests in regulated investment companies, mutual funds, common trust funds, investment partnerships, real estate investment trusts or similar organizations in which funds are commingled and investment determinations are made by persons other than the governing board.

### **§44-6A-5. Delegation of investment management.**

Except as otherwise provided by the applicable gift instrument or by applicable law relating to governmental institutions or funds, the governing board may (1) delegate to its committees, officers or employees of the institution or the fund, or agents, including investment counsel, the authority to act in place of the board in investment and reinvestment of institutional funds, (2) contract with independent investment advisors, investment counsel or managers, banks or trust

companies, so to act, and (3) authorize the payment of compensation for investment advisory or management services.

**§44-6A-6. Standard of conduct.**

In the administration of the powers to appropriate appreciation, to make and retain investments, and to delegate investment management of institutional funds, members of a governing board shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision. In so doing they shall consider long and short term needs of the institution in carrying out its educational, religious, charitable or other eleemosynary purposes, its present and anticipated financial requirements, expected total return on its investments, price level trends and general economic conditions.

**§44-6A-7. Release of restrictions on use or investment; application of cy pres doctrine.**

(a) With the written consent of the donor, the governing board may release, in whole or in part, a restriction imposed by the applicable gift instrument on the use or investment of an institutional fund.

(b) If written consent of the donor cannot be obtained by reason of his death, disability, unavailability or impossibility of identification, the governing board may apply in the name of the institution to the circuit court of the county in which the institution is located for release of a restriction imposed by the applicable gift instrument on the use or investment of an institutional fund. The attorney general shall be notified of the application and shall be given an opportunity to be heard. If the court finds that the restriction is obsolete, inappropriate or impracticable, it may by order release the restriction in whole or in part. A release under this subsection may not change an endowment fund to a fund that is not an endowment fund.

(c) A release under this section may not allow a fund to be used for purposes other than the educational, religious, charitable or other eleemosynary purposes of the institution affected.

(d) This section does not limit the application of the doctrine of cy pres.

**§44-6A-8. Uniformity of application; construction.**

This article shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this act among those states which enact it.

## **ARTICLE 6C.**

### **UNIFORM PRUDENT INVESTOR ACT.**

#### **§44-6C-1. Prudent investor rule.**

(a) Notwithstanding the provisions of section two, article six of this chapter, and except as otherwise provided in subsection (b) of this section, a trustee who invests and manages trust assets owes a duty to the beneficiaries of the trust to comply with the prudent investor rule set forth in this article.

(b) The prudent investor rule, a default rule, may be expanded, restricted, eliminated or otherwise altered by the provisions of a trust. A trustee is not liable to a beneficiary to the extent that the trustee acted in reasonable reliance on the provisions of the trust.

#### **§44-6C-2. Standard of care; portfolio strategy; risk and return objectives.**

(a) A trustee shall invest and manage trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill and caution.

(b) A trustee's investment and management decisions respecting individual assets must be evaluated not in isolation but in the context of the trust portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the trust.

(c) Among circumstances that a trustee shall consider in investing and managing trust assets are such of the following as are relevant to the trust or its beneficiaries:

- (1) General economic conditions;
- (2) The possible effect of inflation or deflation;
- (3) The expected tax consequences of investment decisions or strategies;
- (4) The role that each investment or course of action plays within the overall trust portfolio, which may include financial assets, interests in closely held enterprises, tangible and intangible personal property and real property;
- (5) The expected total return from income and the appreciation of capital;
- (6) Other resources of the beneficiaries;
- (7) Needs for liquidity, regularity of income and preservation or appreciation of capital; and
- (8) An asset's special relationship or special value, if any, to the purposes of the trust or to one or more of the beneficiaries.

(d) A trustee shall make a reasonable effort to verify facts relevant to the investment and management of trust assets.

(e) A trustee may invest in any kind of property or type of investment consistent with the standards of this article.

(f) A trustee who has special skills or expertise, or is named trustee in reliance upon the trustee's representation that the trustee has special skills or expertise, has a duty to use those special skills or expertise.

### **§44-6C-3. Diversification.**

A trustee shall diversify the investments of the trust unless the trustee reasonably determines that, because of special circumstances, the purposes of the trust are better served without diversifying.

### **§44-6C-4. Duties at inception of trusteeship.**

Within a reasonable time after accepting a trusteeship or receiving trust assets, a trustee shall review the trust assets and make and implement decisions concerning the retention and disposition of assets, in order to bring the trust portfolio into compliance with the purposes, terms, distribution requirements and other circumstances of the trust, and with the requirements of this article.

### **§44-6C-5. Loyalty.**

A trustee shall invest and manage the trust assets solely in the interest of the beneficiaries.

### **§44-6C-6. Impartiality.**

If a trust has two or more beneficiaries, the trustee shall act impartially in investing and managing the trust assets, taking into account any differing interests of the beneficiaries.

### **§44-6C-7. Investment costs.**

In investing and managing trust assets, a trustee may only incur costs that are appropriate and reasonable in relation to the assets, the purposes of the trust and the skills of the trustee.

### **§44-6C-8. Reviewing compliance.**

Compliance with the prudent investor rule is determined in light of the facts and circumstances existing at the time of a trustee's decision or action and not by hindsight.

### **§44-6C-9. Delegation of investment and management functions.**

(a) A trustee may delegate investment and management functions that a prudent trustee of comparable skills could properly delegate under the circumstances. The trustee shall exercise reasonable care, skill and caution in:

- (1) Selecting an agent;
- (2) Establishing the scope and terms of the delegation, consistent with the purposes and terms of the trust; and
- (3) Periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the terms of the delegation.

(b) In performing a delegated function, an agent owes a duty to the trust to exercise reasonable care to comply with the terms of the delegation.

(c) A trustee who complies with the requirements of subsection (a) of this section is not liable to the beneficiaries or to the trust for the decisions or actions of the agent to whom the function was delegated.

(d) By accepting the delegation of a trust function from the trustee of a trust that is subject to the law of this state, an agent submits to the jurisdiction of the courts of this state.

#### **§44-6C-10. Language invoking standard of article.**

The following terms or comparable language in the provisions of a trust, unless otherwise limited or modified, authorizes any investment or strategy permitted under this article: "investments permissible by law for investment of trust funds", "legal investments", "authorized investments", "using the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital", "prudent man rule", "prudent trustee rule", "prudent person rule" and "prudent investor rule".

#### **§44-6C-11. Application to existing trusts.**

This article applies to trusts existing on and created after its effective date. As applied to trusts existing on its effective date, this article governs only decisions or actions occurring after that date.

#### **§44-6C-12. Uniformity of application and construction.**

This article shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this article among the states enacting it.

#### **§44-6C-13. Short title.**

This article may be cited as the "West Virginia Uniform Prudent Investor Act".

#### **§44-6C-14. Severability.**

If any provision of this article or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

#### **§44-6C-15. Effective date.**

This article takes effect on the first day of July, one thousand nine hundred ninety-six.